

XXXVI

TECMUN

Official Protocol for the Caribbean Court of Justice

**XXXVI TECMUN
OFFICIAL PROTOCOL**

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1. The Caribbean Court of Justice

This committee represents the Caribbean Court of Justice (hereinafter referred to as CCJ), the principal judicial body of the Caribbean Community; whose role is the observation of the fulfillment of the Treaty of Chaguaramas, the main judicial basis at the regional level for the Caribbean actors. The Court is composed by the Presidency, the Registry, and the Judicial Division. In total, the maximum capacity of the committee will be of 19 members distributed in Two divisions; The judicial division, which includes 15 judges that represent members of the Caribbean Community. And the legal representative division with the agent plaintiff and agent defense with their correspondent deputies: Deputy Agent Defense and Deputy Agent Plaintiff. Its members may speak in first person as they represent legal physical persons. This committee simulates the Trial Chamber of the Court and copes with affairs, instead of topics, under current investigation of the Court.

2. Judicial Division

It consists of 15 judges in representation of the 15 member states of the Caribbean Community, base of the Caribbean Court of Justice, that will determine the acceptance or refusal of the evidences conducted with impartiality. The members of the Court do not represent the government of their country or any other authority, since they are independent magistrates whose first act is to declare solemnly and in public before the Court that they will exercise their powers impartially. Judges must represent the main civilizations and legal systems of the world.

2.1 Presidency and Registry

The Presidency will be composed by the Presiding Judge, which is represented by the President of the committee as well as by a member of the Chair that will represent the Vice-President. The other members of the Chair will represent the Registry, counting with one Registrar and Deputy Registrars. In an extraordinary case, the President can admit another member into the Presidency, being there, the Presiding Judge, First Vice-President, and Second Vice-President.

2.1.1 Presidency

The Presiding Judge will have a full understanding of the rules of procedure concerned by the Court, as its Statute and Regulations, together with the Procedure and Evidence procedures and the Elements of Crime establish. Furthermore, the Presiding Judge will be responsible for the procedural functions of the committee and will serve in any question regarding the affairs. The Presiding Judge does not play a part in the debate nor vote, as its title is only representative of the Caribbean Court of Justice.

In like manner, the Presidency will be also composed by the Vice-President, who will represent the current Vice-President of the actual Court, -or by the First and Second Vice-Presidents if given the case-; the Vice-President will have the same understanding on legal procedures as the Presiding Judge and will support him in any of his regular functions, under the terms of the TECMUN Official Protocol.

2.1.2 Registry

The Registry will be composed as well by the other members of the Chair; one of them representing the Registrar, who will assist the Presidency in administrative and servicing matters, or other duties assigned by the Presiding Judge. There will only be one Registrar since the other members of the Chair will represent the Deputy Registrars and will attend the same faculties that the Registrar; assisting in the duties of the Registry based on what is determined by the Presidency, not the Registrar.

2.3 Agents

These are composed by the Agent Plaintiff, the Agent Defense, Deputy Agent Plaintiff, and the Deputy Agent Defense from each State represented in the current affair of the Court. For practical purposes of the Court, delegates who represent either agents or deputies will change the country represented according to the affair opened at the time of the starting session. These will be represented by four delegates each upon individual application and may act independently of the Court, this means they are not part of the judicial body that presents a verdict, and therefore cannot vote at the indicated motions.

A delegate who represents an Agent, must present an Indictment, in case of the Agent Plaintiff along with the Deputy Agent Plaintiff, or a Position Paper, in case of the Agent Defense and the Deputy Agent Defense. This paper must include a statement of facts which is a context and facts of the case, a statement on applicable law based on the Charter of the United Nations, the initial approach of the witnesses or evidence, and a conclusion; the work must include its respective references and shall be delivered to the Chair before the deadline.

2.3.1 Agent Plaintiff and Deputy Agent Plaintiff

The Agent Plaintiff and Deputy Agent Plaintiff happen to be a delegate who files a lawsuit because the defendant, or the other party defending the lawsuit, has failed to properly fulfill what is referred to in the Charter of the United Nations. Thenceforth, the Agent Plaintiff begins the lawsuit by filing a complaint before the Caribbean Court of Justice.

2.3.2 Agent Defense and Deputy Agent Plaintiff

Alike, Agent Defense and Deputy Agent Defense happens to be the delegate who represents the Defendant State, who has failed to fulfill what is stated in the Charter of the United Nations. Thenceforth, the Agent Defense is submitted to a trial before the Caribbean Court of Justice in petition of the Agent Plaintiff.

3. Debate initiation

3.1 Opening of the session

The session must be open by a member of the Presidency. During the roll call, the other offices/agencies will only respond as “present” but not voting, as they are not part of the judicial body of the Court; otherwise, judges will respond as “present and voting”. The Role call may proceed in the following order:

1. Agent Plaintiff
2. Agent Defense
3. Deputy Agent Plaintiff
4. Deputy Agent Defense
5. And all the other judges in alphabetical order

3.2 Affair selection

At the beginning of the first session, the only motion that can be established is a *Motion to open Affair A/B (6.1)*, and all the procedures should be carried out according to the specifications of said motion. There are two affair options, which are previously announced by the Presidency, and are fully invariable

and definitive. The Court shall debate at least one of the affair options, determined by the described voting in the motion's procedure. The remaining affair is only debated once a *Verdict of the Court* (9.2) of the first affair is reached.

3.3 Speaker's List

The Speaker's List is the base for the development of the debate and a space for the exposition of each member of the Court's point of view for a determined time. The Speaker's List consists of the order in which judges and agents expose their arguments about a matter related to the debated Affair. Its order is definitive and it is the only procedure that is automatically closed until the resolution of the case. The introduction of the Speaker's List should be made at the beginning of any affair's debate and according to what the *Motion to open The Speaker's List* (6.2) points out. Each time that the floor is opened, and no other motion is established, the debate proceeds with the next speaker on the list. In the given case that a judge or agent is not present at the moment of his or her turn during the Speaker's List, the place is yielded to the next participant and the missing judge or agent should be reassigned to the end of the list.

4. Debate development

The Affairs will be determined beforehand by the administration from the Situations Under Investigation by the Caribbean Court of Justice, and from the pending Affairs. In each affair submitted to the Court there will be two or more States involved, the one or those who present the case before the CCJ as well as the one or those who'll be referred to as the accused. They will be represented by Agent Plaintiff and Agent Defense respectively, together with its Deputies (the committee will have to judge all accused that the affair presents). Depending on the Affair, the Accused can be under trial of the Court, or under pre-trial, and can either be under custody of the Court. If this last was the case, the Court will also have to determine what must be done in order to put the fugitive under custody of the Court.

4.1 Trial

When the accused State or one of the accused is under trial, it means that the Court has already gathered enough evidence to proceed to pronounce a sentence, in this case the agents still can introduce evidence to reinforce their position. Judges will have to determine the sentence that corresponds according to the crimes the accused State is being charged with.

4.2 Pre-trial

When the accused State or one of the accused is under pre-trial, it means that the Court has not gathered enough evidence to declare him guilty of one or more charges. In this case, the Agents may introduce evidence to defend or incriminate the accused State of charges.

5. Voting procedure

All motions and procedures that are submitted to voting as established in this protocol can only be considered in order if they count with a simple majority consistent of 50% + 1 (fifty percent of the committee plus one vote), being the only voting options in favor, against, and abstentions –excluding exceptions. In case of not counting with said requirement, the motion does not proceed and cannot be

proposed again immediately. The voting procedure can only be repeated in case not all participants participated.

For logistical reasons, abstentions are considered as votes favoring the final result, whether in favor or against. Said principle is only fulfilled if the results of the voting procedure are uneven. If the results turn out equal, they will be automatically deemed negative since the simple majority principle is not satisfied.

5.1 Exceptions to the voting procedure

1. The Verdict is voted on differently, as established in *Verdict of the Court* (8).
2. There can be no abstentions in the *Motion to open Affair A/B* (6.1), and only those motions and procedures hereby established can be not voted on to be approved.
3. Agents shall not vote in any round of voting process of *Motion to open Affair A/B* (6.1), *Motion to introduce Evidence* (6.4) and the motions involved in *Verdict of the Court* (8).

6. Motions

6.1 Motion to open Affair A/B

The procedures to open either Affair A or B will be as determined by the TECMUN Official Protocol, but Agents and Deputies cannot propose the motions, speak in favor or against and can't participate during the voting process.

6.2 Motion to open the Speaker's List

The Speaker's List of the Court already has an established order, so once the motion has been seconded and voted, it will proceed according to the committee's list regardless of who proposed and seconded the motion. The order of the Speaker's List will be in the following order:

1. Agent Plaintiff
2. Agent Defense
3. Deputy Agent Plaintiff
4. Deputy Agent Defense
5. And all the other judges in alphabetical order

So, the Agents will start with opening states previously examined which will present their positions regarding the Affair; any agent shall then introduce evidence as stated hereinafter. In such case, judges will examine the presented evidence and continue deliberating the case based on what was stated before by the Agents.

6.3 Motion to introduce Evidence

This motion can only be introduced by the Agents and Deputies to present evidence that supports their position before the committee. The evidence can be multimedia material (photographs, video, audio), legal briefs (or other official documents) or a witness. The Chair can only pass the motion if the evidence has been presented and accepted accordingly before the session is opened; if evidence not accepted by the chair is presented, they will be granted a warning. In case it is a witness, it must be an unrelated person to the committee that has not been present in the debate as a hearer before and can only speak in the elected working language of the committee. The witness may be introduced by the Agent or Deputy that proposed

the motion and can only speak for its Agent or Deputy without mentioning other parts of the case: Otherwise, or in case of inappropriate behavior, the witness will be vetoed from the committee and the agent will be granted a warning.

The procedure to present a witness or evidence is that the Agent or Deputy must propose a “Motion to introduce evidence/witness” then the Agent or Deputy should establish an opening statement, explaining all the points, context, and relation within the affair as well as with the submissions. After the evidence is presented, the Chair will proceed to introduce “an Extraordinary Session of Unlimited Questions”, where judges shall question either the agents or its deputies about their evidence, or the witness itself. Consequently, judges must propose a Moderated Caucus of 5 minutes to deliberate if the evidence is either faithful or not and if it should be taken into consideration for the Court’s verdict. Neither agent nor its deputies may participate during this moderated caucus, they must leave the hall accompanied with one member of the chair; when the Moderated Caucus finishes, they must return to their places. Afterwards, a “Second Extraordinary Session of Unlimited Questions” must take place to give a follow up to any other point mentioned in the Moderated Caucus; and right away the Agent or Deputy who presented either an evidence or a witness may establish a closing statement in which they may determine why its evidence should be taken into consideration for the Court’s verdict. To conclude with the evidence process, Agents, Deputies, and if given the case, the witness must leave the hall so that the chair can proceed with the voting process towards the evidence or witness. The judges will vote in favor or against, with no abstentions, and the result of the voting will be announced to the Agent or Deputy who presented the evidence when it reenters the room.

Any point or motion different from the ones aforementioned will proceed as specified in the Official Protocol for the XXXVI TECMUN.

7. Objections

An objection, within the Caribbean Court of Justice, is a formal protest raised in Court during the trial to disallow a violation of the rules of evidence or another procedural law.

7.1 Relevance

Used to object to the relevance of evidence either if a piece of evidence or a witness is saying has nothing to do with the affair or it is not important in determining the judgement.

7.2 Prejudicial

Used to object whenever an evidence presented would unfairly turn the Chamber against a party even when the evidence is considered to be relevant within the affair.

7.3 Leading Questions

It is used to object any time a party poses a question on direct examination that leads either a witness or other party to a certain answer, leading questions usually occur within the case of yes or no questions.

7.4 Argumentative

It is only used when the questioning attorney is not properly asking a question and is instead making an argument of law or application of law that should be argued in summation. In addition, it is only valid when the witness is not being asked a question that he, she, they or them can properly answer.

7.5 Speculation

Used when any party to the affair, or if given the case a witness, does not have first-hand knowledge of the fact it is testifying to, being that this could be what someone else thought or why someone did something.

7.6 Assumed Facts not in Evidence

Used whenever a question by the directing attorney contains information not yet in the recorded evidence.

7.7 Lack of Foundation

Used when an evidence has not been entered that would make this admissible. This could be proof that a confession has been made knowingly and voluntarily, that a witness is competent to testify to a fact, or that a document is admissible.

7.8 Repetitive

Also described as asked and answered, it is used at the time in which during the evidence process either a judge or agent might ask the same question over and over again; perhaps in slightly different ways or re-ask a question they had asked earlier towards the evidence or if given the case, a witness.

7.9 Non-responsive

Whenever a judge or an agent responds to a question with information that is completely unrelated to the same question, it can be objected to as being non-responsive. This can be especially important in the evidence process or when looking for very specific answers.

7.10 Vague

It is a vague question when it is either difficult or impossible to tell what the question is about. If the question is objected to, the questioning judge or agent might then be able to ask the question in a different way that makes more sense or is more specific.

7.11 Hearsay

A statement made out of Court and offered in Court to prove the truth of the matter asserted. A statement is not hearsay if the words spoken are relevant, not what the words mean.

8. Verdict of the Court

The verdict will be written up mainly by the judges of the Court, who can be helped by the Agents in specific aspects but not in entire dispositions, as the points within the verdict can only be agreed by the judges. The Verdict will contain the basic information about the accused State, the specific charges, and the final deliberation of the Court: the sentence, and the terms under which the last steps of the trial will be taken. The content of the verdict may differ from an affair on stage of trial or pretrial. The verdict will never be related to issues corresponding to other sectors than the application of justice on the accused State. In like manner, the voting process of the verdict will proceed just like a committee resolution as specified in the TECMUN Official Protocol, with the only exception that the Agent Plaintiff, Agent Defense, Deputy Agent Plaintiff and Deputy Agent Defense will not be able to partake in any round of the voting. The Court can only close an affair if it has reached a verdict; this last will have the same qualities as the resolutions specified in the Tecmum Official Protocol