No. 15-830

In The Supreme Court of the United States

GOVERNMENT OF BELIZE,

Petitioner,

v.

BELIZE SOCIAL DEVELOPMENT LIMITED,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The District Of Columbia Circuit

SUPPLEMENTAL BRIEF OF PETITIONER IN RESPONSE TO BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

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RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, the undersigned counsel state that the Government of Belize is a sovereign state, and thus is not required to file a Corporate Disclosure Statement pursuant to Sup. Ct. R. 29.6.

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RESPONSE TO BRIEF OF UNITED STATES

Petitioner Government of Belize ("GOB") has filed three petitions for certiorari, presenting the same two questions.[1] The United States does not oppose consolidation. These petitions confirm, particularly when considered together, that the D.C. Circuit's holdings are clear and steadfast, presenting a square split with the Second Circuit. Certiorari is necessary to resolve the split.

On *forum non conveniens*, the United States does not dispute that *TMR Energy Ltd. v. State Prop. Fund of Ukraine*, 411 F.3d 296 (D.C. Cir. 2005) conflicts with *Figueiredo Ferraz E. Engenharia de Projeto Ltda. v. Republic of Peru*, 665 F.3d 384 (2d Cir. 2011), or that *TMR Energy* was wrongly decided. Instead, it argues this case is a "poor vehicle" because *forum non conveniens* was not the central focus of the parties' briefing below, and because the D.C. Circuit addressed the issue "in summary fashion." But these "vehicle" concerns are unsupportable. Regardless of the United States' (inaccurate) characterization of the briefing and decision below, the D.C. Circuit subsequently made clear in *BCB* and *Newco* that it applies a categorical rule forbidding the application of *forum non conveniens* where an action is brought to enforce an arbitration award against a foreign state. *BCB* Pet. App. 4; *Newco* Pet. App. 4. Thus, the D.C. Circuit has – *three times in the*

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[1] *Government of Belize v. Belize Social Development Limited*, No. 15-830 ("*BSDL*"); *Government of Belize v. BCB Holdings Limited, et al*., No. 16-136 ("*BCB*"); and *Government of Belize v. Newco Limited*, No. 16-135 ("*Newco*").

last twelve months – made clear that it has definitively spoken and disagrees with the Second Circuit. This compels review, particularly because the D.C. Circuit is the default jurisdiction for such enforcement actions.

The new argument that Belize is an inadequate forum because BSDL could not prevail there based on the Caribbean Court of Justice's ("CCJ") decision was never raised by BSDL below and was waived. And under *TMR Energy*, no court would *ever* reach this issue, since *forum non conveniens* is already foreclosed "[b]ecause there is no other forum in which [a petitioner] could reach [the defendant's] property, if any, in the United States." *TMR Energy*, 411 F.3d at 304.

This new "adequacy" argument is also incorrect, and inconsistent with the decision, *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981), the United States invokes. This is not one of those "rare circumstances. . . . where the alternative forum does not permit litigation of the subject matter of the dispute." *Id.* at 254 n.22. The United States' argument changes and frustrates *forum non conveniens* by placing the burden on GOB to show not only that the case will be heard and that relief is available if BSDL prevails (both undisputed by the United States), but also to show that BSDL will win on the merits – even though that issue has not yet reached the Belizean courts. Regardless, the United States does not contest its new argument is inapplicable to *Newco*, where GOB *has expressly agreed to pay the arbitration award at issue*, but in accord with Belize's statutory scheme – the same circumstances compelling *forum non conveniens* in *Figueiredo.*

On the second question, the United States admits this Court has left open the principles or standards for resolving the application of competing public policies under the Convention's public policy defense. *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614, 638-39 (1985); *Scherk v. Alberto-Culver Co.*, 417 U.S. 506, 530-31 (1974). In *BCB Holdings Ltd. v. Attorney Gen. of Belize* [2013] CCJ5 (AJ), the CCJ rejected a similar award for BCB under Article V(2)(b) because the underlying agreement violated the Belizean Constitution and public policy. *See* App. 87-125. Given the CCJ's decision, the question is whether U.S. public policy favoring separation of powers, anti-corruption and international comity should prevail here over the pro-arbitration policy. Certiorari is required due to the lack of standards to assess competing public policies, leaving lower courts to apply their own subjective priorities in this area of important international concern.

I. THIS COURT SHOULD RESOLVE THE CIRCUIT SPLIT ON *FORUM NON CONVENIENS*.

A. Concerns About Equivocation in the D.C. Circuit's Decisions Are Groundless.

The United States does not dispute that this petition, or those in *BCB* and *Newco*, involve a circuit split on *forum non conveniens*. The D.C. Circuit, following *TMR Energy*, held Belize cannot be an adequate alternative forum because a foreign forum cannot attach assets in the U.S. That is contrary to the Second Circuit

in *Figueiredo*, which rejected *TMR Energy*'s reasoning and held that a foreign forum is adequate if it has jurisdiction and some attachable assets. Pet. 13-22. The United States does not dispute that Belizean courts have jurisdiction and GOB has assets in Belize.

The United States suggests this circuit split was insufficiently considered below. U.S. 12. That contention is wrong – egregiously wrong given the D.C. Circuit's subsequent decisions in *BCB* and *Newco*, which are not addressed by the United States. Here, the D.C. Circuit held that *forum non conveniens* was "*adequately discussed* and rejected by the district court." Pet. App. 14 (emphasis added). GOB briefed the issue to the District Court, which held that, "unfortunately" for GOB, it was bound by *TMR Energy*. Pet. App. 26-27. GOB also briefed the issue before the D.C. Circuit, No. 14-7002, Doc. No. 1508982, at 30-36, which affirmed. Pet. App. 14. GOB then filed a petition for rehearing *en banc*, seeking reconsideration of *TMR Energy* in light of *Figueiredo*. No. 14-7002, Doc. No. 1567896, at 6-9. It was denied. *Id.*, Doc. No. 1575113. The D.C. Circuit made clear here *TMR Energy* is its rule.

As important, all of the United States' "poor vehicle" concerns are eliminated by the D.C. Circuit's subsequent decisions in *BCB* and *Newco.* In both, *forum non conveniens* was one of the main issues briefed to the D.C. Circuit, the D.C. Circuit decided *after* this Court's order here calling for the Solicitor General's views, and found *forum non conveniens* foreclosed because *TMR Energy* "held that the doctrine of forum non conveniens does not apply to actions in the United

States to enforce arbitral awards against foreign nations." *BCB* Pet. App. 4; *Newco* Pet. App. 4. Moreover, the United States' new argument why no adequate alternative forum exists has no bearing in *Newco*, where GOB has agreed to pay the award, but seeks to do so in accord with Belizean law. The United States acknowledges the existence of the *Newco* and *BCB* cases, U.S. 7-8 n.1, and makes no argument against consolidation, nor any argument that its "vehicle" concerns as to *BSDL* extend to those actions.

The time to resolve this split is now. The D.C. Circuit has spoken. There is no reason to suppose the D.C. Circuit will modify or elaborate further on the categorical rule it set out in *TMR Energy*: that "the doctrine of forum non conveniens does not apply to actions in the United States to enforce arbitral awards against foreign nations" because there is no adequate alternative forum where only a U.S. court can attach any assets that may exist in the U.S. That rule directly conflicts with *Figueiredo*.[2] And because the D.C. Circuit is the default venue for such actions, 28 U.S.C. § 1391(f), it is essential that the Court resolve this important circuit split.

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[2] Although the United States highlights that its amicus brief in *Figueiredo* opposed *forum non conveniens* dismissal under the facts of that case, U.S. 10-11, the D.C. Circuit's clarification of its categorical bar on *forum non conveniens* is in conflict with the United States' prior position that the doctrine applies to confirmation actions, *id*. 11 n.2, and the Second Circuit's holding in *In re Arbitration Between Monegasque de Reassurances S.A.M. v. NAK Naftogaz of Ukraine*, 311 F.3d 488, 494-95 (2d Cir. 2002).

That the default venue has gotten the law wrong makes immediate review even more compelling. The United States does not try to support *TMR Energy* or argue it was correctly decided, and it fails to address that the categorical rule in *TMR Energy* conflicts with the holding in *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422 (2007) based on the facts in that case. In *Sinochem*, the plaintiff sought to attach assets in the U.S.; the alternative forum was abroad. Under *TMR Energy*, dismissal on *forum non conveniens* grounds would have been foreclosed because assets were in the United States. Yet this Court held those same facts presented a "textbook case for immediate *forum non coveniens* dismissal." 549 U.S. at 435. The United States does not refute that no other circuit follows *TMR Energy.* Other circuits hold instead that "an alternative forum has jurisdiction to hear [the] case," as instructed by *Sinochem*, 549 U.S. at 429; Pet. 18 & n.14. Nor does the United States refute that *TMR Energy* is irreconcilable with *Continental Grain Co. v. Barge FBL-585*, 364 U.S. 19 (1960). *Newco* Pet. 21-23; *BCB* Pet. 21-22.

B. The United States' New "Adequacy of Alternative Forum" Argument Was Waived and Wrongly Applies the Law.

The United States argues that the CCJ decision forecloses any possibility of enforcement by BSDL, and thus, Belize is an inadequate alternative forum. U.S. 14. This "argument was never presented to any lower court and is therefore forfeited." *OBB Personenverkehr*

AG v. Sachs, 136 S. Ct. 390, 397 (2015). Nor can it be raised on remand. *See MBI Grp., Inc. v. Credit Foncier Du Cameroun*, 616 F.3d 568, 575 (D.C. Cir. 2010).

It is also incorrect. As detailed in GOB's reply brief, Reply 3-6, but ignored by the United States, Belizean law allows actions to confirm foreign awards and requires payment by the Government if confirmed. Whether BSDL has a meritorious claim in such an action is not the test, nor should it be because it would invite forum shopping. *Norex Petroleum Ltd. v. Access Indus., Inc.*, 416 F.3d 146 (2d Cir. 2005), *cert. denied*, 547 U.S. 1175 (2006), cited by the United States, held "that a case cannot be dismissed on grounds of *forum non conveniens* unless there is presently available to the plaintiff an alternative forum that *will permit it to litigate* the subject matter of its dispute." *Id.* at 159 (emphasis added). As is obvious from the CCJ decision, Belizean law permits parties *to litigate* a confirmation action. *Norex* cannot be read otherwise because it would conflict with *Sinochem*, which focuses on whether the foreign forum has "jurisdiction to hear [the] case." 549 U.S. at 429.[3]

[3] The United States' new "adequacy" argument also twists *Piper Aircraft*'s footnote reference to "rare circumstances. . . . where the remedy offered by the other forum is clearly unsatisfactory," such as, for example, "where the alternative forum does not permit litigation of the subject matter of the dispute," 454 U.S. 254 n.22, into a rule that fundamentally changes and frustrates *forum non conveniens* by requiring that GOB must show that BSDL will win on the merits.

II. THIS COURT SHOULD SET OUT PRINCIPLES FOR ASSESSING COMPETING POLICIES UNDER THE PUBLIC POLICY DEFENSE.

The United States admits the lower courts fail to set out principles or guidelines to resolve competing public policies under the public policy defense. U.S. 20-21. That is the problem this Court should remedy, because, without guidance, lower courts can favor one policy over another without explanation or scrutiny. Pet. App. 46-47. That happened here, where GOB briefed the importance of anti-corruption, international comity, and separation of powers policies, but the lower courts applied their own standardless judgment to favor a pro-arbitration policy. Indeed, the district court stated it did not care *what* policies the CCJ sought to vindicate because they "would have no impact on my analysis." *Id.* 47 n.31. As the United States effectively admits, the lower courts now have carte blanche to decide which policies prevail based on their own subjective priorities.

This issue's importance is cemented by *BCB* and *Newco*, where the D.C. Circuit reflexively favored arbitration and dismissed other competing policies expressly recognized as important in the Restatement and this Court. The United States' complaint that the D.C. Circuit did not explain itself well, U.S. 15, is a reason for *granting*, not denying, certiorari, because it exemplifies the very problem created by lack of standards: no explanation is required.

The United States argues there is no lack of guidance because courts narrowly construe the public policy defense to require that confirmation would "violate the forum state's most basic notions of morality and justice." U.S. 15, 19-22. But there was no meaningful analysis in the lower courts whether the competing policies identified by GOB are basic notions of morality and justice in the United States, much less whether such notions would be violated by enforcing this arbitral award. To the extent the D.C. Circuit made *any* findings, it was to find that those policies fail to overcome the policy in favor of arbitration. *See* Pet. App. 14 (adopting Pet. App. 46-47); *Newco* Pet. App. 4. That is a fundamental problem because the Restatement and this Court make it clear that the policies argued by GOB *are* essential concepts of morality and justice in the United States. Restatement (3d) of U.S. Law of Int'l Comm. Arb. (Tentative Draft No. 2, 2012) §4-18 Rptr. Note b (international comity); *Id.* at §4-17 Rptr. Note c (coinciding important interests); *Republic of the Philippines v. Pimentel*, 553 U.S. 851, 869 (2008) (public corruption). Though GOB cited extensively to the Restatement throughout its briefs, *BSDL* Reply 9-12; *BCB* Pet. 27-31; *BCB* Reply 9-12; *Newco* Pet. 5, 31, the United States has no rejoinder; it simply ignores the Restatement, preferring to argue whether GOB would ultimately be victorious.

Even on that point, the United States' argument fails, particularly if the Court applies a "dominant policy" test as GOB argues. First, this case involves public policy grounded in separation of powers principles. The

United States argues that it has no interest in Belize's separation of powers. U.S. 18-19. But a court could find otherwise, since the State Department is clear that "Belize's . . . democratic political stability . . . [is an] important U.S. objective[]." U.S. Dep't of State, U.S. Relations with Belize (Dec. 1, 2015), http://www.state.gov/r/pa/ei/bgn/1955.htm. Further, the Restatement states that "a court may vindicate *U.S.* public policy," by withholding recognition and enforcement of an award where the foreign State's prohibitions express "an *important interest shared by the United States*." Restatement §4-17 Rptr. Note c (emphasis added). The United States does not dispute the Restatement's applicability, nor GOB's argument that there is no shared interest more important than a democracy's constitutional separation of powers.

Second, this case involves the "significant international policy" of "combating public corruption." *Pimentel*, 553 U.S. at 869. The United States admits its "substantial interest in combatting foreign corruption," but claims GOB made "a bare allegation of corruption." U.S. 16-17. The undisputed record is that this dispute involves awards arising from secret agreements executed by a former Belizean Prime Minister giving preferential tax treatment, without Parliamentary approval, to Belizean companies controlled by a campaign contributor. This *is* evidence of corruption. Even the United States admits, grudgingly, that the

State Department has identified corruption in the Musa government. U.S. 17.[4]

Third, this case involves international comity. The Restatement recognizes that "a U.S. court might plausibly regard recognition or enforcement of an award to be so detrimental to a foreign State's paramount interests that it offends international comity and is, to that extent, repugnant to U.S. public policy." Restatement §4-18 Rptr. Note b. And international comity applies where there is a "true conflict" between U.S. and foreign law. *Hartford Fire Ins. Co. v. California*, 509 U.S. 764, 798 (1993). U.S. courts have now ordered GOB to comply with an agreement that is almost identical to one that the highest court of the Caribbean Community of Sovereign States ("CARICOM") has held violates fundamental principles of constitutional government shared by the United States. And it has done so simply by giving preemptive force to a "liberal federal policy favoring arbitration agreements . . . [that] is at bottom a policy guaranteeing the enforcement of private contractual arrangements." *Mitsubishi*, 473 U.S. at 625. Enforcement of private contracts is an important principle, but not an absolute or paramount one, as it was treated by the lower courts here. As made clear in *Mitsubishi*, the public policy defense was intended to be a meaningful tool in determining whether

[4] GOB did not need to first present its policy arguments to the arbitration panel. The public policy defense is enforced by "the national courts of the United States . . . at the award-enforcement stage." *Mitsubishi*, 473 U.S. at 631, 638; Pet. App. 75, Article V(2)(b).

to enforce a foreign arbitration clause, but it was rendered a nullity here. This Court should grant certiorari to provide guidance to the lower courts in applying these competing principles.

III. THE D.C. CIRCUIT'S DECISION WILL HAVE SERIOUS NEGATIVE IMPACTS ON U.S. RELATIONS.

The United States offers no response to the serious negative impacts that the D.C. Circuit's decision can have on U.S. relations in the Caribbean, the legitimacy of the CCJ, and its efforts to develop common law and promote democratic principles in the Caribbean. The CCJ held, emphatically, that these agreements are repugnant to "the foundations upon which the rule of law and democracy are constructed throughout the Caribbean." Pet. 11-12. Similar concerns were raised in an April 12, 2016 letter from CARICOM's Secretary-General to the U.S. Solicitor General. *BCB* Pet. App. 116-22; Supp._App. 1-7. The United States does not mention the letter, or similar concerns voiced in the Government of Guyana's amicus brief in *BCB*. The United States also does not dispute that the D.C. Circuit's decision risks damaging comity between U.S. courts and the CCJ. This Court, given its international status as a beacon of the democratic principles echoed in the CCJ's decision, should not allow the D.C. Circuit's decision to go unexamined.

CONCLUSION

Accordingly, GOB requests this Court grant certiorari on both questions presented.

Respectfully submitted,

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12 April 2016

Hon. Donald B. Verrilli, Jr.
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950 Pennsylvania Ave. N.W.
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Dear Mr. Verrilli

Re: *Government of Belize v. Belize Social Development Limited*, Sup. Ct. No. 15-830.

I write to you in my capacity as the Secretary-General of the Caribbean Community (CARICOM), a Community of fourteen Sovereign States and the island of Montserrat.[1] It has been brought to my attention that the Government of Belize has a pending petition for a writ of certiorari before the United States Supreme

[1] CARICOM's Member States include Antigua and Barbuda; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Haiti; Jamaica; Montserrat; Saint Lucia; St. Kitts and Nevis; St. Vincent and the Grenadines; Suriname; and Trinidad and Tobago.

Court, and that the Court, in its recent order of 28 March 2016, has invited the Solicitor General to express the views of the United States. This is an important matter to CARICOM because the case implicates international comity considerations with respect to the Caribbean Court of Justice (CCJ), and the fundamental rule of law with respect to one of its Member States, Belize.

CARICOM, for its part, was established by the Treaty of Chaguaramas in 1973,[2] and its roles and functions continue to be defined by that Treaty, as revised.[3] CARICOM's objectives include economic development, improved standards of living and work, enhanced coordination among its Member States, and enhanced economic relations with third States.[4]

The establishment of the CCJ in the early 2000's remains one of CARICOM's key achievements.[5] The CCJ

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[2] CARICOM, *History of the Caribbean Community (CARICOM)*, http://www.caricom.org/jsp/community/historyjsp?menu=community; CARICOM, *The Original Treaty*, http://www.caricom.org/jsp/community/original_treatyjsp?menu=community; Treaty Establishing the Caribbean Community, July 4, 1973, *available at* http://www.caricom.org/jsp/community/original_treaty-text.pdf.

[3] CARICOM's roles and functions are now set forth in the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy, *available at* http://www.caricom.org/jsp/community/revised_treaty-text.pdf.

[4] CARICOM, *Objectives of the Community,* http://www.caricom.org/jsp/community/objectives.jsp?menu=community.

[5] CARICOM, STRATEGIC PLAN FOR THE CARIBBEAN COMMUNITY 2015-2019: REPOSITIONING CARICOM, Vol. 2, p.155 (3 July 2014) [hereinafter "CARICOM STRATEGIC PLAN"], *available at*

was created because its founding Members were "convinced that the Caribbean Court of Justice . . . will have a determinative role in the further development of Caribbean jurisprudence through the judicial process; convinced also of the desirability of entrenching the [CCJ] in their national Constitutions; aware that the establishment of the [CCJ] is a further step in the deepening of the regional integration process; [and] recognising the sovereignty of Members of the Caribbean Community."[6] The CCJ thus has exclusive and compulsory original jurisdiction over the treaties establishing CARICOM, offers definitive guidance on the application of Community law, and has final appellate jurisdiction for a number of CARICOM's Member States.[7] The CCJ has served to provide certainty and predictability to the operations of the CARICOM Single Market and Economy; brings a Regional ethos to judicial decisions; and plays a historically important role in replacing the British Privy Council as court of last resort.[8]

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http://caricom.org/jsp/secretariat/THE%20STRATEGIC%20PLAN%20VOL2-final.pdf.

[6] Agreement Establishing the Caribbean Court of Justice, Preamble, 2001 & 2003, *available at* http://caricom.org/jsp/secretariat/legal_instruments/agreement.ccj.pdf.

[7] *See id.* at Part II and Part III; CARICOM STRATEGIC PLAN at p.55. The CARICOM Member States which have enabled the CCJ as the final appellate court are: Barbados, Belize, Dominica and Guyana. Other Member States are taking the necessary steps to enable the appellate jurisdiction.

[8] CARICOM STRATEGIC PLAN, Vol. 2, at p.155.

This latter feature is particularly important here. Belize is among those Member States that have acceded to the CCJ's appellate jurisdiction, replacing the British Privy Council in London that was created by the British Parliament in the early 1800s. The CCJ thus fully completes the circle of judicial sovereignty for nations like Belize.[9] And the CCJ decision implicated in this case, *BCB Holdings Limited v. The Attorney General of Belize*, [2013] CCJ 5 (AJ), is a landmark decision by the CCJ in this respect. The CCJ, exercising appellate jurisdiction, firmly upheld that "[t]he supremacy of the [Belizean] Constitution is a core constitutional value," as is "Separation of Powers," and that "[t]o disregard these values is to attack the foundations upon which the rule of law and democracy are constructed *throughout the Caribbean*." *Id. at* ¶59 (emphasis added). In that case, the CCJ renounced the enforcement of an arbitral award rendered by the London Court of International Arbitration (LCIA) that was based upon a "confidential" agreement executed by former Prime Minister of Belize Said Musa providing unconstitutional tax benefits to a private company, which were not authorized by the Belizean Parliament. The CCJ held that no court could properly enforce such an arbitral award. *Id.* at ¶61. The CCJ held that such agreements are "repugnant to the established legal order of Belize," and "unconstitutional, void and completely contrary to public policy." *Id.* at ¶53. "The rights and freedoms of the citizenry and democracy itself would be imperilled if courts permitted the Executive

[9] *Id*.

to assume onto itself essential lawmaking functions in the absence of constitutional or legislative authority to do so. It would be utterly disastrous if the Executive could do so, selectively, via confidential documents. In young states, keen observance by the courts of the separation of powers principles remains vital to maintaining the checks and balances that guarantee the rule of law and democratic governance." *Id.* at ¶42. "If this Court ordered enforcement of [the LCIA award] we would effectively be rewarding corporate citizens for participating in the violation of the fundamental law of Belize and punishing the State for refusing to acquiesce in that violation." *Id.* at ¶61.

Nonetheless, the District Court and District of Columbia Circuit Court, by treating the CCJ's decision as "irrelevant," completely disregarded the CCJ's admonishment that [n]o court can properly do this [that is, enforce the arbitral award]," *id.* at ¶61, and confirmed a similar LCIA arbitral award rendered *ex parte* against the Government of Belize based upon a similar agreement executed by the same former Belizean Prime Minister and also purporting to provide unauthorized tax benefits to another private company. The holdings of the District Court and District of Columbia Circuit Court are of great concern to CARICOM, because they undermine the importance of this seminal CCJ decision, which is designed to further the rule of law and the core democratic principle of Separation of Powers in the Caribbean Region. These rulings would also have serious implications for the other CARICOM Member States for which the CCJ is the final Court of

Appeal now and in the future. CARICOM has recognized, as part of its ongoing Strategic Plan, that "special attention should be given to the role of the CCJ in strengthening and optimizing the governance arrangements" of its Member States.[10] Further efforts to utilize the CCJ in strengthening the governance of its Member States and to expand the CCJ's final appellate jurisdiction will be hindered if important decisions by the CCJ that go directly to the rule of law and support essential tenets of democracy are summarily disregarded by courts of other jurisdictions in the international community.

Rather, international comity, as well as the United States' shared concerns for separation of powers and democratic order, and against political corruption, compels greater respect and consideration for the decisions of the highest court among the 15 Member States in the Caribbean Community than the CCJ has been afforded thus far in this case. This case presents a fork in the road in terms of the future relations among the courts of our respective jurisdictions. It is submitted

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[10] As explained in CARICOM STRATEGIC PLAN, "Stakeholders have emphasized that special attention should be given to the role of the CCJ in strengthening and optimizing the governance arrangements. In that regard, Governments need to signal greater commitment to the CCJ and improve utilization of the Court, for example to: i) resolve disputes in a speedy manner on the basis of regional and international law; ii) draw on the competence of the Court in interpreting and applying the [Revised Treaty of Chaguaramas] and related decisions of the Organs of the Community; and/or iii) develop the regional legal framework to achieve greater clarity and certainty regarding the rights and duties of all actors of the Community." CARICOM STRATEGIC PLAN, at p.59 n.24.

that deference should be accorded to the CCJ's reasoned decision given its critical importance to the Caribbean Region, so as not to risk impugning the legitimacy of the CCJ.

Accordingly, CARICOM submits that the United States Supreme Court should consider the Government of Belize's petition for certiorari in this case in light of these important issues. And for these reasons, CARICOM respectfully requests that the United States Government support CARICOM, its Member States including Belize, and the CCJ, by expressing its view that the Supreme Court should hear this case.

Yours sincerely

/s/ Irwin Larocque
IRWIN LAROCQUE
SECRETARY-GENERAL

c.c.: Hon. Dean O. Barrow
Prime Minister of Belize and Chairman
of the Conference of Heads of Government
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