

# **CARIBBEAN COURT OF JUSTICE ORIGINAL JURISDICTION RULES 2015**

In exercise of the powers conferred on the President of the Caribbean Court of Justice pursuant to Article 21 of the Agreement Establishing the Caribbean Court of Justice, The Caribbean Court of Justice Rules 2015 are hereby made.

The Caribbean Court of Justice (Original Jurisdiction) Rules 2006 and The Caribbean Court of Justice Caribbean Court of Justice (Original Jurisdiction) (Amendment) Rules 2006 are hereby revoked.

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**PART 1**  
**CITATION, INTERPRETATION AND APPLICATION**

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**Citation and Commencement**

- 1.1 (1) These Rules may be cited as The Caribbean Court of Justice (Original Jurisdiction) Rules 2015.
- (2) These Rules made pursuant to Article XX1 of the Agreement Establishing the Caribbean Court of Justice shall come into force on the 16<sup>th</sup> day of April, 2015.

**Interpretation**

- 1.2 In these Rules, unless the context otherwise requires-
- “**ADR**” means any procedure for alternative dispute resolution, including mediation;
- “**advisory opinion**” means an opinion delivered by the Court upon a request made pursuant to Article XIII of the Agreement;
- “**Agreement**” means the Agreement Establishing the Caribbean Court of Justice signed in Bridgetown, Barbados on 14 February 2001 as amended from time to time;
- “**amicus curiae**” means a person or entity permitted to assist the Court on application to it or invitation by it;
- “**applicant**” means a person who makes any application other than an originating application;
- “**attorney-at-law**” means an attorney-at-law, a legal practitioner or advocate duly admitted to practise law in the courts of a Contracting Party;
- “**certificate of service**” means a sworn statement by the person who served the document stating how, when, where and on whom such service was effected;
- “**claimant**” means a person who files an originating application;

“**Commission**” means the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

“**Community**” means the Caribbean Community including the CARICOM Single Market and Economy;

“**Contracting Party**” has the meaning assigned to it by Article I of the Agreement;

“**Court**” means the Caribbean Court of Justice in the exercise of its original jurisdiction as set out in Part II of the Agreement;

“**defendant**” means a person against whom proceedings are instituted;

“**Deputy Registrar**” means a person appointed to, and serving in, the post of Deputy Registrar of the Court but does not include a local deputy registrar;

“**document**” means anything on or in which information of any description is recorded and includes papers relating to pleadings, proceedings, evidence or judgments required or permitted by these Rules to be filed or laid before the Court in connection with the hearing of a case and includes documents in electronic form;

“**exhibit**” means a document, record or other tangible object received into evidence;

“**ex parte**” in relation to an application means an application by or from one party only without requiring service on or submissions from any adverse party;

“**Gazette**” means the Gazette or other official publication published in a Member State by authority of the Government of that Member State and includes any supplement thereto;

“**Headquarters Agreement**” means the Agreement establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission dated the 23<sup>rd</sup> February 2005;

“**intervener**” means a person or entity whose application to intervene has been granted;

“**Judge**” means a Judge of the Court and includes the President;

“**judgment**” includes an order, ruling or final decision of the Court;

“**local deputy registrar**” means a Registrar of a superior court in a Contracting Party appointed to be a deputy registrar of the Court in that Contracting Party pursuant to Article XXVII.2 of the Agreement;

“**Member State**” means a Member State of the Community but does not include a State admitted to associate membership of the Community pursuant to Article 231 of the Treaty;

“**national**” means a person, natural or juridical, of a Contracting Party within the meaning of Article 222 of the Treaty;

“**original jurisdiction**” means the jurisdiction of the Court set out in Part II of the Agreement;

“**originating application**” means the document initiating proceedings except in the case of applications for special leave under rule 10.4 and proceedings falling under Part 11;

“**overriding objective**” means the objective set out in rule 1.3;

“**party**” means a party to proceedings before the Court;

“**person**” includes a Member State;

“**pleading**” includes every document that initiates proceedings, and a defence, a reply and a rejoinder;

“**President**” means the President of the Court;

“**Protocol**” means the Protocol on the Privileges and Immunities of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission signed on the 4<sup>th</sup> July, 2003;

“**referral**” means a referral by a national court or tribunal of a question concerning the interpretation or application of the Treaty to the Court for its determination pursuant to Article XIV of the Agreement;

“**Registrar**” means the Registrar of the Court or other officer for the time being discharging the duties of the Registrar;

“**Registry**” means the Registry of the Court located at the Seat of the Court;

“**respondent**” means a person against whom an order is sought by an application made under Part 21;

“**Seat of the Court**” means the principal premises occupied by the Court for its

official use;

“**sub-Registry**” means the registry or court office at which a local deputy registrar holds the post and performs the functions of Registrar; and

“**Treaty**” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed on the 5<sup>th</sup> July, 2001.

### **Overriding objective**

- 1.3 The overriding objective of these Rules is to ensure that the Court is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.

### **Application of Rules**

- 1.4 (1) Any matter within the original jurisdiction of the Court shall be commenced, proceeded with and disposed of by the Court in accordance with these Rules.
- (2) Nothing in these Rules shall-
- (a) limit or otherwise affect the inherent power of the Court to make such orders as may be necessary to meet the ends of justice or to prevent abuse of the process of the Court;
  - (b) empower the Court to bring in a finding of *non liquet*; or
  - (c) prejudice the power of the Court to decide a dispute *ex aequo et bono* if the parties so agree.

## **PART 2 ORGANISATION OF COURT AND REGISTRY**

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### **Seniority of Judges**

- 2.1 Except for the President, who shall rank first, Judges shall rank equally in status and seniority shall be determined by reference to the dates on which they are sworn in, and if they are sworn in on the same date, the order in which they are sworn in.

### **Composition and Powers of the Court**

- 2.2 (1) Except for the purpose of hearing interlocutory applications other than an application for special leave under rule 10.4 and for giving case management directions, the Court shall be constituted by not less than three Judges, being an uneven number.
- (2) The Judges referred to in sub-rule (1) shall collectively possess the expertise necessary for the Court to adjudicate the matter.

### **Powers of President**

- 2.3 (1) The President shall direct the judicial business and the administration of the Court.
- (2) The President may issue to the Registrar from time to time such instructions as may be necessary for the proper administration of these Rules.

### **Register of cases**

- 2.4 (1) There shall be kept in the Registry, under the control of the Registrar, a register in which the filing of all pleadings and supporting documents shall be recorded together with the date and time of filing.
- (2) The register of cases may be kept in electronic form.

- (3) When a document has been filed, the Registrar or local deputy registrar, as the case may be, shall endorse a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.
- (4) Entries in the register and the notes provided for in sub-rule (3) shall in the absence of evidence to the contrary, be accepted as proof of the events which they record.
- (5) Rules for keeping the register shall be included in the instructions to the Registrar referred to in rule 2.3(2).
- (6) A party may on payment of the prescribed fee obtain from the Registrar a copy of or an excerpt from the register in so far as it relates to the proceedings in which that party is involved.

### **Right to inspect documents**

- 2.5 (1) On payment of the prescribed fee, a person may during office hours search for, inspect and take a copy of any of the following-
- (a) a pleading;
  - (b) a judgment;
  - (c) an advisory opinion;
  - (d) a witness statement as permitted under rule 26.13; or
  - (e) any other document with the permission of the Court.
- (2) The Court may make an order granting permission under sub-rule (1)(d) on an application made *ex parte*.

### **Fees**

- 2.6 (1) The fees payable to the Court under these Rules shall be those stipulated in Schedule 1.
- (2) The Registrar may, with the approval of the President, amend Schedule 1 from time to time.

### **Powers and Duties of the Registrar**

- 2.7 (1) The Registrar shall be responsible for-
- (a) the acceptance, transmission and custody of documents in court matters;
  - (b) effecting service as provided for by these Rules;
  - (c) keeping a register of all documents filed in the Registry;
  - (d) having custody of the Seal and stamps of the Court and archives relating to proceedings before the Court;
  - (e) stamping all documents and affixing the official Seal of the Court to all originating applications, judgments and advisory opinions of the Court;

- (f) maintaining separate indexes of cases filed, referrals and requests for advisory opinions by the Court;
  - (g) keeping, in such form as may be prescribed by the President, a list of all cases, referrals and requests for advisory opinions numbered in the order in which the documents instituting proceedings, making the referral or requesting the advisory opinion are received in the Registry;
  - (h) transmitting to the parties copies of all documents which are to be served by the Registrar;
  - (i) making arrangements for such interpretation or verification of translations into the Court's official language as the Court may require in connection with proceedings before the Court;
  - (j) signing all orders of the Court;
  - (k) the publication of the Court's judgments, advisory opinions and such other documents as may be required to be published by these Rules or by the Court;
  - (l) responding to inquiries concerning the Court and its work;
  - (m) performing the functions of taxing master;
  - (n) giving instructions to the local deputy registrars where necessary about the procedure for performing their duties under these Rules;
  - (o) giving directions in matters before the Court as prescribed by these Rules; and
  - (p) such other functions as the President of the Court or the presiding Judge may direct.
- (2) The Registrar shall assist the Court, the President and the Judges in the discharge of their official functions.
- (3) Communications about matters before the Court including requests made of the Court by a party under these Rules shall unless otherwise stated be addressed to the Registrar.
- (4) A Deputy Registrar may subject to the direction of the Registrar, exercise and perform all or any of the powers and duties of the Registrar.
- (5) For the purpose of proceedings before the Court, oaths may be administered by -
- (a) the Registrar or a Deputy Registrar; or
  - (b) in any Contracting Party, any person duly authorised by the law of that Contracting Party to perform like functions for the purpose of proceedings in a superior court of that Contracting Party.

### **Powers and Duties of local deputy registrars**

- 2.8 Local deputy registrars shall have the power and duty to-
- (a) receive, indorse, stamp and seal documents presented for filing at the relevant sub-Registry;
  - (b) receive fees payable to the Court;

- (c) keep a register of all documents filed in the sub-Registry;
- (d) forward immediately to the Registrar by electronic means all documents filed in the relevant sub-Registry;
- (e) forward to the Registrar as soon as possible the original of all documents filed in the relevant sub-Registry;
- (f) keep a record of all documents forwarded to the Registrar;
- (g) publish notices and other information at the direction of the Registrar;
- (h) transmit to the Registrar in a timely manner all fees received in the Contracting Party in which the relevant sub-Registry is located;
- (i) effect service of documents at the request of the Registrar;
- (j) notify the Registrar by electronic means in a timely manner when service of a document has been effected;
- (k) assist the Registrar in organising mediation sessions, site visits or other activities within the Contracting Party in which the relevant sub-Registry is located;
- (l) liaise with the Registrar in making arrangements for the Court or Judge to sit in the Contracting Party in which the relevant sub-Registry is located;
- (m) assist with protocol, travel and other arrangements for the Court and its officers;
- (n) provide the Registrar from time to time with a list of attorneys-at-law admitted to practise in the courts of the Contracting Party in which the relevant sub-Registry is located and inform the Registrar in a timely manner of the death or disqualification from practice by disbarment, suspension or otherwise, of any attorney-at-law who was previously entitled to practise in the courts of the Contracting Party;
- (o) assist in the enforcement of judgments of the Court;
- (p) verify and, where necessary, certify the signatures of the Registrar, a Deputy Registrar and other local deputy registrars; and
- (q) do such other acts as may be reasonably required to facilitate the exercise by the Court of its original jurisdiction.

**PART 3**  
**SITTINGS OF THE COURT**

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**Court Terms**

- 3.1 The Court shall have three terms as follows-
- (a) from the first Monday in October to the 17th December;
  - (b) from the 10th January to the Friday before Good Friday; and
  - (c) from the Monday after Easter Monday to the 31st July.

**Sittings of the Court**

- 3.2 (1) The Court shall sit in public, at such times and in such places as the President may direct.
- (2) The Court may direct that particular matters be held in private.
- (3) The Court may sit in a Contracting Party other than that in which the Court has its Seat.
- (4) Notice of each sitting of the Court shall be published by the Registrar on the Court's website.
- (5) At the discretion of the Registrar, publication of a notice of the sitting of the Court may be made in the print media as follows-
- (a) in the case of general sittings, in at least one local newspaper of general circulation at least two weeks before the date appointed for the commencement of the general sitting; and
  - (b) in the case of special sittings, in at least one local newspaper of general circulation at least twenty-four hours before the time appointed for the commencement of the special sitting, unless the urgency of the case prevents such publication of the notice.
- (6) Publication in the print media pursuant to sub-Rule (5) is to be made in the Contracting Party in which the Seat of the Court is located and in any other relevant Contracting Parties which have accepted the appellate jurisdiction of the Court.
- (7) Except in cases of emergency, the Court shall not sit-
- (a) on Saturdays and Sundays;

- (b) in the territory of a Contracting Party on any day that is a public holiday in that territory; or
- (c) on such other days as the President may direct.

### **Hearings outside Court Terms**

- 3.3
- (1) Ordinarily the Court shall not sit outside the Court terms but it may do so to hear such matters as it determines to be urgent or require prompt attention.
  - (2) In urgent cases a party may apply for a matter to be heard outside the Court terms.
  - (3) An application under sub-rule (2) may be determined by a single Judge of the Court.

### **Deliberations of Judges**

- 3.4
- (1) The deliberations of the Judges shall be held in private and shall not be disclosed to anyone.
  - (2) Only those Judges who were assigned to hear the case may take part in the deliberations held to decide it.
  - (3) Every Judge taking part in the deliberations shall in the course thereof state his opinion and the reasons therefor.
  - (4) The conclusions reached by the majority of the Judges after final deliberation shall be the decision or advisory opinion of the Court as the case may be and shall be published in a single judgment of the Court. No other opinion or judgment shall be given or delivered.

**PART 4**  
**RIGHTS AND OBLIGATIONS OF ATTORNEYS-AT-LAW AND AGENTS**

**Contents of this Part**

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**Representation**

- 4.1 In all proceedings before the Court a party shall be represented on the record by an attorney-at-law or in the case of a Member State, an agent.

**Right of Audience**

- 4.2 (1) A party may appear at any hearing in person or by an attorney-at-law or in the case of a Member State, by an agent.
- (2) The Court may grant a right of audience to any legally qualified person for the purposes of a particular matter.

**Rights of attorneys-at-law and agents**

- 4.3 An attorney-at-law or agent appearing in proceedings before the Court shall enjoy the privileges, immunities and facilities specified in the Protocol while present in the territory of any Contracting Party and in addition those specified in the Headquarters Agreement while present in Trinidad and Tobago.

**Duties of attorney-at-law**

- 4.4 An attorney-at-law has an overriding duty to the Court to act with independence in the interests of justice. He/she must assist the Court in the administration of justice and must not deceive or knowingly or recklessly mislead the Court.

**Grant of privileges, immunities in interest of proceedings**

- 4.5 (1) The privileges, immunities and facilities specified in rule 4.3 are granted exclusively in the interest of the proper conduct of proceedings.
- (2) These privileges, immunities and facilities may be waived by the President in accordance with Article XI of the Protocol and Article XI of the Headquarters

Agreement whenever in his opinion the enjoyment of them would impede the course of justice and they may be waived without prejudice to the interests of the Court.

#### **Exclusion of attorneys-at-law or agents for misconduct**

- 4.6 (1) An attorney-at-law or agent whose conduct towards the Court, a Judge or the Registrar is incompatible with the dignity of the Court, or who uses his rights for purposes other than those for which they are granted, may at any time be excluded from the proceedings by an order of the Court after he has been given an opportunity to be heard.
- (2) An order issued under this rule shall have immediate effect.
- (3) Where an attorney-at-law or agent is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the Court in order to allow the party affected to appoint another attorney-at-law or agent.
- (4) Orders made under this rule may be rescinded by the Court.

#### **Change of attorney-at-law or agent**

- 4.7 (1) Where there is a change in the attorney-at-law or agent on the record, the new attorney-at-law or agent as the case may be shall file a notice of appointment stating his business name, address and telephone number as well as his facsimile number and e-mail address if applicable.
- (2) The Registrar shall forthwith on the receipt of such notice serve a copy of the same on every other party and on the attorney-at-law or agent whom he is replacing.

**PART 5  
DOCUMENTS, TIME**

**Contents of this Part**

Court to state calendar date	Rule 5.1
Computation of time	Rule 5.2
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**Court to state calendar date**

- 5.1 When giving a judgment or direction which imposes a time limit for doing any act, the Court shall wherever practicable state the calendar date and the time of day by which the act is required to be done.

**Computation of time**

- 5.2 (1) A period of time by which any act is required to be done shall be determined in accordance with these Rules, practice directions and judgments of the Court.
- (2) A period of time expressed as a number of days shall be computed as clear days.
- (3) In this rule, “clear days” does not include-
- (a) the day on which the period begins or ends; and
  - (b) if the end of the period is defined by reference to an event, the day on which that event occurs or should occur.
- (4) Where the period within which an act must be done at the Registry or a sub-Registry-
- (a) is seven (7) days or fewer, Saturday, Sunday or any other day on which the Registry or sub-Registry as the case may be, is closed, shall not be counted; or
  - (b) ends on a day on which the Registry or the sub-Registry as the case may be, is closed, the act shall be deemed to have been done in time if done before close of business on the next day on which the Registry or sub-Registry as the case may be, is open.
- (5) Where an act is required to be done somewhere other than at the Registry or a sub-Registry, and the period within which the act is required to be done ends on a Saturday, Sunday or public holiday, the time for doing that act shall be deemed to end at 4 p.m. on the next business day in the country in which it is to be done.

- (6) Time will run during the vacation unless otherwise ordered by the Court or a single judge of the Court.
- (7) The Court may, on application, extend the time limits under which an action should be done under the Rules.

### **Exceptions to time limits**

- 5.3
- (1) Any time limit prescribed under these Rules may be extended.
  - (2) No right shall be prejudiced in consequence of the expiry of a time limit if the party in default proves that his default was due to the existence of unforeseeable circumstances.

### **Documents**

- 5.4
- (1) Every document prepared for use in the Court must be on letter-sized paper approximately 11 inches (28cm) long by 8.5 inches (21.5cm) wide. Margins of one inch (2.5cm) must be left at the top and bottom and of 1.5 inches (3.5cm) at the left side and one inch (2.5cm) at the right side.
  - (2) Where a document is required to be signed, the full name of the signatory must be set out legibly below the signature.
  - (3) The President may by practice direction-
    - (a) require any document filed or to be used at Court to be in such a format as he may prescribe to facilitate electronic recording or filing of that document;
    - (b) prescribe the conditions under which documents may be served or filed electronically; and
    - (c) provide for documents to be sealed or signed by electronic means.
  - (4) Every document to be filed shall-
    - (a) be headed with the-
      - (i) full title of the proceedings; and
      - (ii) title of the document;
    - (b) state the-
      - (i) name;
      - (ii) bar number or other means of identification (if any);
      - (iii) business address;
      - (iv) telephone number;
      - (v) fax number; and
      - (vi) e-mail address; (if any)of the person filing it;
    - (c) contain its date; and
    - (d) except in the case of a sworn statement, where required to be signed-

- (i) be signed by the person filing it; or
- (ii) in the case of electronic filing, be signed electronically.

## **Forms**

- 5.5
- (1) The forms to be used shall, where appropriate, be the forms in Schedule 2 to these Rules or those prescribed by practice directions.
  - (2) A form may be varied if the variation is required by the circumstances of a particular case.
  - (3) A form shall not be varied so as to omit any information or guidance which the form is intended to give to the recipient.
  - (4) A form marked with the word 'Seal' shall bear the Seal of the Court.

## **Sealing of documents issued by the Court**

- 5.6
- (1) The following documents are required to be sealed with the Seal of the Court on issue-
    - (a) originating applications; and
    - (b) judgments, advisory opinions, orders and directions of the Court.
  - (2) The Court may place the Seal on a document by-
    - (a) hand; or
    - (b) printing a facsimile of the Seal on the document electronically or by any other means.
  - (3) All judgments and directions of the Court shall be signed by the Registrar.
  - (4) A document purporting to bear the Seal of the Court shall be admissible in evidence without further proof.



## **PART 6 PRACTICE DIRECTIONS**

### **Contents of this Part**

Issuance of practice directions	Rule 6.1
Effective date of practice directions	Rule 6.2
Publication of practice directions	Rule 6.3

### **Issuance of practice directions**

- 6.1 (1) The President may issue practice directions prescribing the practice and procedure to be followed in the Court in so far as the same is not expressly dealt with by these Rules.
- (2) The authority of the President to issue practice directions is not limited to those cases in which provision for the issue of such directions is expressly made in these Rules.

### **Effective date of practice directions**

- 6.2 A practice direction shall state the date from which it is to take effect and shall be effective from that date.

### **Publication of practice directions**

- 6.3 (1) A practice direction shall as soon as practicable after it is issued be-
- (a) posted on the Court's website; and
  - (b) published in at least one newspaper in regular circulation in each Contracting Party.
- (2) The Registrar shall also endeavour to have practice directions published in the Gazettes of all Contracting Parties.



**PART 7**  
**LANGUAGE, TRANSLATION AND INTERPRETATION**

**Contents of this Part**

Official language of the Court	Rule 7.1
Translation of documents	Rule 7.2
Use of another language	Rule 7.3
Translation and Interpretation	Rule 7.4
Arrangements and costs for interpretation	Rule 7.5
Verbatim Record	Rule 7.6

**Official language of the Court**

- 7.1 The official language of the Court shall be English which shall, subject to this rule, be used in the written and oral pleadings of the parties, in the evidence and supporting documents and in the records, judgments and advisory opinions of the Court.

**Translation of documents**

- 7.2 (1) A document filed or served and expressed in a language other than the official language shall be accompanied by-
- (a) a translation in English by a translator approved by the Registrar; and
  - (b) a sworn statement by the translator stating that the translation is true and correct.
- (2) In the case of lengthy documents, translation may be confined to extracts accompanied by an explanatory note indicating which passages are translated. The Court may, however of its own motion or at the instance of a party, call for a complete or fuller translation.

**Use of another language**

- 7.3 (1) Where one of the parties is a Contracting Party in which the first language is not English or a national of such a Contracting Party, that party shall, subject to rule 7.5(1), be entitled to conduct its or his case at any oral hearing in the first language of that Contracting Party and the Registrar shall arrange for an interpreter to attend the oral hearing in order to enable it to be conducted both in English and in the first language of that Contracting Party.
- (2) Where a witness is unable to express himself adequately in the official language, the Court may authorise his evidence to be given in another language.

## **Translation and Interpretation**

- 7.4 (1) The Registrar shall establish and maintain a list of interpreters and translators approved by the Registrar.
- (2) A person may be included or added to the list by the Registrar either of the Registrar's own motion or on application by that person or a party if the Registrar is satisfied of the integrity and competence of that person.
- (3) The list of approved interpreters and translators shall be posted on the Court's website and published at least once a year in the Gazettes in each Contracting Party in which the first language is not English, and in the Contracting Party in which the Seat of the Court is located.
- (4) The list of approved interpreters and translators shall be made available to any party on request to the Registrar.

## **Arrangements and costs for interpretation**

- 7.5 (1) A party on whose behalf interpretation from a language other than the official language is to be made, shall notify the Registrar in sufficient time for the necessary arrangements to be made.
- (2) The costs of interpretation at an oral hearing shall be borne by the Court.
- (3) Before first interpreting in the case, interpreters shall make the following declaration in open court-

"I solemnly declare upon my honour and conscience that my interpretation will be faithful and complete."

## **Verbatim Record**

- 7.6 (1) The Registrar shall cause a verbatim record to be made of every hearing in the official language.
- (2) The verbatim record of the proceedings may consist of an electronic audio recording or a transcript made from such a recording or from any other form contemporaneous recording approved by the Court, whether or not made by or with the assistance of other electronic or mechanical means.
- (3) The accuracy of an electronic audio recording or any other contemporaneous method of recording used with the approval of the Court to record its proceedings, shall be certified in a form to be approved by the President by the person or persons responsible for ensuring the accuracy of such recording.

- (4) The accuracy of a transcript made from an electronic audio recording or other form of contemporaneous recording shall be certified in a form approved by the President by the person or persons responsible for producing the transcript.
- (5) Copies of the verbatim record shall be provided to the parties for a fee to be fixed by the Registrar. Such copies may be provided in electronic form.
- (6) The Court may, either of its own motion or on the application of a party, amend the verbatim record if the Court is satisfied that such amendment is necessary in order to render the verbatim record accurate and complete.



## **PART 8 PARTIES**

### **Contents of this Part**

Adding a new defendant

Rule 8.1

Procedure for adding a new defendant

Rule 8.2

### **Adding a new defendant**

- 8.1 After an originating application has been filed, a claimant may seek leave to add a new defendant on either of the following grounds-
- (a) it is desirable to add the new defendant so that the Court can resolve all the matters in dispute in the proceedings; or
  - (b) there is an issue involving the new defendant which is connected to the matters in dispute in the proceedings and it is desirable to add the new defendant so that the Court can resolve that issue.

### **Procedure for adding a new defendant**

- 8.2 (1) An application for an order under rule 8.1 shall include a statement of the grounds and the facts on which it is based and shall be served by the Registrar on the other parties and on the proposed new defendant.
- (2) An order for the addition of a defendant shall be served by the Registrar on the proposed new defendant and all parties to the proceedings.
- (3) Where the Court makes an order for the addition of a defendant, it shall consider whether to give consequential directions regarding-
- (a) the service of relevant documents on the new defendant; and
  - (b) the further conduct of the matter.



## **PART 9 FILING AND SERVICE**

### **Contents of this Part**

Interpretation	Rule 9.1
Submission and filing of documents	Rule 9.2
Filing by facsimile	Rule 9.3
Electronic submission of documents	Rule 9.4
Address for service	Rule 9.5
Service of documents	Rule 9.6
Proof of service	Rule 9.7
Service by facsimile	Rule 9.8
Electronic service of documents	Rule 9.9

### **Interpretation**

9.1 In this Part “**party**” includes the attorney-at-law or agent of a party.

### **Submission and filing of documents**

- 9.2 (1) A document may be submitted for filing by-
- (a) delivering it at the Registry or a sub-Registry to a person authorised to receive it at a time when the Registry or sub-Registry, as the case may be, is open;
  - (b) posting it to the Registry;
  - (c) sending it by facsimile to the number designated for the purpose by the Registrar; or
  - (d) electronic means as described in rule 9.4.
- (2) Subject to sub-rule (3) a document submitted in accordance with sub-rule (1)(a), (b) or (c) is filed on the day on which it is received at the Registry or where appropriate, a sub-Registry.
- (3) If a document submitted for filing in accordance with sub-rules (1) (b) or (c) is received at the Registry when the Registry is closed, the document is deemed to be filed as soon as the Registry is next open.
- (4) Where a fee is to be paid, a document is not to be treated as filed until-
- (a) the fee is paid; or
  - (b) an undertaking to pay the fee acceptable to the Registrar is received.

## **Filing by facsimile**

- 9.3 (1) In addition to satisfying any conditions contained in a practice direction, a party filing any document by facsimile transmission shall include a cover page stating-
- (i) the name, address, telephone number and facsimile number of the sender;
  - (ii) the facsimile number of the sender to which documents may be sent, if different from the above number;
  - (iii) the date and time of transmission;
  - (iv) the total number of pages transmitted, including the cover page; and
  - (v) the name and telephone number of a person to contact if problems occur in transmission.
- (2) Where a document is sent by facsimile transmission, the original shall be submitted promptly to the Registry.
- (3) The Registrar shall send an acknowledgement of receipt to the sender as soon as practicable after receiving a document filed by facsimile.

## **Electronic submission of documents**

- 9.4 (1) A document may be submitted for filing electronically by e-mail addressed to a dedicated Registry inbox named [efile@caribbeancourtsofjustice.org](mailto:efile@caribbeancourtsofjustice.org).
- (2) Any document so submitted when the Registry is closed will be filed on the date on which it was received as indicated by the date in the above inbox, and will be registered and distributed during the next working day.
- (3) A document that does not comply with the Rules may be returned to a party for correction to secure compliance.
- (4) Upon receipt of a duly submitted document the designated officer in the Registry shall register the document. Each document submitted will be paginated sequentially based on the case number under which the document is filed, stamped, dated and signed by the designated officer electronically. A copy of the document with the electronic Registry markings shall forthwith be returned to the submitter and sent to the relevant sub-Registry.
- (5) Documents to be filed under this rule shall conform to the Court's approved standard of 8.5 inches by 11 inches; supporting documents and exhibits that do not conform with this requirement, shall be scanned in this size and attached as scanned documents.

## **Address for service**

- 9.5 (1) Every document submitted for filing shall contain-
- (a) an address for service in the Contracting Party where the Seat of the Court is located or in the Contracting Party where the document is filed,
  - (b) a facsimile number for service, if service is being accepted by facsimile when provision has been made for service by facsimile under rules 9.8; or
  - (c) an e-mail address for service, if service is being accepted by e-mail under rule 9.9.
- (2) A party who changes his address for service shall immediately notify the Registrar and all the parties of the change.
- (3) A document is regarded as having been validly served when it is sent to the original address before any notice of change of address for service has been received by the Registrar.

## **Service of documents**

- 9.6 (1) Any document requiring service shall be served by the Registrar in such manner as is reasonable in all the circumstances.
- (2) Where documents are to be served on a Contracting Party, if there is no agent or attorney-at-law on the record, they shall be served on the Minister of Justice or the Attorney General of that Contracting Party.
- (3) Where documents are to be served on an organ or institution, or on a corporation or other legal personality, they shall be served-
- (a) in the case of the organs established by Article 10 of the Treaty, on the Secretary General of the Community;
  - (b) in the case of the institutions established by Articles 21 and 22 of the Treaty, on the head of the institution;
  - (c) in the case of a company, on the company secretary or managing director; and
  - (d) in the case of a corporation or other legal personality, on the chairman or secretary or any comparable official of such an entity.

## **Proof of service**

- 9.7 Service is proved by a certificate of service issued by the Registrar.

## **Service by facsimile**

- 9.8 The President may issue a practice direction for the service of documents by facsimile.

### **Electronic service of documents**

- 9.9 (1) Any document required to be served may be served electronically.
- (2) Electronic confirmation of delivery shall serve as proof of service for all documents served electronically.

## **PART 10**

### **HOW TO COMMENCE PROCEEDINGS**

#### **Contents of this Part**

Proceedings by a Contracting Party or the Community	Rule 10.1
Contents of originating application	Rule 10.2
Notice and service of originating application	Rule 10.3
Proceedings by a national	Rule 10.4
Right to make an application which includes two or more claims	Rule 10.5

#### **Proceedings by a Contracting Party or the Community**

- 10.1 A Contracting Party or the Community shall commence proceedings by filing an originating application which shall be accompanied by all annexures referred to therein together with seven copies for the Court and a copy for every other party to the proceedings. The copies shall be certified by the party filing them.

#### **Contents of originating application**

- 10.2 An originating application filed by a Contracting Party or the Community shall-
- (a) identify the parties to the dispute;
  - (b) give an address for service in accordance with rule 9.5;
  - (c) set out the grounds on which it is claimed that the Court has jurisdiction;
  - (d) state the precise nature of the claim together with a full statement of the facts and contentions on which it is based;
  - (e) specify the remedy which the claimant is seeking;
  - (f) list and annex copies of all documents which support the claimant's claim; and
  - (g) be dated and signed by the party's attorney-at-law or agent.

#### **Notice and service of originating application**

- 10.3
- (1) The Community and all Member States shall be notified by the Registrar of the filing of any originating application within fourteen (14) days thereof.
  - (2) The Registrar shall give notice on the Court's website of particulars of-
    - (a) the date of filing of any originating application;
    - (b) the identity of the parties;
    - (c) the subject-matter of the proceedings; and
    - (d) the remedy sought.
  - (3) The Registrar shall forthwith upon the filing of an originating application serve the same together with all annexures on the defendant.

## Proceedings by a national

- 10.4 (1) A national wishing to commence proceedings pursuant to Article 222 of the Treaty must file an application for special leave to which is annexed a copy of the proposed originating application.
- (2) The applicant shall set out in the application for special leave such facts, and annex to it such documents, as are necessary to establish-
- (a) that the applicant is a national;
  - (b) that it is arguable that the Treaty intended that a right or benefit conferred by or under the Treaty on the Contracting Party to which the applicant belongs should enure to the benefit of the applicant directly;
  - (c) that it is arguable that the applicant has been prejudiced in respect of the enjoyment of the right or benefit mentioned in paragraph (b) above;
  - (d) that the Contracting Party entitled to espouse the claim in proceedings before the Court has-
    - (i) omitted or declined to espouse the claim; or
    - (ii) expressly agreed that the applicant espouse the claim in its stead; and
  - (e) that the interest of justice requires that the applicant be allowed to espouse the claim.
- (3) The Registrar shall within seven (7) days of the filing of the application for special leave, serve on the Contracting Party to which the applicant belongs, and on the proposed defendant, copies of that application together with all annexures thereto.
- (4) Within fourteen (14) days of being served in accordance with sub-rule (3), the Contracting Party and the proposed defendant shall each be at liberty to file a notice requesting to be heard on the application for special leave, and the Registrar shall within seven (7) days of the filing of any such notice, serve a copy thereof on the applicant.
- (5) A Contracting Party or proposed defendant who, having been served under sub-rule (3), fails to file a request to be heard within the time stipulated in sub-rule (4), shall not, unless the Court otherwise orders, be heard on the application for special leave.
- (6) Within forty-nine (49) days of the filing of the application for special leave, the Court shall hold a case management conference for the purpose of giving directions as to the further conduct of the application. The Registrar shall give at least fourteen (14) days' notice of that conference to-
- (a) the applicant;
  - (b) the Contracting Party, if the Contracting Party has filed a request to be heard; and
  - (c) the proposed defendant, if the proposed defendant has filed a request to be heard.

- (7) If special leave is granted, the applicant shall within seven (7) days thereafter file an originating application in the same form as the proposed originating application annexed to the application for special leave, with such amendments (if any) as the Court may approve.
- (8) The proposed originating application referred to in sub-rule (1) shall comply with the requirements of rules 10.1 and 10.2.

**Right to make an application which includes two or more claims**

- 10.5 An originating application may include two or more claims provided they can conveniently be disposed of in the same proceedings.



## **PART 11 REFERRALS, ADVISORY OPINIONS AND APPLICATIONS RELATING TO THE COMPETITION COMMISSION**

### **Contents of this Part**

Interpretation	Rule 11.1
Referral proceedings	Rule 11.2
Proceedings for advisory opinions	Rule 11.3
Review of Decisions of the Commission under paragraph 12 of Article 175 of the Treaty	Rule 11.4
Application by the Commission under paragraph 11 of Article 175 of the Treaty	Rule 11.5
Review of Decisions of the Commission under Article 180 of the Treaty	Rule 11.6

### **Interpretation**

- 11.1 In this Part,  
“**appropriate officer**” means the person or authority authorised by the law of a Contracting Party to sign a referral;  
“**Commission**” means the Competition Commission established by Article 171 of the Treaty;  
“**COTED**” means the Council for Trade and Economic Development referred to in Article 10 of the Treaty;  
“**national court**” means a court or tribunal of a Contracting Party and includes the Eastern Caribbean Supreme Court.

### **Referral proceedings**

- 11.2 (1) Where a national court is seised of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.
- (2) The referral must be in writing signed by the registrar of the national court or the appropriate officer and be addressed to the Registrar.
- (3) The referral must-
- state the question which the Court is asked to answer;
  - explain how the question referred is relevant to the issues in the proceedings before the national court;
  - identify the parties to those proceedings and give an address for service for each of them; and
  - give an account of the factual and legal background essential for a full understanding of what is provided under sub-paragraphs (a) and (b).

- (4) Within fourteen (14) days of receipt of a referral the Registrar shall serve copies of the referral on all Member States, the Secretary General of the Community and the parties to the proceedings before the national court.
- (5) Where the Community or any Member State wishes to be heard on the question referred it shall so indicate in writing within six (6) weeks of being served under sub-rule (4).
- (6) The parties to the proceedings before the national court, and the Community and a Member State, if either has given notice of its desire to be heard pursuant to sub-rule (5), shall be given an opportunity to make submissions to the Court either orally or in writing or both.
- (7) Subject to sub-rule (6), the Court shall give directions for the further conduct of the matter.
- (8) The ruling in answer to the question referred shall be given in writing and be sent by the Registrar to the person who signed the referral, the parties to the proceedings before the national court and any body which made submissions to the Court and shall thereafter be published by the Court.

#### **Proceedings for advisory opinions**

- 11.3
- (1) A request for an advisory opinion by Member States parties to a dispute or the Community under Article 212 of the Treaty shall be submitted in writing to the Registrar.
  - (2) Where Member States parties to a dispute request an advisory opinion, they shall make a joint request.
  - (3) A request for an advisory opinion shall include-
    - (a) a clear and succinct statement of the point on which the opinion is sought;
    - (b) a statement of the facts germane to the issue raised; and
    - (c) the respective legal submissions on the issue raised.
  - (4) Any documents germane to the issue raised shall be transmitted to the Court at the time of the submission of the request or as soon as possible thereafter.
  - (5) Within fourteen (14) days of receipt of a request for an advisory opinion the Registrar shall serve copies of the request on all Member States and the Secretary General of the Community.
  - (6) Any entity which has been served shall be entitled to make written submissions to the Court within forty-two (42) days of being served.
  - (7) The Registrar shall send to all Member States and the Secretary General of the

Community a copy of all written submissions that have been received.

- (8) After the expiry of the time specified for the receipt of written submissions, the Court shall give directions for the further conduct of the matter.
- (9) The opinion of the Court shall be given in writing and, unless the Court determines otherwise, shall contain-
  - (a) a succinct statement of the question on which the Court's opinion is sought;
  - (b) the names of the Judges participating;
  - (c) the date of delivery;
  - (d) a statement of the facts;
  - (e) the reasons in point of law;
  - (f) a succinct answer to the question(s) put; and
  - (g) a heading indicating clearly that it is an advisory opinion.
- (10) The opinion of the Court shall be sent by the Registrar to the requesting party or parties, the Secretary General of the Community and any entity from which submissions were received, and shall thereafter be published by the Court.

#### **Review of Decisions of the Commission under paragraph 12 of Article 175 of the Treaty**

- 11.4 (1) An application under paragraph 12 of Article 175 of the Treaty for review of a determination made by the Commission shall be filed by the party aggrieved within ninety (90) days of such determination.
- (2) The application for review shall-
    - (a) specify the determination to be reviewed;
    - (b) indicate whether the investigation leading to the determination was requested by COTED or by a Member State and if so which one;
    - (c) identify any other person or entity interested in or affected by the determination;
    - (d) indicate the circumstances in which the determination came to be made;
    - (e) provide any reasons given by the Commission for its determination;
    - (f) be accompanied by copies of any documents that were before the Commission;
    - (g) provide a transcript or note, if available, of any oral proceeding before the Commission;
    - (h) state the grounds on which it is sought to impugn the determination; and
    - (i) specify the order which the Court is asked to make.
  - (3) Within fourteen (14) days of the filing of an application under sub-rule (1), the Registrar shall-
    - (a) serve a copy of the application-
      - (i) on the Commission;
      - (ii) on the Secretary General of the Community;
      - (iii) on COTED;

- (iv) if the investigation was requested by a Member State, on that Member State; and
- (v) on all other persons and entities affected by the determination, and
- (b) set the date for a case management conference to be held within eight (8) weeks of the filing of the request.
- (4) At the case management conference the Court may give directions for the further conduct of the proceedings.
- (5) On the application of a party who has applied for a review of a determination by the Commission the Court may grant a stay of any order made as part of that determination.

#### **Application by the Commission under paragraph 11 of Article 175 of the Treaty**

- 11.5 (1) An application by the Commission for an order under paragraph 11 of Article 175 shall be signed by the Chairman of the Commission and sent to the Registrar.
- (2) The application shall-
- (a) identify the enterprise concerned (“the enterprise”);
  - (b) state the specific course of action the enterprise was required to take;
  - (c) indicate the time within which that course of action was required to be taken;
  - (d) provide evidence of the enterprise’s failure to comply or to request an extension of time for compliance; and
  - (e) specify the order which the Court is asked to make.
- (3) Upon receipt of an application under sub-rule (1) the Registrar shall within ten (10) days serve a copy of the application on the enterprise.
- (4) The enterprise may within fourteen (14) days of being served with a copy of the application file written submissions in response thereto and the Registrar shall within ten (10) days of such filing serve copies of the submissions on the Commission.
- (5) The Court may then decide the matter or give directions for its further conduct.
- (6) The Registrar shall send copies of any order made by the Court under this rule to the Secretary General of the Community and, if the investigation leading to the Commission’s order was requested by a Member State, to that Member State.

#### **Review of Decisions of the Commission under Article 180 of the Treaty**

- 11.6 (1) An application by the Commission pursuant to paragraph 3 of Article 180 of the Treaty for a review of a decision made by it shall be signed by the Chairman of the Commission and sent to the Registrar within six (6) months of the discovery of the

deceit or improper means by which it is alleged the decision of the Commission was induced.

- (2) The application shall-
  - (a) set out the decision of the Commission which is the subject of the application;
  - (b) identify the Member State on whose application the decision was made;
  - (c) outline the business conduct that was the subject of the Commission's decision;
  - (d) give particulars of the deceit or improper means by which the decision was induced;
  - (e) identify any person who is alleged to have been responsible for or to have participated in the deceit or improper means of inducement; and
  - (f) indicate the time when the deceit or improper means of inducement was first discovered.
- (3) Within ten (10) days of receipt of an application under sub-rule (1), the Registrar shall serve a copy of the application on the Member State on whose application the Commission made its ruling and notify any person identified under sub-rule (2)(e) of the substance of the allegation made against him.
- (4) The Court shall set a date for a case management conference to be held within six (6) weeks of receipt of an application under sub-rule (1) and shall give at least fourteen (14) days' notice of the case management conference to the Member State involved and any person identified under sub-rule (2)(e), and invite them to attend.



## **PART 12 INTERIM MEASURES**

### **Contents of this Part**

How to apply for Interim Measures	Rule 12.1
Procedure on application for Interim Measures	Rule 12.2

### **How to apply for Interim Measures**

- 12.1 (1) An application for interim measures may be filed at the time when the originating application is filed or at any time thereafter.
- (2) The application for interim measures shall-
- (a) establish prima facie the right in support of which the interim measures are sought;
  - (b) explain why the interim measures are needed, and the possible consequences if they are not prescribed; and
  - (c) specify the terms of the order sought.

### **Procedure on application for Interim Measures**

- 12.2 (1) The Registrar shall serve the application on the opposite party as soon as is reasonably practicable and the Court shall prescribe a short period within which that party may make written submissions.
- (2) The Court shall order a hearing in the matter unless the application for interim measures is uncontested.
- (3) In exceptional cases the Court may make an interim order before it has received written or oral submissions from the opposite party. The order shall be served forthwith by the Registrar on the parties and may be varied or cancelled at or before the hearing by a further order of the Court.
- (4) The enforcement of the order may be made conditional on the giving of an undertaking by the applicant to indemnify the opposite party against any loss or damage suffered as a result of the interim measures ordered if and to the extent that the Court subsequently determines that such loss or damage should be borne by the applicant, and the provision of security in an amount and of a description to be determined by the Court in support of that undertaking.
- (5) The order granting the application shall fix, where appropriate, a date on which the interim measures are to lapse. Unless the order fixes such a date they shall expire when final judgment is delivered.

- (6) At any time after the hearing under sub-rule (2), on application by a party, the order may be varied or cancelled on account of a change in circumstances or for other good and sufficient reason.
- (7) Rejection of an application for any interim measures shall not bar the party who made it from making a further application on the basis of new facts.

**PART 13**  
**EXPEDITED PROCEDURES**

**Contents of this Part**

Court may hear matters under expedited procedure	Rule 13.1
Court to hold case management conference	Rule 13.2
Court may abridge time limits or curtail procedures	Rule 13.3

**Court may hear matters under expedited procedure**

- 13.1 (1) A party may apply in writing for an originating application or application for special leave to be determined under an expedited procedure.
- (2) After an application for an expedited procedure has been filed the Registrar shall serve it forthwith on all other parties.
- (3) The Court shall afford all parties an opportunity to make submissions with regard to the application for an expedited procedure in such manner and within such time as the Court may determine.
- (4) If the justice of the case so requires and subject to sub-rule (3), the Court may order an expedited procedure for the determination of the originating application or application for special leave as the case may be.

**Court to hold case management conference**

- 13.2 When the Court has ordered an expedited procedure, it shall set an early date for a case management conference at which it shall give directions for the future conduct of the proceedings.

**Court may abridge time limits or curtail procedures**

- 13.3 Expedited procedure may include the abridgement of time limits fixed by these Rules or the curtailment in other respects of the procedures prescribed by them.



## **PART 14 INTERVENTION**

### **Contents of this Part**

Interpretation	Rule 14.1
How to apply to intervene	Rule 14.2
Procedure on application for leave to intervene	Rule 14.3
Procedure after grant of leave to intervene	Rule 14.4
Intervention under paragraphs 2 and 3 of Article XVIII of the Agreement	Rule 14.5
Intervener to accept case as he finds it	Rule 14.6

### **Interpretation**

- 14.1 In this Part “**current proceedings**” means the proceedings in which an entity or person seeks to intervene or has intervened.

### **How to apply to intervene**

- 14.2 (1) An application for leave to intervene must be filed in the current proceedings within six (6) weeks of the applicant having been notified of the originating application pursuant to rule 10.3 or in the case of a person, within six (6) weeks of the Contracting Party of which the applicant is a national, having been so notified.
- (2) An application for leave to intervene shall be intitled in the same manner as the current proceedings and shall set out-
- (a) particulars of the applicant including an address for service in accordance with rule 9.5(1);
  - (b) the substantial interest of a legal nature claimed by the applicant;
  - (c) how that interest may be affected by a decision of the Court in the current proceedings; and
  - (d) the contentions which the applicant wishes to put forward in the current proceedings.

### **Procedure on application for leave to intervene**

- 14.3 (1) On receipt of an application for leave to intervene, the Registrar shall serve the application on all parties to the current proceedings and invite them to file within a specified time written submissions as to whether and why the applicant should or should not be granted leave to intervene.
- (2) Any written submissions filed by the parties under sub-rule (1) shall be served by the Registrar on the applicant.

- (3) After the time specified for the filing of written submissions has expired, the Court may permit the applicant to respond in writing to the submissions received, if any, and shall determine the application either with or without a hearing.

#### **Procedure after grant of leave to intervene**

- 14.4 (1) Where the Court grants leave to intervene, the Registrar shall serve on the intervener copies of the documents served on the other parties to the current proceedings. The President, however, on application by one of the parties, may omit secret and confidential documents.
- (2) Within twenty-eight (28) days of service on the intervener of copies of the documents referred to in sub-rule (1), the intervener shall file a statement specifying-
  - (a) the order which the intervener wishes to support in the current proceedings accepting the case as the intervener finds it under sub-rule (6);
  - (b) any legal submissions on which the intervener relies; and
  - (c) where appropriate, the nature of any evidence offered in support of the intervener's contentions, annexing any documents on which it is intended to rely.
- (3) The Registrar shall forthwith serve copies of the statement filed by the intervener on all other parties to the current proceedings and invite them to file a response to the statement within a specified time. Any such response shall be served by the Registrar on the intervener.
- (4) The Court shall give further directions on the future conduct of the matter including whether a particular intervener may rely upon written submissions without participating in the hearing.

#### **Intervention under paragraphs 2 and 3 of Article XVIII of the Agreement**

- 14.5 (1) Whenever in the course of proceedings before the Court a question arises as to the construction of a convention to which Member States and other parties to the convention not engaged in those proceedings are parties, the Registrar shall forthwith notify all such Member States and other parties to the convention of the fact that the issue has arisen in those proceedings, inform them of their right to intervene and request them to inform the Registrar in writing within fourteen (14) days whether they propose to exercise that right.
- (2) If a Member State or person so notified indicates within the time specified in sub-rule (1), an intention to intervene, the Registrar shall, subject to sub-rule (3) and after giving the parties fourteen (14) days' notice of the Registrar's intention to do so, serve on such Member State or person the documents filed in the proceedings, and invite the Member State or person to file within a specified period written submissions with regard to the construction of the convention.

- (3) The President may on the application of any party to the current proceedings order that copies of secret and confidential documents be omitted from the documents served on the intervener.
- (4) The Registrar shall upon receipt of the intervener's submissions serve a copy of them on all parties to the current proceedings and invite them to file a written response thereto within twenty-eight (28) days.
- (5) Any written responses filed by the parties under sub-rule (4) shall be served by the Registrar on the intervener.
- (6) After the expiration of the time specified for the filing of written responses, the Court shall give directions for the further conduct of the matter.

**Intervener to accept case as he finds it**

- 14.6 The intervener shall accept the case as he finds it at the time of his intervention so that his intervention shall have prospective effect only.

**Part 15**  
**ASSISTANCE BY AN AMICUS CURIAE**

Contents of this Part

How to apply to assist the Court as an amicus curiae	Rule 15.1
Procedure	Rule 15.2
Invitation from the Court	Rule 15.3

**How to apply to assist the Court as an amicus curiae**

- 15.1 (1) A person or body, not having the substantial interest of a legal nature required to become an intervener, but having significant information of relevance to proceedings before the Court, may file an application to assist the Court in the public interest as an amicus curiae at any time before the Court has set a specific date for the hearing of the proceedings.
- (2) An application to assist the court shall be intituled in the same manner as the proceedings sought to be assisted and shall set out-
- (a) particulars of the applicant, including an address for service;
  - (b) an outline of the significant information relevant to the proceedings that is intended to be provided in the public interest unless full information can forthwith be provided; and
  - (c) an explanation of why such information is significant and relevant to the proceedings and why its provision is in the public interest.

**Procedure**

- 15.2 (1) After an application has been filed the Registrar shall serve the application on all parties to the proceedings and invite them to file within a specified time written submissions as to whether and why the applicant should or should not be permitted to become an amicus curiae.
- (2) Any written submissions filed under sub-rule (1) shall be served on the applicant by the Registrar, who shall invite the applicant within a specified time to file a response in writing to the submissions received.
- (3) After expiry of such specified time the Court shall determine the application either with or without a hearing and may then or thereafter permit the amicus curiae to address the Court at the hearing of the proceedings between the parties.
- (4) If the Court accedes to the application in circumstances where only an outline of the significant relevant information had been provided it shall set a date for filing the fully detailed information which the Registrar must then serve on the parties and any intervener.

## **Invitation from the Court**

- 15.3           The Court may of its own motion invite a person or body to assist it as amicus curiae if it considers that this will be helpful after notifying the parties to the proceedings of the identity of the proposed amicus and the justification for having such assistance and after considering any written submissions from them.



**PART 16**  
**DISCONTINUANCE**

**Contents of this Part**

Right to discontinue	Rule 16.1
Discontinuance by consent	Rule 16.2
Costs on discontinuance	Rule 16.3

**Right to discontinue**

- 16.1 (1) Before an originating application is served, a claimant may by notice addressed to the Registrar, discontinue all or part of the claim against all or any of the defendants without the leave of the Court.
- (2) After an originating application is served, a claimant may discontinue all or part of the claim against all or any of the defendants only with leave of the Court.
- (3) The provisions of Part 21 shall apply, with such modifications, adaptations qualifications and exceptions as the context requires, to applications under this Part.
- (4) An application for leave to discontinue shall be served by the Registrar on all other parties.
- (5) On the hearing of such application, the Court may-
- (a) grant leave as sought;
  - (b) make an order as to costs; and
  - (c) make any other order, including a consent order, that the justice of the case requires.

**Discontinuance by consent**

- 16.2 (1) If at any time before the final judgment on the merits has been delivered, the parties either jointly or separately notify the Court in writing that they have agreed to discontinue the proceedings, the Court shall make an order recording the discontinuance and directing that the case be removed from the list.
- (2) If the parties have agreed to discontinue the proceedings in consequence of having reached a settlement of the dispute and if they so desire, the Court may record this fact in the order for the removal of the case from the list, or indicate in, or annex to, the order the terms of the settlement.

**Costs on discontinuance**

- 16.3 (1) Unless the parties agree or the Court otherwise orders, a claimant who

discontinues is liable for the costs incurred by the defendant prior to service of the application for leave to discontinue and the costs of that application.

- (2) Where a claim is only partly discontinued-
  - (a) the claimant is liable only for the costs attributable to that part of the claim which is discontinued; and
  - (b) unless the Court otherwise orders, the costs which the claimant is liable to pay are not to be quantified until the rest of the claim is determined.

## **PART 17**

### **DEFENCE, FURTHER PLEADINGS AND CONSOLIDATION**

#### **Contents of this Part**

Filing of defence	Rule 17.1
Consequences of not setting out defence	Rule 17.2
Reply and rejoinder	Rule 17.3
The Court's power to hear matters together	Rule 17.4

#### **Filing of defence**

- 17.1 (1) Within forty-two (42) days of service of the originating application, the defendant shall file a defence which shall be accompanied by all annexures referred to therein together with seven copies for the Court and a copy for service upon every other party to the proceedings. The copies shall be certified by the party filing them.
- (2) The defendant shall in the defence-
- (a) provide the name, address, telephone number, fax number and e-mail address of an agent or attorney-at-law in the Contracting Party in which the Seat of the Court is located who is authorised to accept service on behalf of the defendant;
  - (b) give a succinct statement of the relevant facts emphasising any significant differences from the statement of facts contained in the originating application;
  - (c) annex copies of all documents on which it proposes to rely;
  - (d) outline any legal submissions relied upon;
  - (e) be dated and signed by the party's attorney-at-law or agent; and
  - (f) indicate the order which the Court is asked to make.

#### **Consequences of not setting out defence**

- 17.2 (1) The defendant may not rely on any allegation which is not set out in the defence but which could have been set out there, except with the leave of the Court.
- (2) The Court may give the defendant such leave at the case management conference.
- (3) The Court may not give the defendant such leave after the case management conference unless the defendant satisfies the Court that there has been a significant change in circumstances, which became known only after the date of the case management conference.

#### **Reply and rejoinder**

- 17.3 (1) The Court may authorise or direct that there shall be a reply by the claimant and a rejoinder by the defendant if the Court decides of its own motion or at the request

of one of the parties, that these pleadings are necessary.

- (2) The Court shall by order determine the time limits within which such pleadings are to be filed.
- (3) No new plea will be allowed unless it is based on matters of law or fact which came to light in the course of the proceedings.

### **The Court's power to hear matters together**

- 17.4 Where two or more originating applications are pending before the Court and, after hearing the parties, it appears to the Court that-
- (a) some common question of law or fact arises in both or all of them;
  - (b) the rights or remedies claimed therein are in respect of or arise out of the same transaction or series of transactions; or
  - (c) for some other reason it is desirable to make an order under this rule, the Court may order-
    - (i) the applications to be consolidated on such terms as it thinks just;
    - (ii) the applications to be tried wholly or partly at the same time or one immediately after another; or
    - (iii) one application to be stayed until after the determination of any other of them.

**PART 18**  
**JUDGMENT BY DEFAULT AND APPLICATION TO SET ASIDE**

**Contents of this Part**

Judgment by default	Rule 18.1
Application to set aside	Rule 18.2

**Judgment by default**

- 18.1 (1) Where a defendant who has been duly served with an originating application fails to file a defence, the claimant may apply for judgment by default.
- (2) The application shall be served on the defendant and the Registrar shall then fix a date for hearing.
- (3) At the hearing, the Court-
- (a) shall consider whether the originating application is admissible, whether the requisite formalities have been complied with, and whether the application appears well founded; and
  - (b) shall make such order as is just in the circumstances.

**Application to set aside**

- 18.2 (1) An application may be made to set aside a judgment by default in accordance with the procedure set out in Part 21.
- (2) The application to set aside the judgment shall be made within twenty-eight (28) days from the date of service of the judgment.
- (3) On application by a party the Court may order a stay of execution after the filing of an application to set aside a judgment obtained by default.
- (4) If the Court sets aside the judgment the Court's decision shall be annexed to the original default judgment.
- (5) A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment to which the application relates.
- (6) The provisions of Part 21 shall apply, with such modifications, adaptations qualifications and exceptions as the context requires, to applications under this Part.



## **PART 19**

### **THE COURT'S GENERAL POWERS OF CASE MANAGEMENT**

#### **Contents of this Part**

The Court's general powers of management	Rule 19.1
Court's power to make orders of its own motion	Rule 19.2
General power of Court in relation to non-compliance	Rule 19.3
Sanctions have effect unless defaulting party obtains relief	Rule 19.4
Relief from sanctions	Rule 19.5

#### **The Court's general powers of management**

- 19.1 (1) Except where these Rules provide otherwise, the Court may-
- (a) consolidate applications;
  - (b) extend or shorten the time for compliance with any rule, practice direction, order or direction of the Court even if the application for an extension is made after the time for compliance has passed;
  - (c) amend pleadings;
  - (d) adjourn or bring forward a hearing to a specific date;
  - (e) stay the whole or part of any proceedings generally or until a specified date or event;
  - (f) strike out the whole or any part of a pleading;
  - (g) decide the order in which issues are to be tried and order parties to file submissions on costs;
  - (h) direct a separate hearing of any issue;
  - (i) try two or more claims on the same occasion;
  - (j) direct that part of any proceedings be dealt with as separate proceedings;
  - (k) dismiss or make an order on a claim after a decision on a preliminary issue;
  - (l) require the maker of a witness statement to attend for questioning;
  - (m) require any party, agent or a party's attorney-at-law to attend Court;
  - (n) deal with a matter without the attendance of any parties;
  - (o) hold a hearing and receive evidence by telephone, audio conferencing, video conferencing or use any other method of direct oral communication;
  - (p) instead of holding an oral hearing, deal with a matter on written representations submitted by the parties;
  - (q) direct that any evidence be given in written form;
  - (r) give the conduct of any matter to any person or entity it thinks fit and make any appropriate consequential order about costs;
  - (s) direct that notice of any proceedings or application be given to any person or entity;
  - (t) where two or more parties are represented by the same legal practitioner-
    - (i) direct that they be separately represented; and
    - (ii) if necessary, adjourn any hearing to a fixed date to enable separate representation to be arranged and make any consequential order as

- to costs thrown away;
- (u) refer any specific issue to mediation;
  - (v) add defendants;
  - (w) inspect or cause an inspection to be made of any place or thing in issue;
  - (x) make an order for representation of a deceased person or defunct entity;
  - (y) make an order for the hearing of witnesses to be heard by a sub-panel of up to three Judges pursuant to rule 29.2; or
  - (z) take any other step, give any other direction or make any other order for the purpose of managing the case and furthering the overriding objective of these Rules.
- (2) When the Court makes an order or gives a direction, it may-
- (a) make it subject to conditions; and
  - (b) specify the consequence of failure to comply with the order or condition.
- (3) The conditions which the Court may impose include a condition-
- (a) requiring a party to give security;
  - (b) requiring a party to give an undertaking;
  - (c) requiring the payment of money into Court or as the Court may direct;
  - (d) requiring a party to pay all or part of the costs of the proceedings; and
  - (e) that a party permit entry to property owned or occupied by that party to another party or someone acting on behalf of another party.
- (4) Where a party pays money into Court following an order under sub-rules (2) and (3)(c), that money shall be security for any sum payable by that party to another party in the proceedings.
- (5) In considering whether to make an order, the Court may take into account whether a party is prepared to give an undertaking.
- (6) In special circumstances on the application of a party the Court may dispense with compliance with any of these Rules.

### **Court's power to make orders of its own motion**

- 19.2 (1) Except where a rule or other enactment provides otherwise, the Court may exercise its powers on an application or of its own motion.
- (2) Where the Court proposes to make an order of its own motion it may, in the interest of justice, give any party or intervener likely to be adversely affected a reasonable opportunity to make representations.
- (3) Such opportunity may be to make representations orally, in writing, by telephone or by such other means as the Court considers reasonable.

### **General power of Court in relation to non-compliance**

- 19.3 (1) Where the consequence of a failure to comply with a rule, practice direction or Court order has not been specified by any rule, practice direction or order of the Court, the failure to comply shall not invalidate any step taken in the proceedings, unless the Court so orders.
- (2) The Court may of its own motion or upon an application by a party or an intervener, make an order to enable the matter to proceed satisfactorily.

### **Sanctions have effect unless defaulting party or intervener obtains relief**

- 19.4 (1) Where the Court makes an order, issues a practice direction or gives directions the Court shall whenever practicable also specify the consequences of non-compliance.
- (2) Where a party or an intervener has failed to comply with any rule, direction, practice direction or any order, any sanction for such non-compliance imposed by the rule, direction, practice direction or the order has effect unless the party or intervener in default applies for and obtains relief from the sanction.
- (3) Where a rule, direction, practice direction or order requires a party or intervener to do something by a specified date, the time for doing the act in question may not be extended by agreement between the parties or between them and any intervener.

### **Relief from sanctions**

- 19.5 (1) An application for relief from any sanction imposed for a failure to comply with any rule, order, practice direction or direction shall be made promptly and supported by evidence.
- (2) The Court may grant relief if it is satisfied that it is in the interest of justice to do so and shall have regard, *inter alia*, to the following-
- a) whether the failure to comply was not intentional;
  - b) whether there is a good explanation for the failure;
  - c) whether the party or intervener in default has generally complied with all other relevant rules, practice directions, orders and directions;
  - d) the effect which the granting of relief or not would have on each party or intervener;
  - e) the interests of the administration of justice;
  - f) whether the failure to comply has been or can be remedied within a reasonable time; and
  - g) whether the failure to comply was due to the party or intervener or the party's or intervener's attorney-at-law or agent.
- (3) The Court may not order any other party or intervener to pay the applicant's costs in relation to any application for relief unless exceptional circumstances are shown.

## **PART 20**

### **CASE MANAGEMENT CONFERENCES**

#### **Contents of this Part**

Case management procedure	Rule 20.1
Dispensing with case management conference	Rule 20.2
Attendance at case management conference or pre-hearing review	Rule 20.3
Orders to be made at case management conference	Rule 20.4
Adjournment of case management conference	Rule 20.5
Variation of case management timetable	Rule 20.6

#### **Case management procedure**

- 20.1 (1) The Registrar shall, immediately upon the filing of a defence, make arrangements for the holding of a case management conference.
- (2) Notwithstanding sub-rule (1), the Registrar shall make arrangements for the holding of a case management conference wherever a case management conference is required in accordance with these rules.
- (3) Notwithstanding sub-rule (1), a party may request the Registrar to arrange a case management conference before a defence is filed.
- (4) A request under sub-rule (3) may be made *ex parte*, but must state the reasons for the same.
- (5) The Court may of its own motion direct the Registrar to make arrangements for the holding of a case management conference.
- (6) The Registrar shall give all parties and any interveners reasonable notice of the date, time and place of the case management conference.

#### **Dispensing with case management conference**

- 20.2 (1) On the application of a party or of its own motion the Court may dispense with a case management conference if it is satisfied that the case may be dealt with justly without a case management conference.
- (2) Where the Court dispenses with a case management conference, it shall immediately-
- (a) give directions in writing about the preparation of the case; and
  - (b) set a timetable for the steps to be taken between the giving of directions and the hearing.

- (3) The Registrar shall serve the directions made on all parties and give notice of the hearing date or hearing period.

#### **Attendance at case management conference or pre-hearing review**

- 20.3 (1) The party and any intervener and in the case of a Member State its agent, together with the attorney-at-law or other legal practitioner who is authorised to negotiate on behalf of a party, shall attend the case management conference and any pre-hearing review.
- (2) The Court may dispense with the attendance of any person specified under sub-rule (1).
- (3) Where the case management conference or pre-hearing review is not attended by any person specified under sub-rule (1), the Court may adjourn the case management conference or pre-hearing review to a fixed date and may exercise any of its powers under this Part or Part 30.
- (4) Where the Court is satisfied that notice of the hearing has been served on the absent party or parties or any interveners in accordance with these Rules, then the Court may take such steps as appear just, including dismissing the originating application or entering judgment against the defendant.

#### **Orders to be made at case management conference**

- 20.4 (1) At a case management conference the Court shall consider whether to give directions in respect of-
  - (a) disclosure and inspection;
  - (b) witness statements; and
  - (c) any experts' reports.
- (2) The Court may also give directions for the preparation of-
  - (a) an agreed statement of facts;
  - (b) an agreed statement of issues;
  - (c) an agreed statement of the basic technical and scientific matters in issue; and
  - (d) an agreed statement as to any relevant specialist area of law, which statement shall not be binding on the Court.
- (3) The Court may further direct that separate hearings relating to specific issues or witnesses be held before the final hearing whether by the panel of Judges hearing the case or a sub-panel thereof in accordance with rule 29.2.
- (4) The Court shall fix a date for a pre-hearing review unless it is satisfied that the case may be dealt with justly without a pre-hearing review.

- (5) The Court shall in any event, fix-
  - (a) the duration of the hearing if no pre-hearing review is scheduled;
  - (b) the hearing date; or
  - (c) the period within which the hearing is to commence.
- (6) The Registrar shall serve on all parties an order containing the directions made and give notice of-
  - (a) the hearing date or hearing period; and
  - (b) the date of any pre-hearing review.

### **Adjournment of case management conference**

- 20.5
- (1) The Court may not adjourn a case management conference without fixing a new date, time and place for the adjourned case management conference.
  - (2) Where the Court is satisfied that the parties are-
    - (a) in the process of negotiating, or are likely to negotiate a settlement; or
    - (b) are attending, or have arranged to attend, a form of ADR procedure,the Court may adjourn the case management conference to a suitable date, time and place to enable negotiations or the ADR procedure to continue.
  - (3) Where the case management conference is adjourned under sub-rule (2) each party shall notify the Registrar promptly if the claim is settled.
  - (4) The Court may give directions as to the preparation of the case for hearing if the case management conference is adjourned.

### **Variation of case management timetable**

- 20.6
- (1) A party or an intervener shall apply to the Court if he seeks to vary a date which the Court has fixed for-
    - (a) a case management conference;
    - (b) a party to take some step or perform some act;
    - (c) a pre-hearing review; or
    - (d) the hearing date or hearing period.
  - (2) A party or intervener seeking to vary any other date in the timetable established by the Court at the case management conference, shall apply to the Court before that date.
  - (3) A party or intervener who applies after the date referred to in sub-rule (2) shall apply for-
    - (a) relief from any sanction to which the party has become subject under these Rules or any Court order; and
    - (b) an extension of time.

## **PART 21 INTERLOCUTORY APPLICATIONS**

### **Contents of this Part**

Making of interlocutory application	Rule 21.1
Powers of a single Judge	Rule 21.2
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Powers of Court in relation to the conduct of an interlocutory application	Rule 21.10
Consequences of not asking for order in interlocutory application	Rule 21.11
Withdrawal of application	Rule 21.12

### **Making of interlocutory application**

- 21.1 (1) Unless otherwise provided for in these Rules, applications to the Court for any interlocutory order shall be made in accordance with this Part.
- (2) An interlocutory application to the Court shall be in writing and shall-
- (a) contain a statement of the order sought;
  - (b) set out the grounds relied upon;
  - (c) be accompanied by a sworn statement containing evidence in support thereof, including any relevant documents, unless a rule, a practice direction or a Court order otherwise directs; and
  - (d) conform with Form 1 in Schedule 2.
- (3) Notwithstanding sub-rule (2) an interlocutory application may be made orally if-
- (a) permitted by a rule or practice direction; or
  - (b) the Court dispenses with the requirement for the application to be made in writing.
- (4) Where an interlocutory application is to be made within a specified period, it is so made if the interlocutory application is filed in the Registry or a sub-Registry within that period.

### **Powers of a single Judge**

- 21.2 (1) A single Judge may make orders-
- (a) for such interim measures pursuant to Part 12 as may be necessary to

- preserve the rights of any party pending the determination of the proceedings;
- (b) staying proceedings pursuant to Part 22 and for a stay of execution of a decision of the Competition Commission established by Article 171 of the Treaty;
  - (c) granting relief pursuant to Part 19 from a sanction imposed for failure to comply with a rule, order or direction;
  - (d) granting leave to amend a pleading;
  - (e) granting leave to discontinue pursuant to Part 16;
  - (f) on applications for an expedited procedure pursuant to Part 13; or
  - (g) any other procedural application, or whenever authorised to do so by any rule or by a practice direction.
- (2) An order made by a single Judge may be varied or discharged by a full Court comprising not less than three judges.
- (3) The President may direct that an interlocutory application mentioned in sub-rule (1) shall be heard in the first instance by a full Court comprising not less than three nor more than five judges.

#### **Service by Registrar of interlocutory application**

- 21.3 (1) Upon the filing of the interlocutory application the Registrar shall forthwith serve the same and accompanying documents on the other parties and any interveners.
- (2) In exceptional cases, where the Court so permits, an interlocutory application may be provisionally determined before it has been served on the other parties and any interveners or after service on but before receipt of any written or oral submissions from them.

#### **Service of orders made in a party's absence**

- 21.4 (1) After the Court has disposed of an application permitted to be determined pursuant to rule 21.3 (2), the Registrar shall promptly notify all other parties and any interveners of the order made and serve a copy thereof on them.
- (2) The order shall contain a statement informing the other parties of the right to make an application under this rule for the order to be set aside or varied or for some other order to be made.

#### **Evidence in answer**

- 21.5 Within fourteen (14) days of being served with an application the respondent, in answer to the application, may file a response accompanied by a sworn statement containing any evidence in support thereof, together with any accompanying documents, and the Registrar shall forthwith serve the same on the applicant.

### **Notice to parties of hearing of interlocutory application**

- 21.6 The Registrar shall give all parties and interveners concerned at least seven (7) days' notice of the date, time and place fixed for determination of an application and the manner in which the Court will deal with it if a hearing is not required.

### **Applications which may be dealt with without a hearing**

- 21.7 The Court may deal with an interlocutory application without a hearing if-
- (a) the Court so permits;
  - (b) the Court considers that the application can be dealt with over the telephone or by other means of communication;
  - (c) the parties agree, or
  - (d) the parties have agreed to the terms of an order-
    - (i) other than an order to vary a date which the Court has fixed or the time the Court has fixed for doing any act; and
    - (ii) the attorneys-at-law, or agents of a Member State as the case may be, for all parties to the application have indicated in writing their consent to the order being made without a hearing.

### **Power of the Court to proceed in the absence of party**

- 21.8 (1) Where the applicant or any person on whom an interlocutory application has been served, fails to attend the hearing of the application, the Court may proceed in the absence of that party.
- (2) A respondent who has not been served with an interlocutory application may apply to the Court within fourteen (14) days of the service on him of any order made on the application, for such order to be set aside, varied or for some other order.

### **Application to set aside or vary order made with notice**

- 21.9 (1) Where a respondent who has been served with an interlocutory application was not present when an order was made, that party may apply, not later than fourteen (14) days of the service of the order on him, for any order made on the application to be set aside or varied.
- (2) The application to set aside or vary the order shall give a good reason for failing to attend the hearing, and show that it is likely that had the applicant attended some other order might have been made. The application shall be supported by a sworn statement providing evidence of the facts stated in the application and be accompanied by any relevant documents.

### **Powers of Court in relation to the conduct of an interlocutory application**

- 21.10 The Court may issue a witness summons requiring any person to attend the Court on the hearing of the interlocutory application and require a party or witness to produce documents or things at such a hearing.

### **Consequences of not asking for order in interlocutory application**

- 21.11 An applicant may not seek an order which was not sought in the application, except with the permission of the Court.

### **Withdrawal of application**

- 21.12 (1) An applicant who wishes to withdraw his application shall give notice in writing to that effect to the Registrar.
- (2) Where the application is opposed, the opposing party shall, subject to any agreement between the parties to the contrary, be entitled to his costs.

**PART 22**  
**STAY OF PROCEEDINGS**

**Contents of this Part**  
Stay of Proceedings

Rule 22

**Stay of Proceedings**

- (1) The Court may stay and resume proceedings of its own motion, in any case where it considers it appropriate to do so, or on the application of a party or a person who has intervened pursuant to Part 14.
- (2) The stay of proceedings shall take effect on the date indicated in the order granting the stay or, in the absence of such indication, on the date of the making of that order.
- (3) Where proceedings are stayed time shall cease to run for the purposes of prescribed time limits for all parties.
- (4) Where the order to stay does not specify the length of stay, it shall end on the date indicated by the order for resumption or, in the absence of such indication, on the date of the order for resumption.
- (5) From the date of resumption, time shall begin to run afresh.
- (6) The orders referred to in this rule shall be served on the parties by the Registrar.



**PART 23**  
**PRELIMINARY OBJECTIONS**

**Contents of this Part**

Lack of jurisdiction or inadmissibility of claim	Rule 23.1
Preliminary objections by a defendant	Rule 23.2

**Lack of jurisdiction or inadmissibility of claim**

- 23.1 (1) Where it is clear that the Court has no jurisdiction to entertain a claim or where the action is manifestly inadmissible, the Court may, by reasoned order and without taking further steps in the proceedings, give a decision on the claim.
- (2) The Court may at any time of its own motion consider whether there exists any absolute bar to proceeding with a case. If it so appears to the Court, the Court may proceed in accordance with the provisions of rule 19.2.

**Preliminary objections by a defendant**

- 23.2 (1) A defendant may apply to the Court for a decision on a preliminary objection to the jurisdiction of the Court or to the admissibility of the originating application, or on some other preliminary plea not going to the substance of the case.
- (2) The application shall state the facts and law relied on and the form of order sought and shall be accompanied by any supporting documents.
- (3) As soon as the application has been filed, the Court shall specify a period within which the other party may file submissions in answer to the preliminary objection together with any supporting documents.
- (4) The Registrar shall notify the parties of the date of hearing of the application and thereafter no further application in respect of those proceedings shall be accepted unless-
- (a) the party making the further application satisfies the Court that the application was occasioned by unforeseeable circumstances; and
  - (b) it is filed at least fourteen (14) days before the date of hearing of the application.
- (5) The time limit referred to in sub-rule (4)(b) may be abridged by the Court where the applicant establishes, to the satisfaction of the Court, that there are exceptional circumstances to warrant the application.
- (6) Where the Court refuses the application or reserves its decision, the Court shall prescribe new time limits for further steps in the proceedings.



**PART 24**  
**PRODUCTION OF DOCUMENTS, INFORMATION**

**Contents of this Part**

Documents and information	Rule 24.1
Court may require non-parties to supply information	Rule 24.2

**Documents and information**

24.1           The Court may require the parties and any interveners to produce all documents and to supply all information which the Court considers desirable.

**Court may require non-parties to supply information**

24.2           The Court may also require any interveners, the Member States and the Community not being parties to the proceedings to supply all information which the Court considers necessary for the proceedings.



**PART 25  
PRE-HEARING REVIEW**

**Contents of this Part**

Direction for pre-hearing review	Rule 25.1
Rules relating to case management conferences to apply	Rule 25.2
Directions at pre-hearing review	Rule 25.3

**Direction for pre-hearing review**

- 25.1 (1) The Court of its own motion or at the request of a party may fix a date for a pre-hearing review or the period within which such a hearing is to take place unless the Court is satisfied that the proceedings may be dealt with justly without a pre-hearing review.
- (2) A request by a party for a pre-hearing review shall be made not less than twenty-eight (28) days before the hearing date or the beginning of any hearing period fixed under sub-rule (1).
- (3) The Registrar shall give each party and any intervener reasonable notice of the date, time and place for a pre-hearing review.
- (4) The costs incurred in attending a pre-hearing review are costs in the cause, except for any interveners who must pay their own costs.

**Rules relating to case management conferences to apply**

- 25.2 The rules relating to a case management conference shall apply, with necessary modifications, to a pre-hearing review.

**Directions at pre-hearing review**

- 25.3 (1) At the pre-hearing review the Court shall give directions as to the conduct of the hearing in order to ensure the fair, expeditious and economic resolution of the issues.
- (2) In particular the Court may-
- (a) direct either party or any intervener to provide additional information to the other including supplemental witness statements;
  - (b) give directions for the filing by each party and any intervener and service on all other parties and any interveners of one or more of-
    - (i) a skeleton argument;
    - (ii) a chronology of relevant events;
    - (iii) a summary of any legal propositions to be relied on at the hearing;
- and

- (iv) a list of authorities which it is proposed to cite in support of those propositions;
- (c) direct the parties jointly to prepare one or more of-
  - (i) a core bundle of documents;
  - (ii) an agreed statement of facts;
  - (iii) an agreed statement of the basic technical, scientific or medical matters in issue;
  - (iv) an agreed statement as to any relevant specialist area of law, which statement shall not be binding on the Court, and direct when and by whom such documents shall be filed at the Court;
- (d) give directions as to the extent to which evidence may be given in writing; or
- (e) give directions as to the hearing of evidence by a sub-panel of the Judges hearing the case as provided under rule 29.2

## **PART 26 EVIDENCE**

### **Contents of this Part**

General Powers of the Court	Rule 26.1
Evidence by video link or other means	Rule 26.2
Requirement to file witness statements	Rule 26.3
Form of witness statements	Rule 26.4
Witness summaries	Rule 26.5
Procedure where one party does not file witness statement by date directed	Rule 26.6
Examination of witnesses	Rule 26.7
Use at hearing of witness statements which have been filed	Rule 26.8
Amplifying witness statements at hearing	Rule 26.9
Cross examination at interlocutory hearings	Rule 26.10
Consequence of failure to file witness statement or summary	Rule 26.11
Use of witness statements for other purposes	Rule 26.12
Witness statement not open to public inspection until hearing	Rule 26.13

### **General Powers of the Court**

- 26.1 (1) The Court may admit any evidence that is relevant and material to the case. Each party has a responsibility in good faith to produce such evidence.
- (2) The Court may either of its own motion or on application by a party or an intervener, order that certain facts be proved by witnesses and/or the provision of documents, and for that purpose, summon a witness of its own motion or on application by a party.
- (3) A summoning of a witness of the Court's own motion and an application by a party or an intervener for the examination of a witness shall state precisely upon which facts and for what reasons the witness should be examined.
- (4) Where the Court summons a witness of its own motion it shall give directions as to the preparation and filing of witness statements and the costs in respect thereof; and in these circumstances references in this rule to a party shall include the Court.
- (5) The Court may limit cross-examination.
- (6) Where a party does not intend to produce a potential witness who in the opinion of the Court can give material and relevant evidence, the Court may order that party to use its best endeavours to provide for the appearance of that witness to give evidence at the hearing.

### **Evidence by video link or other means**

- 26.2 (1) The Court may allow a witness to give evidence without being present in the court room, through a video link or by any other means.
- (2) The President may issue practice directions establishing the procedure to be followed where evidence is to be given by any such means.

### **Requirement to file witness statements**

- 26.3 (1) In this Part a “**witness statement**” means a written statement-
- (a) signed by the person making it; and
  - (b) containing the evidence which it is intended that that person would give orally.
- (2) The Court may order a party or an intervener to file witness statements and may give directions specifying when they are to be filed.

### **Form of witness statements**

- 26.4 (1) A witness statement shall-
- (a) be dated and give the name, address and description of the witness;
  - (b) sufficiently identify any document to which the statement refers without repeating its contents unless this is necessary in order to identify the document;
  - (c) not contain statements of information and belief unless the sources of information and the grounds of belief are stated;
  - (d) be signed or otherwise authenticated by the intended witness; and
  - (e) include a statement by the intended witness that he believes the statements contained therein to be true and correct.
- (2) The Court may order that any scandalous, irrelevant or otherwise oppressive matter be struck out of any witness statement.
- (3) A party or a party’s attorney-at-law may interview a witness or potential witnesses supportive of the party’s case at any time to discuss their prospective testimony.

### **Witness summaries**

- 26.5 (1) Where a party or an intervener required to file a witness statement is not able to obtain such a statement the party or intervener may-
- (a) file a witness summary instead; and
  - (b) certify on the witness summary the reason why a witness statement could not be obtained.

- (2) A witness summary is a summary of-
  - (a) the evidence, so far as is known, which would otherwise be included in a witness statement; or
  - (b) if the evidence is not known, the matters about which the party filing the witness summary proposes to question the witness.
- (3) Unless the Court orders otherwise a witness summary shall include the name and address of the intended witness or other sufficient means of identifying him.
- (4) A witness summary shall be filed within the period in which a witness statement would have had to be filed.
- (5) Where a party or an intervener provides a witness summary, so far as practicable, rules 26.4, 26.7, 26. 8 and 26.9 shall apply to the summary.

#### **Procedure where one party or intervener does not file witness statement by date directed**

- 26.6
- (1) Where one party or an intervener (“the first party”) has filed witness statements by the date directed, and the other party or another intervener (“the other party”) fails to do so, the witness statements of the first party shall be kept by the Registrar in a sealed envelope.
  - (2) The Registrar shall then notify the other party that the witness statements of the first party have been filed and shall not be disclosed to the other party until the witness statements or summaries in respect of all witnesses upon whose evidence the other party intends to rely have been filed.

#### **Examination of witnesses**

- 26.7
- (1) With the leave of the Court at the hearing, a party or intervener or the attorney-at-law thereof who files a witness statement may examine that witness on the matters set out in that witness statement. Where a witness has been summoned of the Court’s own motion the witness may be examined by such person as the Court directs.
  - (2) The other party or parties or his or their attorney-at-law shall be entitled to cross-examine the witness, as may an intervener with the leave of the Court.
  - (3) The witness may be re-examined by the party or intervener or attorney-at-law who called the witness in order to clear up ambiguities and address new material elicited in the cross-examination.
  - (4) During the course of the hearing the Court may ask questions of the witness but not normally until the conclusion of cross-examination.

### **Use at hearing of witness statements which have been filed**

- 26.8 (1) Where a party or an intervener-
- (a) has filed a witness statement or summary; and
  - (b) wishes the evidence of the witness to carry significant weight, that party or intervener must call the witness to give oral evidence.
- (2) Where a witness is called to give oral evidence under sub-rule (1), his witness statement shall stand as evidence in chief unless the Court orders otherwise.
- (3) Where a party or an intervener-
- (a) has filed a witness statement or summary; and
  - (b) does not intend to call that witness at the hearing, that party must give notice to that effect to all other parties and interveners not less than twenty-eight (28) days before the hearing.

### **Amplifying witness statements at hearing**

- 26.9 (1) A witness giving oral evidence may with the leave of the Court-
- (a) amplify the evidence as set out in his witness statement if that statement has disclosed the substance of the evidence which the witness is asked to amplify;
  - (b) give evidence in relation to new matters which have arisen since the witness statement was filed; or
  - (c) comment on evidence given by other witnesses.
- (2) The Court may grant leave under sub-rule (1) only if it considers that there is good reason not to confine the evidence of the witness to the contents of the witness statement.

### **Cross-examination at interlocutory hearings**

- 26.10 (1) Where at any interlocutory hearing, evidence is given in writing, any party or intervener may seek leave from the Court to cross-examine the person giving the evidence.
- (2) Where the Court grants leave under sub-rule (1) but the person in question does not attend as required by the order, little or no weight will normally be given to such evidence.

### **Consequence of failure to file witness statement or summary**

- 26.11 Where a witness statement or witness summary in respect of an intended witness is not filed within the time specified by the Court then the witness may not

be called except with the leave of the Court.

**Use of witness statements for other purposes**

- 26.12 (1) Except as provided by this rule, a witness statement may be used only for the purpose of the proceedings in which it is filed.
- (2) Sub-rule (1) does not apply if and to the extent that-
- (a) the witness gives consent in writing to some other use of it;
  - (b) the Court gives permission for some other use; or
  - (c) the witness statement has been put in evidence at a hearing held in public.

**Witness statement not open to public inspection until hearing**

- 26.13 (1) A witness statement is not open to public inspection until the hearing unless the Court otherwise directs.
- (2) Any person may ask for a direction that a witness statement is not open to inspection.



**PART 27**  
**EXPERTS AND ASSESSORS**

**Contents of this Part**

General duty of Court and of parties	Rule 27.1
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Consequence of failure to disclose expert witness's report	Rule 27.10
Use by one party or intervener of expert report disclosed by another	Rule 27.11
Appointment of assessors	Rule 27.12
Cross-examination of Court expert	Rule 27.13

**General duty of Court and of parties and interveners**

- 27.1 (1) Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings justly.
- (2) The Court may order that expert reports be filed.

**Overriding duty of expert witness to Court**

- 27.2 (1) It is the duty of an expert witness to help the Court impartially on the matters relevant to his expertise.
- (2) This duty to the Court overrides any obligations to the person by whom the expert is instructed or paid.

**Performance of expert witness's duty to Court**

- 27.3 (1) Expert evidence shall be addressed to the Court and be given in a written report unless the Court otherwise orders and such evidence shall be, and shall be seen to be, the independent product of the expert witness uninfluenced as to form or content by the demands of the litigation.
- (2) An expert witness shall provide independent assistance to the Court by way of objective, unbiased opinion in relation to matters within the expert witness's expertise.
- (3) An expert witness shall state the facts or assumptions upon which his or her opinion

is based. The expert witness must not fail to consider material facts which could detract from his conclusions.

- (4) An expert witness shall state if a particular matter or issue falls outside his or her expertise.
- (5) Where after filing of reports an expert witness changes his opinion on a material matter, such change of view shall be communicated to all parties.

### **Expert's right to apply to Court for directions**

- 27.4 (1) An expert witness may apply in writing to the Court for directions to assist him in carrying out his functions as an expert witness or his duty to the Court.
- (2) Unless the Court directs otherwise, such application may be made *ex parte*.

### **Court's power to restrict expert evidence**

- 27.5 (1) No party or intervener may rely on an expert witness's report or call an expert witness to give oral evidence without the leave of the Court.
- (2) An application for leave under this rule shall specify-
- (a) the name of the expert witness; and
  - (b) the nature of his experience and expertise.
- (3) The evidence of the expert witness shall not be admitted unless an expert report has been filed by the party or intervener intending to rely on the evidence and has been served on the other party and any other intervener.
- (4) The Court shall specify the date on which the report(s) of experts shall be filed.
- (5) The Court may direct that part only of an expert witness's report be disclosed.

### **Court's power to direct evidence by single expert witness**

- 27.6 (1) Where two or more parties wish to submit expert evidence on a particular issue, the Court may direct that expert evidence be given by one expert witness.
- (2) Notwithstanding sub-rule (1) the Court may appoint a single expert witness-
- (a) instead of the parties instructing their own expert witnesses; or
  - (b) to replace experts instructed by the parties.
- (3) Where the parties wishing to submit the expert evidence ("the instructing parties") cannot agree who should be the expert witness, the Court may-
- (a) select the expert witness from a list prepared or identified by the

- instructing parties; or
  - (b) direct that the expert witness be selected in such other manner as the Court may direct.
- (4) The Court may vary a direction given under this rule.

### **Instructions to single expert witness**

- 27.7
- (1) Where the Court gives directions under rule 27.6 for one expert witness to be used, unless the parties are agreed upon joint instructions to the expert, each instructing party may submit to the Court draft instructions to be sent to the expert witness.
  - (2) Upon receipt of the draft instructions the Court shall convene a conference of the parties to settle the instructions to be submitted to the expert witness.
  - (3) The Court may give directions about the arrangements for-
    - (a) the payment of the expert witness's fees and expenses; and
    - (b) any inspection, examination or experiments which the expert witness wishes to carry out.
  - (4) The Court may, before an expert witness is instructed-
    - (a) limit the amount that can be paid by way of fees and expenses to the expert witness; and
    - (b) direct that the instructing parties pay that amount into Court in such proportions as may be directed.
  - (5) Unless the Court otherwise directs, the instructing parties are jointly and severally liable for the payment of the expert witness's fees and expenses.

### **Contents of report**

- 27.8
- (1) An expert witness's report shall contain-
    - (a) details of the expert witness's qualifications;
    - (b) details of any literature or other material which the expert witness has used in making the report;
    - (c) the facts upon which the conclusions are based and the sources relied upon in ascertaining those facts;
    - (d) the name and qualifications of the person who carried out any test or experiment which the expert witness used for the report;
    - (e) where there is a range of opinions on the matters dealt with in the report-
      - (i) a summary of the range of opinions, and
      - (ii) the reasons for the expert witness's opinion;
    - (f) an annexure containing any photographs, plans, calculations, survey reports or other documents referred to in the report; and
    - (g) a summary of the conclusions reached.

- (2) The expert witness shall include at the end of his report a sworn statement that the expert witness-
  - (a) understands his duty to the Court as set out in this Part and has complied with that duty;
  - (b) has included all matters within the expert witness's knowledge and area of expertise relevant to the issue on which the expert evidence is given; and
  - (c) has given details in the report of any matters which to his knowledge might affect the validity of the report.
  
- (3) There shall be also attached to an expert witness's report copies of-
  - (a) all written instructions given to the expert witness;
  - (b) any supplemental instructions given to the expert witness since the original instructions were given; and
  - (c) any oral instructions given to the expert witness,
 and the expert witness shall certify that no instructions other than those disclosed have been received by him from the party or intervener instructing the expert witness, the party's or intervener's attorney-at-law, agent or any other person acting on behalf of the party or intervener.
  
- (4) Where it is not practicable to provide a copy of each document referred to in sub-rule (1)(f) such documents shall be made available for inspection by the other party and any intervener or any expert witness instructed by that party or intervener within seven (7) days of a request made in that behalf.

### **Meeting of expert witnesses**

- 27.9
- (1) The Court may direct a meeting of expert witnesses of like expertise for the purpose of requiring them to-
    - (a) identify the issues relevant to their expertise in the proceedings; and
    - (b) where possible, reach agreement on an issue.
  
  - (2) The Court may specify the issues which the expert witnesses shall discuss.
  
  - (3) The contents of the discussion between the expert witnesses shall not be referred to at the hearing unless the parties agree.
  
  - (4) The meeting may take place personally, by telephone or by any other suitable means.
  
  - (5) After the meeting the expert witnesses shall prepare for the Court a statement of-
    - (a) any issues within their expertise on which they agree; and
    - (b) any such issues on which they disagree and their reasons for disagreeing.
  
  - (6) Instead of, or in addition to, such statement the Court may direct that the expert witnesses prepare an agreed statement, as short as practicable, of the basic science applicable to the matters relevant to their expertise.

### **Consequence of failure to disclose expert witness's report**

27.10 A party or an intervener who fails to comply with a direction to disclose or file an expert witness's report may not use the report at the hearing or call the expert witness except with the leave of the Court.

### **Use by one party or intervener of expert report disclosed by another**

27.11 Where a party or intervener has disclosed an expert report, any other party or intervener may use that report as evidence at the hearing.

### **Appointment of assessors**

- 27.12 (1) The Court may appoint an assessor to-
- (a) assist the Court in understanding technical evidence;
  - (b) provide a written report; or
  - (c) assist the Court at the hearing with regard to evidence of expert witnesses called by the parties.
- (2) On making an order under sub-rule (1), the Court shall specify the fee to be paid to the assessor and by whom.
- (3) Sub-rule (2) does not affect any decision as to the party who is ultimately to bear the cost of the assessor.
- (4) The Court may order any party to deposit in the Registry a specified sum in respect of the assessor's fees and, where it does so, the assessor will not be asked to act until the sum has been deposited.
- (5) All communications apart from written instructions between the Court and an assessor shall be in open Court.
- (6) An assessor shall take such part in the proceedings as the Court may direct and in particular the Court may direct the assessor-
- (a) to prepare a report for the Court on any matter at issue in the proceedings; and
  - (b) to attend the whole or any part of the hearing to assist the Court on any such matter.
- (7) Before requesting a written report or opinion from an assessor, the Court shall allow the parties to make submissions in respect of the form and content of the questions to be asked.
- (8) Where the assessor prepares a report for the Court before the hearing has begun-
- (a) the Court shall send a copy to each of the parties; and

- (b) the parties may use it at the hearing.
- (9) Before giving judgment the Court shall provide the parties with the questions asked of, and any opinion given by, the assessor and give them an opportunity to make submissions.

**Cross-examination of Court expert**

27.13 An expert witness or an assessor appointed by the Court who gives oral evidence or provides a written report to the Court may be cross-examined by any party or, with the leave of the Court, by any intervener.

## **PART 28**

### **WITNESSES AND DEPOSITIONS**

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Use of deposition at hearing	Rule 28.13
Where person is out of the jurisdiction - letter of request	Rule 28.14
Early appointment to produce documents	Rule 28.15

#### **Interpretation**

- 28.1 In this Part -  
“**deponent**” means a person from whom evidence is obtained pursuant to this Part;  
“**deposition**” means evidence given by a deponent;  
“**examiner**” means a Judge or the Registrar of the Court or a Judge of a Superior Court in a Member State.

#### **Duty of parties and interveners to produce witnesses**

- 28.2 At a hearing it shall be the duty of each party to produce such witnesses as can assist in establishing that party’s case and the duty of any intervener to produce such witnesses as can justify his intervention.

#### **Witness summonses**

- 28.3 (1) Where a party or an intervener apprehends that a witness may not voluntarily attend a hearing, that party may apply *ex parte* for the issuance of a witness summons requiring the witness to give evidence or to produce documents to the Court.
- (2) A witness summons shall be in the form prescribed as Form 2 in Schedule 2.
- (3) There shall be a separate witness summons for each witness.
- (4) A witness summons may require a witness to produce documents to the Court either

on the date fixed for the hearing or any other hearing of any application in the proceedings, or such other date as the Court may direct.

### **Issue of witness summons**

- 28.4 (1) A witness summons is issued on the date entered on the summons by the Registry.
- (2) Where a party or an intervener seeks to have a witness summons issued fewer than twenty-one (21) days before the date fixed for the hearing that party shall first apply for leave from the Court.
- (3) An application for leave under sub-rule (2) may be made to the Court *ex parte* and shall be granted by the Court if sufficient cause is shown.
- (4) The Court may set aside or vary a witness summons.

### **Time for serving witness summons**

- 28.5 (1) A witness summons is binding only if it is served by the Registrar at least fourteen (14) days before the date on which the witness is required to attend before the Court.
- (2) The Court may direct that a witness summons shall be binding although served by the Registrar fewer than fourteen (14) days before the date on which the witness is required to attend before the Court.
- (3) A witness summons which-
- (a) is served in accordance with this rule; and
  - (b) requires the witness to attend Court to give evidence or to produce documents at any hearing,
- is binding until the conclusion of the hearing at which the attendance of the witness is required unless the Court otherwise orders.
- (4) A person who wilfully disobeys a witness summons served personally on him is liable to such sanction as the Court may determine in all the circumstances.
- (5) The Court may order such person to pay any costs resulting from-
- (a) the failure to attend to give evidence or to produce documents at any hearing;
  - (b) the refusal to be sworn or to affirm; or
  - (c) the improper refusal to answer any relevant question or to produce any document at the hearing.

### **Right of witness to travelling expenses and compensation for loss of time**

- 28.6 A witness shall be paid a sum reasonably sufficient to cover his subsistence and expenses in travelling to and from the Court and appropriate compensation for loss of time.

### **Witness to make oath or affirmation before giving evidence**

28.7 Before giving evidence a witness shall make the following oath or affirmation-

“I swear/affirm that I will speak the truth, the whole truth and nothing but the truth”.

### **Evidence by deposition before examiner**

- 28.8 (1) In exceptional circumstances a party or an intervener may apply for an order for a person to be examined before the trial or any other hearing in the proceedings.
- (2) An order under this rule shall be for a deponent to be examined on oath before an examiner.
- (3) The order shall state the name of the examiner and the date, time and place of the examination.
- (4) An order under sub-rule (1) may be made on such terms as the Court considers just, including-
- (a) the disclosure of documents before the examination takes place; and
  - (b) the production of any document which the Court considers may be necessary for the purposes of the examination.
- (5) A deponent shall be paid subsistence, travelling expenses and compensation for loss of time in accordance with rule 28.6.
- (6) Where an application is made by the party or intervener who intends to call the witness to give evidence, the Court may order that party to file a witness statement or witness summary in relation to the evidence to be given by the person to be examined.
- (7) The party or intervener who applies for the order under sub-rule (1) shall supply to the examiner copies of such documents in the proceedings as are necessary for the examiner to understand the matters at issue in the proceedings.

### **Conduct of examination**

- 28.9 (1) Subject to any directions contained in the order for examination, the examination shall be conducted in the same way as if the witness were giving evidence at a hearing.
- (2) Where all the parties are present, the examiner may, with the consent of the parties, conduct the examination of a person not named in the order for examination.

- (3) The examiner may conduct the examination in private if he considers it appropriate to do so.
- (4) The examiner shall ensure that a full and accurate record is taken of the evidence given by the witness.
- (5) The examiner shall certify the original deposition and send the same to the Registrar who shall send a copy thereof to every party to the proceedings and to the deponent.

### **Enforcing attendance of witness**

- 28.10 (1) Where a person served with a witness summons to attend before an examiner-
- (a) fails to attend;
  - (b) refuses to be sworn or to affirm for the purpose of the examination; or
  - (c) improperly refuses to answer any relevant question or to produce any document at the examination,
- the party or intervener requiring the deposition may request the examiner to cause to be issued an order of the Court requiring the person to attend, or to be sworn or to affirm or to answer any question or produce any document as the case may be.
- (2) The Registrar shall arrange for any order made by the Court to be served personally on the person served with the witness summons.
  - (3) A person who wilfully disobeys an order made against him under sub-rule (1) is liable to such sanction as the Court may determine in all the circumstances.
  - (4) The Court may order the person against whom an order is made under sub-rule (1) to pay any cost resulting from-
    - (a) the failure to attend before the examiner;
    - (b) the refusal to be sworn or to affirm for the purposes of the examination; or
    - (c) the improper refusal to answer any relevant question or to produce any document at the examination.

### **Special report**

- 28.11 The examiner may make a special report to the Court with regard to the absence or conduct of any person when the deposition was taken.

### **Expenses of examination**

- 28.12 (1) The party or intervener who obtained the order for an examination shall bear the expenses reasonably incurred in the conduct of that examination.
- (2) The Court may order the party or intervener who obtained the order for examination to deposit in the Registry a specified sum in respect of the expenses.

- (3) Where the Court makes an order under sub-rule (2) the examiner shall not act until the sum has been deposited.
- (4) Notwithstanding sub-rule (1), the Court may determine who is ultimately to bear such expenses.

### **Use of deposition at hearing**

- 28.13 (1) A deposition ordered under rule 28.8 may be given in evidence at the hearing unless the Court orders otherwise.
- (2) A party or intervener intending to put in evidence a deposition at a hearing shall serve notice of such intention on every other party or intervener.
  - (3) That party or intervener shall serve the notice at least twenty-one (21) days before the day fixed for the hearing.
  - (4) The Court may require a deponent to attend the hearing and give evidence orally.

### **Where person is out of the jurisdiction - letter of request**

- 28.14 (1) Where a party or intervener intends to take a deposition from a person outside the Court's jurisdiction, the Court may direct the issue of a letter of request in that behalf to the competent authorities of the country in which the proposed deponent is to be found.
- (2) Where consent is obtained, the Court shall appoint an examiner.
  - (3) A person may be examined under this rule on oath or affirmation or in accordance with any procedure permitted in the country in which the examination takes place.
  - (3) When an application is made for a letter of request to be issued, the party or intervener who seeks the order shall file-
    - (a) the following documents-
      - (i) a draft letter of request and a translation of it into the language of the country to which the request is directed;
      - (ii) a statement of the issue or issues in the case to which the proposed deposition is relevant;
      - (iii) a document listing the questions or identifying the subject matter of questions to be put to the person to be examined and a translation of that document, if necessary, into a language spoken by that person, and
    - (b) an undertaking to be responsible for any fees and expenses charged or incurred by the examiner.

- (5) A translation shall be filed if such documents are not in the official language of the Court.

**Early appointment to produce documents**

- 28.15 (1) The Court may permit a party or intervener to issue a witness summons requiring a person to attend at a date, time or place specified in the summons other than the date of the final hearing for the purpose of producing one or more documents.
- (2) A witness summons applies only to documents which a person could be compelled to produce at the final hearing.

## **PART 29 HEARINGS**

### **Contents of this Part**

Conduct of proceedings	Rule 29.1
Hearing of evidence by a sub-panel	Rule 29.2
Court may give further directions	Rule 29.3

### **Conduct of proceedings**

- 29.1 (1) The presiding Judge shall open and direct the proceedings and be responsible for the proper conduct of the hearing.
- (2) The oral proceedings in cases heard in private shall not be published.

### **Hearing of evidence by a sub-panel**

- 29.2 (1) A sub-panel, comprising up to three of the Judges on the panel for hearing a case, may hear witnesses resident outside the jurisdiction of the Seat of the Court if so decided at a case management conference or a pre-hearing review.
- (2) The sub-panel shall conduct the hearing as if a hearing by the panel.
- (3) The Registrar shall ensure that a full and accurate record is taken of the evidence provided by witnesses and shall provide a transcript and a video-recording for every party to the proceedings.
- (4) For the purposes of assisting the panel in its deliberations, the sub-panel shall communicate to the other members of the panel its views on the evidence it heard together with the said transcript and video-recording.
- (5) If a member of a sub-panel is prevented by illness or other cause from attending a sub-panel hearing or any hearing of the panel, this shall not vitiate the judgment of the panel of which he shall remain a member participating in its deliberations unless precluded by illness or other cause.

### **Court may give further directions**

- 29.3 The Court may at any time after the closing addresses and before delivery of judgment give further directions in relation to the proceedings and, in particular, may order the re-opening of the case.



## **PART 30 JUDGMENTS**

### **Contents of this Part**

Contents of judgment	Rule 30.1
Delivery of judgment	Rule 30.2
Enforcement of judgment	Rule 30.3
Rectification of judgment	Rule 30.4
Application to supplement judgment	Rule 30.5
Publication of judgments	Rule 30.6

### **Contents of judgment**

- 30.1 A judgment shall be in writing and, unless the Court determines otherwise, shall contain-
- (a) a statement that it is the judgment of the Court;
  - (b) the date of its delivery;
  - (c) the names of the Judges taking part in it;
  - (d) the names of the parties;
  - (e) the names of the attorneys-at-law or agents of the parties;
  - (f) a summary of the facts;
  - (g) the grounds for the decision; and
  - (h) the operative part of the judgment, including the decision as to costs.

### **Delivery of judgment**

- 30.2 (1) When the Court schedules a date for delivery of judgment, the Registrar shall give at least three days' notice of the scheduled date to all parties.
- (2) After the Court delivers judgment in open court, the original of the judgment, signed by the Judges who took part in the deliberations shall be deposited at the Registry and the parties served with certified copies of it.

### **Enforcement of judgment**

- 30.3 (1) A judgment or order of the Court takes effect from the date of its delivery.
- (2) A judgment or order which is pronounced, given or made shall be dated as of the day on which it is pronounced given or made unless the Court orders otherwise.
- (3) Judgments in the original jurisdiction shall be enforced in accordance with Article XXVI of the Agreement and local legislation implementing such Article.

- (4) Where a judgment has been wholly complied with, the Registrar shall upon proof of such compliance insert a note in the register to that effect against the record of the judgment.

### **Rectification of judgment**

- 30.4
- (1) Without prejudice to the provisions of Parts 32 and 33, the Court may, of its own motion or on application by a party made within fourteen (14) days after the delivery of judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.
  - (2) Where the judgment has been rectified in accordance with sub-rule (1), the Registrar shall duly notify the parties concerned of such rectification and they may file with the Registrar their written observations within the period specified in the notice.
  - (3) The Court shall give its decision on any observations filed under sub-rule (2).
  - (4) The original of the rectification order shall be annexed to the original judgment and a note of the order shall be made in the margin of the original judgment.

### **Application to supplement judgment**

- 30.5
- (1) Where the Court omits to give a decision on a specific head of claim or on costs or interest, a party may, within twenty-eight (28) days after delivery of the judgment, apply to the Court to supplement its judgment.
  - (2) The application shall be served by the Registrar on all other parties, and the presiding Judge shall specify a period within which those parties may file written submissions.
  - (3) Where the submissions have been filed, the Court shall decide on the admissibility and on the substance of the application.

### **Publication of judgments**

- 30.6 The Registrar shall cause to be published all judgments of the Court.

## **PART 31 COSTS**

### **Contents of this Part**

Decision as to costs	Rule 31.1
Recoverable costs	Rule 31.2
Currency of payment	Rule 31.3
Disputes as to costs	Rule 31.4

### **Decision as to costs**

- 31.1 (1) A decision as to costs may be given in the final judgment or in the order which closes the proceedings or, in respect of particular costs, at any stage of the proceedings.
- (2) (a) The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.  
(b) Where there are several unsuccessful parties, the Court shall decide how the costs are to be shared among them.
- (3) Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court may order that the costs be shared or that the parties bear their own costs.
- (4) In exceptional circumstances the Court may order a party, even if successful, to pay all or part of the costs of the unsuccessful party and in particular, where the Court considers the successful party to have unreasonably or vexatiously caused the opposite party to incur them.
- (5) A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's pleadings; although, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.
- (6) Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.
- (7) If costs are not claimed, the parties shall bear their own costs.
- (8) Where a case does not proceed to judgment, the costs shall be in the discretion of the Court.
- (9) Costs necessarily incurred by a party in enforcing a judgment or order of the Court shall be refunded by the opposite party.

### **Recoverable costs**

- 31.2 (1) The following shall be regarded as recoverable costs-
- (a) sums payable to witnesses and experts reasonably incurred; and
  - (b) expenses reasonably incurred by the parties for the purpose of the proceedings.
- (2) If costs are disputed by a party, the party awarded costs by the Court may, within eight (8) weeks of such award, submit a bill of costs to the Registrar for taxation.
- (3) In taxing such bill of costs, the Registrar shall allow reasonable costs taking into account the scale of fees applicable in the superior courts of the Member State of the party receiving costs.

### **Currency of payment**

- 31.3 (1) Sums due from the cashier of the Court shall be paid in the currency of the Member State where the Seat of the Court is located.
- (2) At the request of the person entitled to any sum, it shall be paid in the currency of the Member State where the expenses to be refunded were incurred or where the steps in respect of which payment is due were taken.
- (3) Other debtors shall make payment in the currency of their Member State of origin.
- (4) Conversions of currency shall be made at the prevailing market exchange rate ruling on the day of payment in the Member State where the Seat of the Court is located.

### **Disputes as to costs**

- 31.4 (1) If there is a dispute concerning the costs to be recovered, the Court shall, on application by the party concerned and after hearing the opposite party, make a final order on the matter.
- (2) The parties may, for the purpose of enforcement, request a certified copy of the order.

**PART 32**  
**EXCEPTIONAL REVIEW PROCEEDINGS BY PARTIES (REVISION)**

**Contents of this Part**

Revision of judgment	Rule 32.1
Application for revision	Rule 32.2
Powers of Court on revision	Rule 32.3

**Revision of judgment**

- 32.1 (1) An application for a revision of a judgment shall be made in accordance with Article XX of the Agreement within six (6) months of the date on which the facts on which the application is based first came to the applicant's knowledge.
- (2) No application may be made after the expiry of five (5) years from the date of the judgment.

**Application for revision**

- 32.2 (1) An application under this Part shall be filed and shall-
- (a) specify the judgment of which the revision is sought;
  - (b) indicate the points on which the revision of judgment is sought;
  - (c) set out the evidence and new fact or facts amounting to a decisive factor pursuant to Article XX of the Agreement and on which the application is based; and
  - (d) have annexed thereto any documents in support thereof.
- (2) Within fourteen (14) days of the filing of the application, the Registrar shall serve the application on all parties to the case in which the judgment was given.
- (3) The other party or parties shall be entitled to file written submissions on the admissibility of the application within a time limit fixed by the Registrar who shall send them to the party making the application.
- (4) The Court, before ruling on the admissibility may afford the parties a further opportunity of presenting their views thereon.
- (5) If the Court finds that the application is admissible it shall fix time limits for such further proceedings on the merits of the application as, after ascertaining the views of the parties, it considers necessary.
- (6) Such further proceedings may be made conditional on previous compliance with the judgment.

- (7) The application for revision shall be assigned to the judge or judges who gave the judgment, the subject of the application, unless this is impractical.

**Powers of Court on revision**

- 32.3
- (1) Where the Court finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.
  - (2) The revised judgment shall be annexed to the original judgment.
  - (3) A note of the revision shall be made on the original judgment.

**PART 33**  
**APPLICATION FOR INTERPRETATION OF JUDGMENTS**

**Contents of this Part**

Party may apply for interpretation  
Application for interpretation

Rule 33.1  
Rule 33.2

**Party may apply for interpretation**

33.1 In the event of a dispute as to the meaning or scope of a judgment any party to the proceedings may within twelve (12) months of the delivery of the judgment apply to the Court for its interpretation.

**Application for interpretation**

- 33.2 (1) An application for the interpretation of a judgment shall be made in accordance with Part 21 and shall be accompanied by a statement indicating-
- (a) the precise point or points in dispute as to the meaning or scope of the judgment; and
  - (b) the applicant's contentions.
- (2) The Registrar shall serve the application on all the other parties to the proceedings.
- (3) The other parties shall be entitled to file written submissions on the applicant's contentions within a time limit fixed by the Court.
- (4) The Court may, if necessary, afford the parties the opportunity of making further written or oral submissions before the Court delivers judgment in open court.
- (5) The original of the interpretative judgment shall be annexed to the original of the judgment interpreted.
- (6) A note of the interpretative judgment shall be made on the original of the judgment interpreted.
- (7) The application for interpretation shall be assigned to the judge or judges who delivered the judgment which is the subject of the application unless this is impractical.

*Made by the President in consultation with five Judges of the Caribbean Court of Justice this 12<sup>th</sup> day of January, 2015.*

**/s/ Dennis Byron**

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*The Right Honourable Sir Charles Michael Dennis Byron  
President*

**/s/ R F Nelson**

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*The Honourable Mr. Justice Rolston Nelson  
Judge*

**/s/ A Saunders**

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*The Honourable Mr. Justice Adrian Saunders  
Judge*

**/s/ J Wit**

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*The Honourable Mr. Justice Jacob Wit  
Judge*

**/s/ D Hayton**

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*The Honourable Mr. Justice David Hayton*

**/s/ W Anderson**

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*The Honourable Mr. Justice Winston Anderson  
Judge*

## SCHEDULE 1

### FEES PAYABLE TO THE COURT

The fees set out in this Schedule may be paid to the Court in any one of the currencies stated below.

If paid in ECD the amounts set out in column 2 shall be payable to the Registrar for the items set out in column 1.

If paid in TTD the amounts set out in column 3 shall be payable to the Registrar for the items set out in column 1.

If paid in USD the amounts set out in column 4 shall be payable to the Registrar for the items set out in column 1.

<b>FILING FEES</b>	<b>ECD</b>	<b>TTD</b>	<b>USD</b>
Application for special leave	270	630	100
Originating application	405	945	150
Application to intervene	203	473	75
Statement of Intervener	270	630	100
Defence	270	630	100
Determination of hearing date of originating application [not CMC hearing]	270	630	100
Referral	270	630	100
Advisory opinion	540	1260	200
Application for review of Commission's decision	270	630	100
Application by Commission	270	630	100
Application for revision	203	473	75
Application for interpretation of judgment	203	473	75
Notice of appointment of attorney-at-law	27	63	10
Bill of costs	162	378	60

<b>OTHER FEES</b>	<b>ECD</b>	<b>TTD</b>	<b>USD</b>
On every inspection of the register	54	126	20
On every copy of or excerpt from the register – per page	5	12	2
On certifying any document as an office	54	126	20

copy			
Copy of judgment (other than copy supplied to a party to the proceedings) per page or any part thereof	5	12	2
For faxing documents at the request of a party (except where documents have to be faxed for operational reasons) – for each page	3	6	1
For a photographic copy of all or any part of a document (other than a judgment) whether or not issued as an office copy— for each page	3	6	1
Added Value – Actual and reasonable costs as determined by the Registrar			

## **SCHEDULE 2**

### **FORMS**

Form 1	Interlocutory Application
Form 2	Witness Summons

Rule 21.2(d)
Rule 28.3(2)



**This interlocutory application was filed [in the sub-Registry/Registry] by (name of attorney-at-law and firm of attorneys-at-law, business address of attorneys-at-law or agent), Attorney(s)-at-law/Agent for the Applicant whose address for service is (state an address in the Seat of the Court or in the Contracting Party where the document is filed).**

**Service may also be effected by facsimile transmission to facsimile number xxxxxx or by email to zzzzzz [or by facsimile transmission or email to the number and address of the filing attorney-at-law/agent stated above].**

**N.B. A respondent may file a response in answer to this application within 14 days of being served with the application. The response must be accompanied by a sworn statement containing any evidence in support thereof, together with accompanying documents.**

**To: The Registrar of the CCJ**

**And To: The Respondent (or to wwwww, Attorney-at-law/agent for the  
respondent)  
Address**

**The address of the Registry is  
134 Henry Street,  
Port of Spain  
Republic of Trinidad and Tobago**

**Telephone Voice: 868-623-2225, 624-2256. Facsimile: 868-623-0527**

**The Registry is open between 8:00 a.m. and 4:00 p.m. Mondays to Fridays. It is closed on Public Holidays and Court Holidays.**

Heading as in Form 1

**Witness Summons**

**To: (Name of witness)  
(Address of witness)**

You are summoned to attend before the Caribbean Court of Justice at No. 134 Henry Street, Port of Spain, Trinidad in the Republic of Trinidad and Tobago at ..... a.m./p.m. on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 20 , the day fixed for hearing of this claim/application and from day to day until the end of the claim/application to give evidence [and to bring with you and produce the following documents –

*Specify documents]*

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

This summons was issued on the application of the [claimant/applicant/defendant/respondent] whose attorney-at-law/agent is of (state address of attorney-at-law/agent).

**N.B. A person who wilfully disobeys a witness summons served personally on him is liable to such sanction as the Court may determine in all the circumstances.**

**The address of the Registry is  
134 Henry Street,  
Port of Spain  
Republic of Trinidad and Tobago**

**Telephone Voice: 868-623-2225, 624-2256. Facsimile: 868-623-0527**

**The Registry is open between 8:00 a.m. and 4:00 p.m. Mondays to Fridays. It is not open on Public Holidays and Court Holidays.**