The Official Gazette

(EXTRAORDINARY)

OF GUYANA

Published by the Authority of the Government

GEORGETOWN, TUESDAY 11TH FEBRUARY, 2025

TABLE OF CONTENTS **PAGE**

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A. **ACTS — NIL**

B. **SUBSIDIARY LEGISLATION — NIL**

C. **BILLS —** BILL No. 5 of 2025 – The Regional Security System Act 2025 … … … … … … 99

GEORGETOWN, Demerara – Printed and Published every Saturday and on such Extraordinary Days as may be directed by the Government by Guyana National Printers Limited, 1 Public Road, La Penitence, Greater Georgetown.

TUESDAY 11TH FEBRUARY, 2025

THE OFFICIAL GAZETTE 11TH FEBRUARY, 2025
LEGAL SUPPLEMENT — C

BILL No. 5 of 2025

Tuesday 11th February, 2025

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

11th February, 2025.

The following Bill which will be introduced in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.

GUYANA

BILL No. 5 of 2025

REGIONAL SECURITY SYSTEM BILL 2025

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title and commencement.

2. Interpretation.

PART II

THE REGIONAL SECURITY SYSTEM

3. Application.

4. Articles having force of law.

5. Legal status of RSS.

6. Court's jurisdiction.

7. Previous trial by service courts.

8. Jurisdiction of service courts.

9. Previous trial by a court.

10. Waiver of court's primary right.

11. Certificate concerning official duty.

12. Immunities and privileges of service courts.

13. Sentences.

14. Detention.

15. Certificate of service court.

16. Arrest.

17. Place of incarceration.

18. Common law arrest.

19. Firearms and drilling.

20. Claims.

21. Proceedings not maintainable.

22. Enforcement of judgment.

23. Ships.

24. Official duty.

25. Salaries exempt from taxation.

26. Exemption of RSS vehicles from certain fees.

27. Imports.

28. Personal effects.

29. Fuel, oil, Etc.

30. Coroner's inquest.

31. Repatriation.

32. Customs.

PART III

THE HEADQUARTERS AGREEMENT

33. Financial provisions.

34. Exemption from immigration law.

PART IV

MISCELLANEOUS

35. Regulations.

36. Amendment of Schedules.

FIRST SCHEDULE Treaty Establishing The Regional Security System

SECOND SCHEDULE Agreement Between The Regional Security System And The Government Of Barbados Regarding The Headquarters Of The Regional Security System

A BILL

Intituled

AN ACT to provide for the implementation of the Treaty establishing the Regional Security System and for connected matters.

A.D.2025

Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Regional Security System Act 2025 and shall come into operation on the day the Minister may, by order, appoint.

Interpretation.

2. (1) In this Act-

"Co-ordinator" means the Executive Director of the Regional Security System appointed pursuant to Article 7 of the Treaty;

court" means any court in Guyana of competent jurisdiction and includes a magistrate or a judge having powers to act in connection with proceedings before that court;

"dependent" means, with reference to a military member or a police member-

(a) the spouse of the member; or

(b) a child of the member depending on the member for support up to the age of twenty-one years;

"Headquarters Agreement" means the Agreement between the appropriate Government and the Regional Security System regarding the

Second Schedule

Headquarters seat of the Regional Security System, the text of which is set out in the Second Schedule;

"Member State" means a Member State of the Regional Security System;

"military member" means a member of the armed forces of a Member State;

"police member" means a member of the Police Force of a Member State;

"service court" means a court-martial and includes the service authorities of a Member State who are empowered by the laws of that Member State to deal with disciplinary charges;

"System" or "RSS" means the Regional Security System established by the Treaty;

"Treaty" means the Treaty establishing the Regional Security System done at St. George's, Grenada on the 5th day of March, 1996, the text of which is set out in the First Schedule.

First Schedule

(2) In this Act, unless the context otherwise requires, any word, term or expression which is defined in the Treaty shall have the same meaning as that assigned to it in the Treaty.

PART II

THE REGIONAL SECURITY SYSTEM

Application.

3. This Act applies to service personnel of Member States of the Regional Security System.

Articles having force of law.

4. Articles 10 and 14 of the Treaty shall have the force of law in Guyana.

Legal status of RSS.

5. The Regional Security System is a body corporate with full legal personality.

Court's jurisdiction.

6. Except in respect of the offences mentioned in section 8(2), the court has the primary right to exercise jurisdiction in respect of any act that constitutes an offence against any law in force in Guyana which is committed by service personnel or a dependent while the personnel is on RSS duty.

Previous trial by service court.

7. Where a military member or a dependent has been tried by a service court and has been convicted or acquitted, he or she may not be tried again by a court for the same offence.

Jurisdiction of service courts.

8. (1) Subject to this Act, the service authorities and service courts of another Member State may exercise within Guyana in relation to military members of that force and their dependents, all the criminal and disciplinary jurisdiction that is conferred upon them by the law of that other Member State.

(2) With respect to the alleged commission by a military member of an offence relating to-

(a) the property or security of that member's State;

(b) the person or property of another member of the State referred to in paragraph (a) or a dependent; or

(c) an act done in the performance of official duty,

the service courts of that member's State shall have the primary right to exercise jurisdiction.

Previous trial by a court.

9. (1) Where a military member or a dependent has been tried by a court and has been convicted or acquitted, he or she may not be tried again within Guyana for the same offence by a service court of that member's State.

(2) Nothing in subsection (1) prevents a service court from trying within Guyana a military member or his or her dependent for any violation of rules of discipline arising from an act or omission that constituted an offence for which he or she was tried by a court.

Waiver of court's primary right.

10. Where pursuant to sections 7 to 9 a court or a service court of a Member State other than Guyana has the primary right to exercise jurisdiction, that court or service court may waive the primary right in accordance with any law as may be made for that purpose.

Certificate concerning official duty.

11. A certificate issued by the Co-ordinator stating that anything alleged to have been done by a military member or a police member of a Member State was or was not done in the performance of official duty, is admissible in evidence in a court and, for the purpose of this Act, is *prima facie* proof of that fact.

Immunities and privileges of service court.

Cap. 15:01

12. (1) The members of a service court exercising jurisdiction by virtue of this Act, and witnesses appearing before the service court, have the same immunities and privileges as a court-martial exercising jurisdiction under the Defence Act and witnesses appearing before any such court-martial.

(2) Subsection (1) applies only to military members.

Sentences.

13. Where any sentence has been passed by a service court within or outside Guyana upon a military member or his or her dependent, then for the purpose of any legal proceedings within Guyana-

(a) the service court shall be deemed to have been properly constituted;

(b) its proceedings shall be deemed to have been regularly conducted;

(c) the sentence shall be deemed to have been within the jurisdiction of the service court and in accordance with the law of the Member State concerned; and

(d) if the sentence has been executed according to the tenor thereof, the sentence shall be deemed to have been lawfully executed.

Detention.

14. Any military member or any dependent who is detained in custody-

(a) in pursuance of a sentence mentioned in section 13;

(b) pending the determination by a service court of a charge brought against him or her; or

(c) pending his or her repatriation to their home State,

shall, for the purposes of any legal proceedings within Guyana, be deemed to be in lawful custody.

Certificate of service court.

15. (1) For the purpose of service in any legal proceedings within Guyana, a certificate of service under the hand of the Co-ordinator stating that the person specified in the certificate sat as a member of a service court is receivable in evidence and is conclusive proof of that fact.

(2) A certificate under the hand of the Co-ordinator issued under or pursuant to subsection (1) stating that a military member or a dependent is being detained in any of the circumstances described in section 14 is receivable in evidence and is conclusive proof of the cause or the reason for his or her detention, but not of his or her being a military member or a dependent.

Arrest.

16. For the purposes of enabling the RSS to exercise more effectively the powers conferred upon it by this Act, any service personnel seconded to RSS headquarters or mobilised for duty or training under joint RSS command, may arrest any other service personnel so seconded or mobilised without regard to the Member State of origin of the parties involved.

Place of incarceration.

17. Where a military member or a dependent has been sentenced by a service court to undergo a punishment involving incarceration, the incarceration may, at the request of the officer in command of the military member, and in accordance with standing orders made by the Co-ordinator,

be served in an establishment at headquarters or in such other place as the Co-ordinator determines.

Common law arrest.

18. Nothing in this Act shall preclude or prevent service personnel mobilised for duty or training under joint RSS command in Guyana, from exercising any common law power to make an arrest.

Firearms and drilling.

19. Service personnel acting in the course of their duties-

(a) may, after consultation with the competent authorities of Guyana, and if authorised to do so by orders of the RSS, possess and carry ammunition, explosives and firearms; and

(b) are not subject to any law of Guyana relating to unlawful drilling or the making or possessing of explosives.

Claims.

20. For the purposes of the State Liability and Proceedings Act-

Cap. 6:05

(a) a tort committed by a military member or a police member while acting within the scope of their duties or employment shall be deemed to have been committed by a servant of the State while acting within the scope of their duties or employment;

(b) property owned, occupied, possessed or controlled by the armed forces or police force of a Member State other than Guyana shall be deemed to be possessed or controlled by the State; and

(c) a service motor vehicle of the armed forces or police force of a Member State other than Guyana shall be deemed to be owned by the State.

Proceedings not maintainable.

21. No proceedings shall lie against the State by virtue of section 20, or against any military member or police member of another Member State who is deemed to be a servant of the State under that section, in respect of a claim by such a military member or police member or their personal legal representative or a dependent arising out of the death, or personal injury of the military member or police member, where compensation has been paid or is payable by a Member State for the death or injury.

Enforcement of judgment.

22. A military member or police member of a Member State other than Guyana is not subject to any proceedings for the enforcement of any judgment given against him or her in Guyana in respect of a matter that arose while he or she was acting within the scope of their duties or employment.

Ships.

23. Except in a case where section 20 is made applicable by an order of the President in respect of the ship of another Member State, that section does not apply to a claim arising out of or in connection with the navigation, operation or salvage of a ship or the carriage, discharge or loading of a cargo, unless the claim arises out of the death of, or injury to, a person.

Official duty.

24. Where a question or dispute arises under this Act as to whether-

(a) a military member or a police member was acting within the scope of their duties or employment; or

(b) a matter in respect of which judgment was given against a military member or a police member arose while he or she was acting within the scope of their duties or employment,

and the question cannot be settled by negotiation, a certificate under the hand of the Co-ordinator stating that such a member was acting within the scope of their duties or employment, or that a matter referred to in paragraph (b) arose while the member was acting within the scope of their duties or employment, is final and conclusive.

Salaries exempt from taxation.

25. A member of the staff of RSS headquarters is exempt from taxation in Guyana on the salary and other emoluments paid to him or her as a member of such staff, and in respect of any movable property that is in Guyana temporarily by reason of his or her presence in Guyana in that capacity.

Exemption of RSS vehicles from certain fees.

26. No fee is payable in respect of the licensing or registration in Guyana of RSS vehicles or in respect of the use of those vehicles on any road in Guyana.

Imports.

27. (1) The RSS may import into Guyana, free of customs duty or any other tax, equipment for the RSS and such quantities of provisions, supplies and other goods for the exclusive use of the RSS as, in the opinion of the Minister responsible for finance, are reasonable.

(2) The Minister responsible for Finance may authorise the importation into Guyana, free of customs duty or any other tax of goods for use by dependent of members of the RSS.

Personal effects.

28. (1) Service personnel may-

(a) at the time of their first arrival to take up service in Guyana and at the time of the first arrival of any dependent to join them, import personal effects and furniture free of customs duty and any tax; and

(b) import, free of customs duty and any tax, private motor vehicles for personal use of themselves and their dependents temporarily.

(2) Notwithstanding paragraph (b), service personnel shall pay all licensing and registration fees in respect of private motor vehicles imported into Guyana for their personal use.

Fuel, oil, etc.

29. No customs duty or any other tax shall be payable on any fuel, oil or lubricants intended for use exclusively in the service vehicles, aircrafts or vessels of Member States during operations on behalf of the RSS or during training exercises arranged by the RSS.

Coroner's inquest.

30. (1) Where a coroner is satisfied that a deceased person at the time of their death had a relevant association with service personnel of a Member State other than Guyana, then, unless the President otherwise directs, the coroner may not hold the inquest, or if it has begun but not completed, shall adjourn it.

(2) Subject to subsection (1), a coroner shall, unless the President otherwise directs, adjourn the inquest if the coroner is satisfied that-

(a) a person who is subject to the jurisdiction of the service courts of a Member State other than Guyana-

(i) has been charged before a service court with the homicide of the deceased person whether or not that charge has been dealt with; or

(ii) is likely to be returned to a Member State for trial and sentencing in connection with the homicide;

(b) a police member of that other Member State is likely to be returned to that other Member State for trial for the homicide;

(c) a person referred to in paragraph (a) or (b) is being detained by an authority of another Member State with a view to being so charged.

(3) Where an inquest is adjourned pursuant to this section, the coroner may resume the inquest only on the direction of the President.

(4) Where an inquest that was adjourned under this section is resumed, the coroner shall proceed in all respects as if the inquest had not previously begun.

(5) In this section-

(a) "homicide" includes murder, manslaughter, infanticide and any offence under the law of the country in question that is similar to any of those offences;

(b) references to a person having a relevant association with the service personnel of a Member State are references to the person being at the time-

(i) a member of the armed forces or the police force of a Member State or a member of the civilian component of such a force; or

(ii) a person who, not being a citizen of Guyana or a permanent resident thereof within the meaning of the Immigration Act a member of the armed forces or police force of or a civilian component of that force.

Cap. 14:02

(6) In determining for the purposes of this section whether a person is, or was at any time, a permanent resident of Guyana, no account shall be taken of any period during which the person has been, or intends to be, present in Guyana-

(a) as a member of the armed forces or police force of a Member State or a civilian component of such force; or

(b) as a dependent of a member of such armed forces or police force or a civilian component of such force.

Repatriation.

31. (1) Notwithstanding anything in this Act, a military member seconded for duty to RSS headquarters or mobilised for operations or training under joint RSS command who commits an offence in respect of which-

(a) the courts of Guyana have the primary right to exercise jurisdiction, but waive such right; or

(b) a service court of his or her home State has jurisdiction, but no such court is available in Guyana,

shall be repatriated to their home State for trial and sentencing by a court or service court, as appropriate.

(2) Where a police member seconded for duty to RSS headquarters or mobilised for operations or training under joint RSS command commits an offence in respect of which the courts of Guyana have primary right to exercise jurisdiction, but waive such right, such police member shall be repatriated to his or her home State for trial and sentencing or to be otherwise dealt with in accordance with law.

(3) Where a police member referred to in subsection (2) commits an offence that would, if that police member were a military member-

(a) be triable by a service court; or

(b) be a breach of discipline under any rules or regulations in force in their home State,

he or she shall be repatriated to his or her home State for trial and sentencing or for disciplinary proceedings to be instituted against him or her as appropriate.

Customs.

Cap. 82:01

32. The provisions of the Customs Act, shall apply to restrict or prohibit the entry into or transit through Guyana of material required for the purposes of the RSS.

PART III

THE HEADQUARTERS AGREEMENT

Financial provisions.

33. All sums required to be paid by the Government for the purpose of meeting the obligations of Guyana under this Act, the Treaty and the Headquarters Agreement are charged on the Consolidated Fund.

Exemption from immigration law.

Cap. 14:02

34. The Immigration Act shall not apply to the persons mentioned in Article XI of the Headquarters Agreement.

PART IV

MISCELLANEOUS

Regulations.

35. The Minister may make regulations for giving effect to the provisions of this Act.

Amendment of Schedule.

36. (1) Where Guyana becomes a party to any agreement to amend the Treaty or Headquarters Agreement the Minister may, by order, amend the Schedules by including therein the amendment.

(2) Every order made under this section shall be subject to the negative resolution of the National Assembly.

(3) Where the Treaty or the Headquarters Agreement is amended pursuant to the manner provided for in those instruments, any reference in this Act or any other instrument to the Treaty or the Headquarters Agreement shall, unless the context otherwise requires, be construed as a reference to the Treaty or Headquarters Agreement as so amended.

FIRST SCHEDULE

Section 2

TREATY ESTABLISHING THE REGIONAL SECURITY SYSTEM

Preamble

The Governments of the Contracting States,

Convinced that the stability and well-being of the Caribbean region can best be promoted by mutual co-operation;

Wishing to maximise their strength in the interest of the defence of their States and to achieve social and economic development for their people;

Seeking to preserve the common heritage of their people, founded on the principles of democracy, liberty of the individual and the rule of law;

Have agreed as follows.

ARTICLE 1

Establishment of System

By this Treaty the Contacting Parties establish the Regional Security System, in this Treaty referred to as the "System" or "RSS", having the members, powers and functions hereinafter set forth.

ARTICLE 2

Membership

1. Membership of the System is open to the following States—

Antigua and Barbuda

The Republic of Barbados

The Commonwealth of Dominica

Grenada

The Cooperative Republic of Guyana

Saint Christopher and Nevis

Saint Lucia

Saint Vincent and The Grenadines.

2. The States listed in paragraph 1 of this Article the Governments of which sign and ratify this Treaty in accordance with Article 25 shall be the members of the System, and such States are referred to in this Treaty as the "Member States".

ARTICLE 3

Definitions

For the purposes of this Treaty—

(a) **"Forces Commanders"** means—

(i) the Commander of the Antigua and Barbuda Defence Force,
(ii) the Commissioner of Police of the Royal Police Force of Antigua and Barbuda,
(iii) the Chief of Staff of the Barbados Defence Force,
(iv) the Commissioner of Police of the Barbados Police Service,
(v) the Commissioner of Police of the Commonwealth of Dominica Police Force,
(vi) the Commissioner of Police of the Royal Grenada Police Force,
(vii) the Commissioner of Police of the Co-operative Republic of Guyana Police Force,
(viii) the Commissioner of Police of the Royal Saint Christopher and Nevis Police Force,
(ix) the Commissioner of Police of the Royal Saint Lucia Police Force, and
(x) the Commissioner of Police of the Royal Saint Vincent and The Grenadines Police Force; the Commissioner of Police of the Barbados Police Service,
(xi) the Commissioner of Police of the Commonwealth of Dominica Police Force;

(b) **"service personnel"** means personnel belonging to or connected with—

(i) the Antigua and Barbuda Defence Force or the Royal Police Force of Antigua and Barbuda,
(ii) the Barbados Defence Force or the Barbados Police Service,
(iii) the Commonwealth of Dominica Police Force,
(iv) the Royal Grenada Police Force,
(v) the Royal Saint Christopher and Nevis Police Force,
(vi) the Royal Saint Lucia Police Force,
(vii) the Royal Saint Vincent and The Grenadines Police Force.

ARTICLE 4

Purposes and Functions of the System

1. The purposes and functions of the System are to promote co-operation among the Member States in the prevention and interdiction of traffic in illegal narcotic drugs, in national emergencies, search and rescue, immigration control, fisheries protection, customs and excise control, maritime policing duties, natural and other disasters, pollution control, combating threats to national security, the prevention of smuggling, and in the protection of offshore installations and exclusive economic zones.

2. In order to achieve the purposes of this Treaty, the Member States—

(a) separately and jointly shall, by means of self-help and mutual aid, maintain and develop their individual and collective capacity to assist one another; and

(b) agree that service personnel of one Member State taking part in operations in another Member State or in the territorial sea or exclusive economic zone of that other Member State shall have all the rights, powers, duties, privileges and immunities conferred on service personnel of the second mentioned Member State by the laws of that State.

3. The interests of one Member State are the interests of the others; and accordingly, the Member States shall have the right of "hot-pursuit" within each other's territorial sea and exclusive economic zone.

4. The Member States shall consult together whenever, in the opinion of any of them, the democratic institutions, territorial integrity, political independence or security of any of them is threatened.

5. The Member States agree that an armed attack against one of them by a third State or from any other source is an armed attack against them all, and consequently agree that in the event of such an attack, each of them, in the exercise of the inherent right, of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will determine the measures to be taken to assist the State so attacked by taking forthwith, individually or collectively, any necessary action, including the use of armed force, to restore and maintain the peace and security of the Member State.

6. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to secure and maintain peace in the Member State.

ARTICLE 5

Status of Treaty

1. This Treaty does not affect and shall not be construed as affecting the rights and obligations under the Charter of the United Nations of the Member States or the responsibility of the United Nations for the maintenance of international peace and security.

2. Each Member State declares that none of the international engagements now in force between it and any other Member State or any third State is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty while this Treaty remains in force in respect of that Member State.

ARTICLE 6

Council of Ministers

1. A Council of Ministers, in this Treaty referred to as the "Council", is hereby established.

2. The Council comprises the Ministers responsible for Defence and Security of the Member States or such other Ministers and Plenipotentiaries as may be designated by the Heads of Governments of the Member States.

3. The Council shall be responsible for and shall have general direction and control of the System.

4. The Council is the supreme policy making body of the System.

5. The Council shall set up such subsidiary bodies as may be necessary to ensure the achievement of the purposes of this Treaty.

6. Subject to this Treaty, the Council is responsible for the financial arrangements necessary for meeting the expenses of the System and is the final authority in matters relating to the financial affairs of the System.

7. The Council shall be the final authority for the conclusion of treaties or other international agreements on behalf of the System and for entering into relationships between the System and third States or international organisations.

8. The Council shall meet at least once a year and may determine its own procedure.

9. The chairpersonship of the Council shall be rotated annually among the members of the Council in alphabetical order of the Member States.

10. The decisions of the Council shall be by a majority of two-thirds of the membership of the Council.

ARTICLE 7

Secretariat

1. A secretariat in this Treaty referred to as the "Central Liaison Office" or "CLO", is hereby established and shall be responsible for the general administration of the System.

2. The Central Liaison Office comprises a Regional Security Co-ordinator in this Treaty referred to as the "Co-ordinator", and such other staff as the System may require.

3. The Co-ordinator shall be appointed by the Council and is the Chief Executive Officer with, subject to Article 6, responsibility for the general administrative direction of the System.

4. More particularly, the duties of the Co-ordinator are—

(a) to arrange and service meetings of the System;
(b) to take appropriate action in respect of any decision taken, or directive given, at any such meeting;
(c) to co-ordinate the operations of the System;
(d) to advise the Council in matters relating to regional security; and
(e) to make annually, or at such other intervals as the Council requires, reports on the operational and administrative activities of the System.

5. The Co-ordinator may, in his or her discretion, appoint all staff of the System, except the Staff Officers who shall be appointed by the Co-ordinator after consultation with the Forces Commanders.

6. The salaries and allowances of the staff of the CLO shall be fixed from time to time by the Council.

7. The Co-ordinator shall submit any information or prepare any document requested by the Council and submit and prepare any other information relating to the functions of the System about which the Co-ordinator considers the Council ought to be informed.

ARTICLE 8

The Budget

1. There shall be a budget of the System.

2. The revenue of the budget shall be derived from the contributions of Member States in such proportions as may be determined by the Council from time to time and from such other sources as may be available to the Council.

3. The budget shall not be used for operational purposes in a Member State; but where one Member State requests assistance from one or more of the other Member States, in this Treaty

referred to as the "requesting State" and the "sending State" respectively, materiel and equipment held by the System may be used for the purposes of the operation, and any materiel and equipment so used shall be replaced by the requesting State.

4. The Co-ordinator shall prepare and submit, for the approval of the Council, estimates on a triennial basis, but where circumstances change during any triennium for which estimates were submitted, the Co-ordinator shall prepare and submit supplementary estimates.

5. The Co-ordinator shall submit annual financial statements to the Council.

ARTICLE 9

Planning and Operations

1. There is hereby established a joint co-ordinating and planning committee comprising the Forces Commanders.

2. The Co-ordinator shall be the chairperson of the Joint Co-ordinating and Planning Committee.

3. Combined operations shall be co-ordinated through the operations room at the Headquarters of the Barbados Defence Force or such other suitable place as may be determined by Co-ordinator.

ARTICLE 10

Command and Discipline

1. For the purposes of this Treaty—

(a) the requesting state shall have operational control over all service personnel participating in operations in that State;
(b) the senior officer of a sending state shall exercise tactical command over his or her service personnel; and
(c) the officer commanding service personnel of a sending State shall be responsible for the conduct and discipline of subordinate service personnel of that State.

2. Service personnel of Member States seconded for duty at the CLO or mobilised for operations or training under joint RSS command shall be subject to the authority of service personnel of superior rank without regard to the Member State of origin.

ARTICLE 11

Jurisdiction

1. When service personnel of one Member State are within the jurisdiction of another Member State, they shall respect the laws, customs and traditions of that other Member State.

2. The Service Authorities of one Member State have, within another Member State or on board any vessel or aircraft of that other State, the right to exercise all such criminal and disciplinary jurisdiction over the service personnel of the first-mentioned Member State, as are conferred on the Service Authorities of that State by the laws of that State, including the right to repatriate personnel to their own state for trial and sentencing.

3. The Courts of one Member State have jurisdiction over service personnel of another Member State with respect to offences that are committed by the service personnel of that other Member State within the first-mentioned Member State and punishable by the law of the first-mentioned member State.

4. Where the Courts of one Member State and the Service Authorities of another member State have the right to exercise jurisdiction in respect of an offence, the Service Authorities of that other Member State have the primary right to exercise jurisdiction if—

(a) the offence is committed by a member of the service personnel of that other member State against the property or security of that other Member State or against the property or person of another member of the service personnel; or
(b) the offence arises out of an act or omission occurring in the course of official duty by a member of the service personnel of that other Member State.

5. In any case other than those mentioned in paragraphs 2, 3 and 4, the Member State within which the offence is committed has the primary right to exercise jurisdiction; but where the State with the primary right decides not to exercise jurisdiction, it shall notify the appropriate authorities of the other State as soon as practicable.

ARTICLE 12

Claims

1. Except as otherwise agreed, the requesting State shall—

(a) not institute any legal proceedings against a sending State or its service personnel or other legal entities acting on its behalf;
(b) deal with legal proceedings and claims brought by third parties against a sending State or against service personnel or other legal entities acting on its behalf;

(c) preserve, save and keep free service personnel of the sending State or persons or other legal entities acting on its behalf;
(d) compensate a sending State or its service personal or other legal entities acting on its behalf,

in respect of death or injury to such service personnel, damage to or loss of equipment or property, or damage to the environment arising within its territory or other area under its jurisdiction or control in the course of providing assistance.

ARTICLE 13

Training

1. Service personnel of the Member States shall undergo training in any of the Member States as agreed by the Forces Commanders.

ARTICLE 14

Coastguard

1. Coastguard vessels of Member States shall, during operations on behalf of the System or training exercises arranged by the System, fly the RSS flag in addition to their national flags; and during such operations or training exercises, personnel of the vessels complement shall wear RSS badges of rank or other designation appropriate to their appointments as set out in the Annex to this Treaty.

2. A coast guard vessel referred to in paragraph 1 shall, during such operations or training exercises, be deemed to be a vessel of the Member State in whose territorial sea or exclusive economic zone the operations or training exercises are taking place.

ARTICLE 15

Ranks and Badges of Rank

Service personnel of Member States seconded for duty to the CLO or mobilised for operations or training under joint RSS command shall wear approved RSS badges of rank or other designation appropriate to their appointments as set out in the Annex to this Treaty.

ARTICLE 16

Procurement

Arms, ammunition, uniforms, equipment and stores may be procured by the System under a joint procurement programme and shall be transferable among the Member States.

ARTICLE 17

Transit of Personnel and Equipment

Member States shall take all measures necessary to facilitate the transit through their territories of duly notified service personnel, equipment and materiel required for use—

(a) in providing assistance to a requesting State; or
(b) in training exercises or operations under joint RSS command.

ARTICLE 18

Operational Expenses

For the purposes of this Treaty, the requesting State shall pay the expenses incurred in accommodating and victualling the service personnel of a sending State and the medical expenses of any service personnel of a sending State who need medical attention in the requesting State.

ARTICLE 19

Limited Assistance

Without affecting any rights or obligations under this treaty a Member State may request assistance from one or more of the other Member States.

ARTICLE 20

Relations with States and other International Organisations

1. The System shall seek to establish relations with States and with other international organisations which are in a position to further the purposes of this Treaty; and to that end the Council may conclude agreements or enter upon working relationships with such States or organisations.

2. The System may at any of its deliberations grant observer status to any State or other international organisation.

ARTICLE 21

Status, Privileges and Immunities of the System

1. The System shall be an international organisation and shall have and enjoy legal personality.

2. The System shall have, in the territory of each Member State—

(a) the legal capacity required for the performance of its functions under this Treaty; and
(b) the power to acquire, hold and dispose of property, whether real or personal, movable or immovable.

3. The System shall, in the exercise of its legal personality, be represented by the Co-ordinator.

4. The privileges and immunities to be granted to senior officials of the System at its Headquarters and in the Member States shall be the same as are accorded to members of a diplomatic mission accredited to the Government of the Member State in which the Headquarters of the System is located and in the Member States under the provisions of the Vienna Convention on Diplomatic Relations of 18th April, 1961.

5. For the purposes of paragraph 4 of this Article, the senior officials of the System shall be the Co-ordinator, and those other officials of the System designated as such by the Co-ordinator and approved by the Government of the Member State in which the Headquarters of the System is located.

ARTICLE 22

Taxation

1. Within the scope of its official activities, the System, its assets and property, its income, operations and transactions within the contemplation of this Treaty, shall be exempt from all direct taxation; and goods imported or exported for official use shall be exempt from all customs duties and other imposts.

2. Notwithstanding paragraph 1, the System shall not claim exemption from taxes which are no more than charges for public utility services.

3. Where purchases of goods or services of substantial value necessary for the official activities of the System are made by the System or on its behalf, and the price of such goods and services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Member States to grant exemption from such taxes or duties or to provide for their reimbursement. Goods imported or purchased under an exemption provided for in this Article shall not be sold or

otherwise disposed of in the territory of the Member State granting the exemption except under conditions agreed with that Member State.

4. No tax shall be levied by Member States on or in respect of salaries and other emoluments or any other form of payment made by the System to the Co-ordinator and executive staff of the System as well as experts performing missions for the System and who are not nationals of any Member State.

ARTICLE 23

Interpretation of Treaty

In the absence of a contrary agreement, all disputes relating to the interpretation or application of this Treaty shall be settled by the Council in accordance with its voting procedures.

ARTICLE 24

Headquarters of the System

The location of the headquarters of the System shall be determined by the Council.

ARTICLE 25

Signature and Ratification

1. This Treaty and any Protocol thereto, which forms an integral part of the Treaty, shall be open for signature to all States specified in paragraph 1 of Article 2 of this Treaty.

2. This Treaty is subject to ratification by the signatories in accordance with their respective constitutional processes.

3. The original text of this Treaty shall be deposited with the Government of Barbados, which shall transmit certified copies thereof to all the signatories.

4. Instruments of ratification or accession shall be deposited with the Government of Barbados, which shall notify all signatories of each such deposit.

ARTICLE 26

Accession

The parties to this Treaty may, by unanimous agreement, invite any other State in a position to further the principles of this Treaty, and to contribute to the peace and security of the Eastern Caribbean, to accede to this Treaty, or may accept a request from any such State for accession to this Treaty.

ARTICLE 27

Entry into Force

This Treaty shall enter into force immediately upon receipt by the Government of Barbados of the second instrument of ratification from the States specified in paragraph 1 of Article 2 of this Treaty.

ARTICLE 28

Termination

1. This Treaty is of unlimited duration.

2. This Treaty shall remain in force in respect of a Member State until terminated in respect of that State on a day specified by notice in writing transmitted to each of the other Member States by the Government of Barbados at least three months before the day specified in the notice.

3. If this Treaty is terminated either in relation to all or any of the Member States, provisions relating to the criminal jurisdiction of any Member State, the treatment of claims by any Member State or the financial obligations of any Member State, remain in force until all outstanding matters are resolved.

ARTICLE 29

Amendments

1. A Member State may make written proposals for the amendment of this Treaty and any Protocols thereto.

2. Amendments shall be effected by unanimous decision of the Council.

3. The text of any amendment shall be promptly communicated by the Co-ordinator to the Government of Barbados, which shall transmit certified copies thereof to all the signatories to this Treaty and shall also inform them of the date of entry into force of any such amendment.

ARTICLE 30

Registration

This Treaty and all its Protocols shall be registered by the Government of Barbados with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations and shall also be registered with the Secretariat of the Caribbean Community.

ARTICLE 31

Transitional Arrangements

Until such time as the Co-ordinator is appointed, the powers and functions of that office shall be exercised by the Chief of Staff, Barbados Defence Force.

ARTICLE 32

Memorandum of Understanding

The Memorandum of Understanding done at Paragon on the 25th day of November, 1992, shall cease to have effect upon the commencement of this Treaty and thereupon all rights, privileges, immunities, duties, obligations and Liabilities created by and existing under, and every undertaking given pursuant to, the said Memorandum of Understanding shall be transferred to the System and shall be honoured by the Member States and the System as if those rights, privileges, immunities, duties, obligations and liabilities were created by, and the undertakings were given pursuant to, this Treaty and all Member States shall be deemed to have complied with paragraph 1 of Article 21 of the said Memorandum of Understanding with regard to the giving of notice.

IN WITNESS WHEREOF, the Undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Treaty.

DONE At this day of One thousand nine hundred and ninety-seven.

For the Government of:

Antigua and Barbuda,

Signed on behalf of the Government:

For the Government of:

Barbados

Signed on behalf of the Government:

For the Government of:

The Commonwealth of Dominica

Signed on behalf of the Government:

For the Government of:

Grenada

Signed on behalf of the Government:

For the Government of:

Saint Christopher and Nevis

Signed on behalf of the Government:

For the Government of:

Saint Lucia

Signed on behalf of the Government:

For the Government of:

Saint Vincent and the Grenadines

Signed on behalf of the Government:

ANNEX

RSS Appointment	**Badge of Rank or Designation**
Co-ordinator	
Senior Staff Officer	
(Staff Officer/ (Commanding Officer of a Coast (Guard of a Member State	
Assistant Staff Officer I/ Commanding Officer of a Patrol Boat of a Member State	

Assistant Staff Officer II/
Deputy or Assistant Commanding Officer
of a Patrol Boat of a Member State

Boatswain/Training
Team Sergeant Major

Boatswain's Mate/Instructor

Assistant Instructor

SECOND SCHEDULE *Section 2*

THE HEADQUARTERS AGREEMENT

Agreement between the Regional Security System and the Government of Barbados regarding the Headquarters of the Regional Security System regards the Headquarters of the Regional Security System

THE GOVERNMENT OF BARBADOS AND THE REGIONAL SECURITY SYSTEM

In pursuance of Article 24 of the Treaty Establishing the Regional Security System the Council of Ministers having agreed that the Headquarters of the System shall be located in Barbados;

Desiring to conclude an agreement regarding the principal office of the Regional Security System in Barbados and the privileges, immunities and facilities to be granted to it by the Government of Barbados and other related matters;

Have Agreed as follows.

ARTICLE I

Definitions

Unless otherwise specifically provided herein or the context otherwise require, the following words shall have the following meanings—

(a) **"Archives of the System"** means the records, correspondence, documents, manuscripts, still and moving pictures and films and sound recordings, belonging to, or held by the System;
(b) **"Council"** means the Council of Ministers;
(c) **"Co-ordinator"** means the Regional Security Co-ordinator and, during his or her absence or incapacity, the officer authorised to act as Regional Security Co-ordinator;
(d) **"Government"** means the Government of Barbados;
(e) **"Headquarters premises"** means the premises occupied by the Secretariat known as the Central Liaison Office or CLO, situate at the Barbados Defence Force Base at Paragon in the parish of Christ Church in Barbados;
(f) **"Laws of Barbados"** means the Constitution of Barbados, its acts of Parliament, common law in force in Barbados, judicial decisions, statutory instruments, and any other enactments having the force of law in Barbados;
(g) **"Members"** means a State or Territory which has become a member of the System in pursuance of the relevant provisions of the Treaty Establishing the Regional Security System;

(h) **"Members of the Family"** means the spouse and children of a person entitled to benefits under this Agreement;

(i) **"Members of the Household Staff"** means persons, other than nationals of Barbados, employed on the domestic staff of a person entitled to benefits under this Agreement;

(j) **"Officers and Staff of the System"** means the Co-ordinator, Staff Officers, and all other persons duly appointed and designated by the Co-ordinator as officers or members of the staff of the System;

(k) **"Property"** means all forms of property, including military equipment assets, funds, income and rights belonging to or used for the purposes of the System;

(l) **"Representatives of Members"** means all individuals included in the delegations of Members and duly accredited to the System;

(m)**"System"** means the Regional Security System established by the Treaty;

(n) **"Treaty"** means the Treaty Establishing the Regional Security System done at St. George's on the 5th day of March, 1996.

ARTICLE II

The Headquarters Seat

1. The Headquarters Seat of the System shall be the premises occupied by the Central Liaison Office.

2. The System, except as may be agreed otherwise between the Government and the System, shall be responsible for—

(a) the cost of repairs to the Headquarters Seat, whether of a recurring or non-recurring nature, including, but not limited to the repair or damage resulting from *force majeure*, structural defects or deterioration; the replacement, within a reasonable period, of the offices, or any part thereof, which may be totally or partially destroyed, and expansion or remodelling as may be agreed upon; and

(b) the installation, maintenance, repair and replacement, if necessary, of the necessary facilities and fixtures including, but not limited to, air conditioning, elevators, electricity, gas, telephone, water, sewerage or drainage, fire prevention and postal system; the cost of providing necessary staff amenities, including a canteen, sick rooms and recreation rooms; and the cost of furniture, furnishings and carpeting as agreed upon between the System and the Government.

3. The Headquarters Seat shall be inviolable, and shall be under the control and authority of the System. No officer or official of the Government, or other person exercising any public authority within Barbados shall enter the Headquarters Seat to perform any duties therein without the consent of, and under conditions approved by, the System, nor shall the service of legal process, including the search for or seizure of private property, take place within the Headquarters Seat without the express consent of, and under conditions approved by, the Co-ordinator.

4. The System and the Government shall agree on the circumstances and manner in which the appropriate authorities of Barbados may enter the Headquarters Seat without the prior consent of the System in connection with fire prevention, sanitary regulations or emergencies.

5. Except as otherwise provided in this Agreement, the courts or other appropriate organs of the Government shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters Seat. When dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters Seat, the courts or other appropriate organs of the Government shall take into account the regulations made by the System under paragraph 7.

6. The System shall have the power to make regulations, operative within the Headquarters Seat, for the purpose of establishing therein conditions in all respects necessary for the full and independent exercise of its functions. The Government shall not, except at the request of or with the consent of the System, enforce or apply within the Headquarters Seat any law of Barbados providing for any matter with respect to which the System is authorised by this section to make regulations and with respect to which regulations so made by the System are in force. Any dispute between the System and the Government as to whether a law of Barbados provides for any matter covered by any regulation of the System authorised by this paragraph, shall be promptly settled by the procedure set out in paragraph 3 of Article XV. Pending such settlement, the regulation of the System shall apply and the Government shall not apply such part of the law of Barbados as the System claims provides for a matter covered by the regulation of the System.

7. The System shall from time to time inform the Government, as may be appropriate of regulations made by it in accordance with paragraph 6 above.

8. This section shall not prevent the reasonable application of fire protection or sanitary regulations of the appropriate authorities of Barbados.

9. Subject to provisions of Article VII of this Agreement, the System shall prevent the Headquarters Seat from becoming a refuge for fugitives from justice, persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

10. The System may expel or exclude persons from the Headquarters Seat for violation of its regulations or for other causes.

ARTICLE III

Public Services in the Headquarters Seat

1. The Government shall, upon the request of the System, ensure that the System shall be provided, on terms not less favourable than those accorded to the Government, with necessary utilities and public services, including, but not limited to electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse and fire protection. In case of any interruption or threatened interruption of any of the said services the Government shall take steps to ensure that the authorities responsible for such services consider the needs of the System

of equal importance to those of essential agencies of the Government and that the work of the System is not prejudiced.

2. With the consent of the System, which consent shall not be unreasonably withheld, duly authorised representatives of public utilities may inspect, repair, maintain, reconstruct, and relocate utilities, conduits, mains and sewers within Headquarters Seat and its facilities.

ARTICLE IV

Communications

1. All communications to and from the System, its Council of Ministers, other representatives of members, Co-ordinator, Staff Officers and staff or consultants and experts performing missions for the System, by whatever means or in whatever form transmitted, shall be immune from censorship and any other form of interception or interference with their privacy.

2. The System shall have the right to use codes and to dispatch and receive communications and, without limitation by reason of this enumeration, correspondence, publications, documents, still and moving pictures, films and sound recordings, either by courier or in sealed bags which shall have immunities and privileges not less favourable than those accorded to diplomatic couriers and bags.

3. The System shall enjoy in Barbados for its official communications treatment no less favourable than that accorded by the Government to any other government, including the diplomatic mission in Barbados of any such government, in the matter of priorities, rates and surcharges on mail, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

4. The System shall be authorised to operate at the Headquarters Seat point-to-point telecommunication circuits with military and police forces and other bodies as may be required. The System shall also be authorised to operate at the Headquarters Seat point-to-point telecommunication circuits with other international organisations within or outside Barbados.

5. The System shall also be authorised to establish and operate at the Headquarters Seat—

(a) its own short-wave sending and receiving radio broadcasting facilities, including emergency link equipment, which may be used on the same frequencies, within the tolerances prescribed for the broadcasting service by applicable laws of Barbados for radio-telegraph, radio telephone and similar services; and
(b) such other radio facilities as may be specified by supplementary agreement.

6. The System shall make arrangements for the operation of the services referred to in paragraphs 4 and 5 with the International Telecommunications Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

7. The facilities provided for in paragraphs 4 and 5 may, to the extent necessary for efficient operation, be established and operated outside the Headquarters Seat with the consent of the Government. The latter shall, at the request of the System, make arrangements on such terms and in such manner as may be agreed upon for the acquisition or use by the System of appropriate premises for such purposes, and for their inclusion in the Headquarters Seat. Any facilities established by the System outside the Headquarters Seat in pursuance of this section shall enjoy the same inviolability and protection as those accorded to the Headquarters Seat under Article II of this Agreement.

ARTICLE V

Property of the System and Taxation

1. The property and assets of the System, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, taking or foreclosure, whether by executive, administrative, or legislative action.

2. The archives of the System shall be inviolable, wherever located.

3. The System, its assets, property, income, and its operations and transactions, shall be exempt from—

(a) all forms of taxation and any obligation for the payment, withholding or collection of any tax or duty. Such exemption shall extend to any specifically identifiable taxes payable by the owner or lessor of any property rented by the System which are made payable by the System in the rental or lease contract between the System and the owner or lessor of the property. The System will not claim exemption from taxes or charges which are no more than payments for public utility services;

(b) all customs duties and other levies on any goods, articles including motor vehicles, spare parts, military equipment and supplies and publication, imported or exported by the System for its official use, and any obligation for the payment, withholding or collection of any such customs duties and other levies. The System and the Government shall agree on the conditions under which goods, articles, including motor vehicles, spare parts and publications imported under such exemption may be sold in Barbados;

(c) all prohibitions and restrictions on imports and exports in respect of any goods, articles, including motor vehicles, spare parts, military equipment and supplies and publications intended for the official use of the System.

4. In so far as the Government, for important administrative considerations, may be unable to grant to the System exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the System, including rentals, the Government shall reimburse the System for such taxes by the payment, from time to time, of lump sums to be agreed upon by the System and the Government. It is, however, understood that the System will not claim reimbursement with respect to minor purchases. With respect to such taxes, the System shall at all

times enjoy at least the same exemptions and facilities as are granted to the Government itself or to heads of diplomatic missions accredited to Barbados, whichever are the more favourable.

ARTICLE VI

Social Security and Pension Fund

1. Any Staff Pension Fund established by the System shall have legal capacity in Barbados and shall enjoy the same exemptions, privileges and immunities as the System itself.

2. The System shall be exempt from all compulsory contributions to, and officials of the System shall not be required by the Government to participate in, any social security scheme of Barbados.

3. If the System so requests, however, the Government shall make such provisions as may be necessary to enable any official of the System who is not afforded social security coverage by the System to participate in any social security scheme of Barbados. The System shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Barbados social security system of those locally recruited members of the staff who do not participate in the Staff Pension Fund established by it or to whom the System does not grant social security protection.

ARTICLE VII

Access and Residence

1. The Government shall take measures to facilitate the entry into, residence and freedom of movement in, and departure from Barbados of the persons listed below, irrespective of nationality; it shall ensure that no impediment is placed in the way of their transit to and from the Headquarters Seat and shall afford them any necessary protection in transit—

(a) Members of the Council of Ministers and other representatives of Members;
(b) the Co-ordinator;
(c) Staff Officials;
(d) Officers and staff of the System;
(e) Consultants and experts performing missions for the System; and
(f) other persons invited by the System to the Headquarters Seat on official business.

2. The Government shall issue to its embassies, legations and consulates general instructions to grant visas to the persons referred to in paragraph 1 without delay, waiting period, or payment or any charge, and without requiring their personal presence.

3. No laws of Barbados restricting the entry into Barbados of persons other than citizens of Barbados or regulating the conditions of their stay shall apply to the persons provided for in this Article except those relating to health and the security of Barbados.

4. No activity performed by any person referred to in paragraph 1 in his or her official capacity with respect to the System shall constitute a reason for preventing his or her entry into or his or her departure from, or for requiring him or her to leave Barbados.

5. No person referred to in paragraph 1 shall be required by the Government to leave Barbados save in the event of an abuse of the right of residence, in which case the following procedure shall apply—

(a) no proceeding shall be instituted to require any such person to leave Barbados, except with the prior approval of the Minister for Foreign Affairs of Barbados;
(b) in the case of a Member of the Council, such approval shall be given only after consultation with the government of the member concerned;
(c) in the case of any other person mentioned in paragraph 1 such approval shall be given only after consultation with the Co-ordinator, and if expulsion proceedings are taken against any such person, the Co-ordinator shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and
(d) persons who are entitled to diplomatic privileges and immunities under Article VIII shall not be required to leave Barbados otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of heads of diplomatic missions accredited to Barbados.

6. This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the right granted by this Article come within the classes described in paragraph 1, or the reasonable application of quarantine and health regulations.

7. The provisions of paragraph 1 of this Article shall be applicable irrespective of the relations existing between the Government of Barbados and the governments of the States and Territories of which the persons referred to in that section are nationals or to which they belong.

ARTICLE VIII

Privileges and Immunities of Members of the Council and other Representatives of Members, Co-ordinator, Staff Officers and others

1. Members of the Council, other representatives of Members, and the Co-ordinator shall have the right in connection with their official duties with the System, to—

(a) immunity from personal arrest or detention and from seizure of their personal and official baggage;
(b) immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their official capacity; and
(c) in respect of other matters not covered in (*a*) and (*b*) above, such other immunities, exemptions, privileges and facilities as are enjoyed by members of

diplomatic missions of comparable rank, subject to corresponding conditions and obligations.

2. The co-ordinator, Staff officers, other officers and staff of the System, including for the purposes of this Article consultants and experts performing missions for the System, shall have the right to the following privileges and immunities—

(a) immunity from legal process of any kind in respect of words spoken or written and of acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to be officers or staff members of the System;

(b) immunity from seizure of their personal and official baggage;

(c) immunity from inspection of official baggage, and if the person concerned comes within the scope of paragraph 3 immunity from inspection of personal baggage;

(d) subject to the right of the Government to tax its nationals and permanent residents joining the staff of the System, exemption from taxation in respect of the salaries, emoluments, indemnities, and pension paid to them by the System for services past or present or in connection with their service with the System;

(e) subject to the right of the Government to tax it nationals and permanent residents joining the staff of the System exemption from any form of taxation on income derived by them from sources outside Barbados;

(f) exemption with respect to themselves, members of their families, and members of their household staff, from immigration restrictions and alien registrations;

(g) exemption from national service obligations;

(h) freedom to acquire or maintain within Barbados or elsewhere foreign securities, foreign currency accounts, and other movable, and under the same conditions applicable to nationals of Barbados, immovable property; and at the termination of their System employment, the right to take out of Barbados through authorised channels without prohibition, or restriction, their funds in the same currency and up to the same amounts as they had brought into Barbados;

(i) the same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staff of heads of diplomatic missions accredited to Barbados; and

(j) the right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports—

(i) their furniture and effects, including one automobile, in one or more separate shipments, and thereafter to import necessary additions to the same,

(ii) one automobile every three years, and

(iii) reasonable quantities of foodstuffs and other articles for personal use or consumption and not for gift or sale; the system may establish a commissary for the sale of such articles to its officials and members

of delegations. A supplemental agreement shall be concluded between the System and the Government to regulate the exercise of these rights.

3. In addition to the privileges and immunities specified in paragraph 2—

(a) the Co-ordinator shall be accorded the privileges and immunities, exemptions and facilities accorded to Ambassadors who are heads of missions, including immunity from personal arrest or detention;

(b) a senior officer of the System when acting on behalf of the Co-ordinator during his or her absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Co-ordinator; and

(c) Staff, Officers and such additional categories of officials as may be designated, in agreement with the Government, by the Co-ordinator on the ground of the responsibilities of their positions in the Systems, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to members, having comparable rank, of the staffs of heads of diplomatic missions accredited to Barbados.

4. The System shall from time to time communicate to the Government the names of officers and staff to whom the provisions of this Article apply.

5. All persons entitled to the privileges and immunities specified in this Agreement shall be provided by the Government with a special identity card which shall serve to identify the holder in relation to the authorities of Barbados and to certify that the holder is entitled to the privileges and immunities specified in this Agreement.

ARTICLE IX

Waiver of Immunities and prevention of abuse

1. The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interest of the System and not for the personal benefit of the individuals themselves. The system may waive the immunity accorded to any person if, in its opinion, such immunity would impede the course of justice and the waiver would not prejudice the purposes for which the immunities are accorded.

2. The System shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Agreement are not abused and for this purpose shall establish such rules and regulations as it may deem necessary and expedient. There shall be consultation between the Government and the System should the Government consider that abuse has occurred.

ARTICLE X

Settlement of disputes

1. The System shall make provision for appropriate methods of settlement of—

(a) disputes arising out of contracts and disputes of a private law character to which the System is a party; and

(b) disputes involving an official to the System, who, by reason of his or her official position, is entitled to immunity, if such immunity has not been waived.

2. Any dispute between the Government and the System concerning the interpretation or application of this Agreement or any supplementary agreement, or any question affecting the Headquarters seat or the relationship between the Government and the System, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators: one to be appointed by the Government, one to be appointed by the System, and the third, who shall be chairperson of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third, the Government and the System shall request the Co-ordinator of the International Court of Justice to choose the third arbitrator. A majority vote of arbitrators shall be sufficient to reach a decision which shall be final and binding. The third arbitrator shall be empowered to settle all questions of procedure in any case where there is disagreement with respect thereto.

3. The said tribunal shall adopt and observe the "Rules of Arbitration and Conciliation of the Permanent Court of Arbitration in the Settlement of Disputes".

ARTICLE XI

Final provisions

1. The System and all persons enjoying the immunities, privileges, exemptions and facilities under this Agreement shall co-operate at all times with the appropriate authorities of Barbados to facilitate the proper administration of justice and secure the observance of the laws of Barbados.

2. This Agreement shall be construed in the light of its primary purpose of enabling the System at its headquarters in Barbados fully and efficiently to discharge its responsibilities and fulfil its purposes.

3. Wherever this Agreement imposes obligations which can be carried out only by authorities of Barbados other than the Government the government shall ensure the fulfilment of such obligations by the appropriate authorities of Barbados.

4. None of the provision of this Agreement shall derogate in any way from the rights, privileges and immunities provided for or specified in the Agreement establishing the Regional Security System.

5. This Agreement shall be registered with the Secretary-General of the Caribbean Community.

6. This Agreement may be revised at the request of either Party. In this event the two Parties shall consult with each other concerning the revisions to be made in its provisions.

7. The Government and the System may enter into such supplementary agreements as may be necessary or appropriate to the implementation of this Agreement.

8. Nothing in this Agreement shall be construed to preclude the adoption of appropriate measures for the security of the State as may be determined by the Government in consultation with the System.

9. This Agreement shall cease to be in force—

(a) by mutual consent of the System and the Government; or

(b) if the permanent headquarters of the System is removed from Barbados, except for such provisions as may be applicable in connection with the orderly termination of the operations of the System at its permanent headquarters in Barbados and the disposal of its property therein.

10. This Agreement shall come into force upon signature.

In witness whereof the respective representatives of the Parties, duly authorised thereto, have signed this Agreement.

Done at Bridgetown, Barbados this day of in two copies

in the English language.

EXPLANATORY MEMORANDUM

This Bill seeks to operationalise the Regional Security System (RSS) in Guyana. The Bill also seeks to give Articles 10 and 14 of the Regional Security System Treaty the force of law in Guyana.

Clause 2 defines keys words and phrases.

Clause 3 states that the Act applies to service personnel of the Member States of the RSS.

Clause 4 provides for the application of Articles 10 to 14 of the Regional Security System Treaty to have the force of law in Guyana. These Articles relates to command and discipline, jurisdiction, claims, training and operations of the Coast Guard.

Clause 5 acknowledges the RSS as a body corporate.

Clause 6 provides that the court has the primary right to exercise jurisdiction in respect of any act that constitutes an offence in Guyana committed by a service personal or a dependent while the service personnel is on RSS duty.

Clause 7 prohibits a convicted or acquitted military member or their dependent from being tried again by a court for the same offence, where the conviction or acquittal was by a service court.

Clause 8 makes provision for other Member States' service authorities and service court to exercise criminal and disciplinary jurisdiction over its military member within Guyana.

This clause also provides that the Member State's service court has the primary right to exercise its jurisdiction over its military member for offences relating to the property or security of that military member's State, person or property of another military member of the State or his or her dependent.

Clause 9 seeks to prevent against retrial by the military member's State for the same offence for which that individual has been acquitted or convicted. However, the local service court may try a military member or their dependent for violation of the rules of discipline for which he or she was tried by the court.

Clause10 provides for the service court or court of another Member State to waive its primary right to exercise jurisdiction.

Clause 11 makes provision for the admission into evidence a certificate issued by the Co-ordinator. This certificate is *prima facie* proof that the military member or a police member perform or did not perform his or her official duty.

Clause 12 makes provision for the exercise of immunities and privileges to a military member of a service court or witness in accordance with the Defence Act, Cap. 15:01.

Clause 13 make provision for sentences passed by a service court within or outside of Guyana to be relevant to legal proceedings within Guyana.

Clause 14 sets out when a military member or their dependent will be deemed to be in lawful custody for the purpose of any legal proceedings within Guyana.

Clause 15 states that a certificate of service from the Co-ordinator confirming a person's service as a member of a service court is conclusive proof and admissible in legal proceedings within Guyana. A certificate from the Co-ordinator confirming a military member or dependent's detention under section 14 is admissible as evidence and conclusively proves the reason for detention, but not their status as a military member or dependent.

Clause 16 allows service personnel who are seconded to the RSS headquarters or mobilized for duty or training under joint RSS command to arrest other service personnel in similar situations, without considering the Member State of origin of either party. This aims to enhance the efficiency and authority of the RSS in carrying out its duties across Member States.

Clause 17 permits a military member or dependent sentenced to incarceration to serve their sentence at a location specified by the Co-ordinator, upon the officer in command's request, and according to standing orders.

Clause 18 ensures that service personnel mobilized for duty or training under joint RSS command in Guyana can still use their common law authority to make arrests, regardless of the Act.

Clause 19 provides for service personnel, while performing their duties, to possess and carry ammunition, explosives, and firearms after consulting with Guyanese authorities and receiving

authorisation from the RSS. It also exempts them from any laws in Guyana regarding unlawful drilling or the making and possession of explosives.

Clause 20 allows for torts committed by military or police members during their duties to be considered actions of the State. Property controlled by other Member State's armed forces or police are treated as State property. Additionally, vehicles used by other Member State's armed forces or police are considered State-owned.

Clause 21 states that no legal action can be taken against the State or any Member State's military or police member deemed a servant of the State, for claims related to death or injury, if compensation has already been provided by the relevant Member State.

Clause 22 ensures that military or police members from other Member States are not subject to enforcement proceedings in Guyana for judgments made against them in relation to actions carried out within the scope of their duties or employment.

Clause 23 clarifies that section 20 does not apply to claims related to the navigation, operation, or salvage of a ship, or the loading or unloading of cargo, unless the claim involves the death or injury of a person, unless the President issues an order to make section 20 applicable to the ship of another Member State.

Clause 24 states that if a dispute arises over whether a military or police member was acting within the scope of their duties and cannot be resolved through negotiation, a certificate from the Co-ordinator confirming the person whilst acting or was acting within their duties or employment is final and binding.

Clause 25 exempts staff of the RSS Headquarters from taxation in the Guyana on their salary, emoluments, and any movable property they temporarily bring into the country due to their work at the RSS Headquarters.

Clause 26 exempts RSS vehicles from any fees for licensing, registration, or road use in the Guyana.

Clause 27 provides for the importation equipment, provisions, supplies, and other goods for its exclusive use in the Guyana without paying customs duty or taxes, as long as the Minister of

Finance deems the quantities reasonable. Additionally, the Minister may authorise the tax-free importation of goods for the use of RSS members' dependents.

Clause 28 allows for service personnel arriving in in Guyana for the first time to import personal effects, furniture, and private motor vehicles for their use or for their dependents, free of customs duty and taxes. However, they must pay licensing and registration fees for any private motor vehicles imported.

Clause 29 exempts fuel, oil, and lubricants from customs duty and taxes where they are intended exclusively for use in service vehicles, aircraft, or vessels of Member States during RSS operations or training exercises.

Clause 30 outlines the procedures for a coroner in the event of a death involving a person with a relevant association to service personnel from a Member State other than the Guyana. If the coroner is satisfied that the deceased had such an association, the inquest may be postponed unless directed otherwise by the President. The inquest may also be adjourned if the deceased's homicide is under investigation by the service courts of another Member State or if the person responsible is likely to be returned to that state for trial. The coroner can only resume the inquest with the President's approval. The section further clarifies the definition of homicide and what constitutes a "relevant association" with service personnel, including specific conditions related to residency status in Guyana.

Clause 31 outlines the process for repatriating military and police members seconded to RSS headquarters or mobilized for joint RSS operations or training who committed offences. If the courts in Guyana have primary jurisdiction but waive it, or if a service court from their home State is unavailable, the individual will be sent back to their home State for trial and sentencing. If a police member commits an offence in Guyana where the courts waive jurisdiction, they will also be repatriated for trial or other legal proceedings in their home State, including disciplinary actions if the offence is military-related.

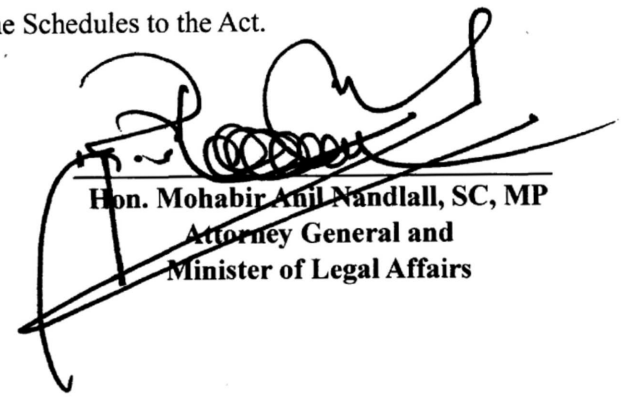
Clause 32 exempts material needed for RSS purposes from the restrictions or prohibitions under the Customs Act, Cap. 82:01, allowing it to enter or transit through Guyana without customs limitations.

Clause 33 ensures that all payments required to be paid by the Government for the purpose of meeting Guyana's obligations under the Treaty and the Headquarters Agreement will be paid from the Consolidated Fund.

Clause 34 exempts the persons listed in Article XI of the Headquarters Agreement from the provisions of the Immigration Act, Cap. 14:02.

Clause 35 empowers the Minister to make regulations.

Clause 36 allows the Minister to amend the Schedules to the Act.



Hon. Mohabir Anil Nandlall, SC, MP
Attorney General and
Minister of Legal Affairs