IN THE SUPREME COURT OF BELIZE, A.D. 2005

ACTION NO. 15

	(ATTORNEY GENERAL OF BELIZE	**Plaintiff/Respondent**
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	(	
BETWEEN	**(AND**	
	(	
	(	
	(CARLISLE HOLDINGS LIMITED	**Defendant/Applicant**

—

BEFORE the Honourable Abdulai Conteh, Chief Justice.

Mr. Rodwell Williams S.C. for the Applicant/Defendant.
Mr. Edwin Flowers S.C., along with Mr. Michael Young S.C., for the Respondent/Plaintiff.

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DECISION

At the conclusion of the hearing of this application before me last Friday afternoon, 18 February 2005, I granted an *ex tempore* decision acceding to the prayers of Carlisle Holdings in its summons.

2. I have now, over the weekend, had the benefit of perusing the transcript of my *ex tempore* decision and am grateful to Ms. Audrey Grinage, the stenographer, who captured the essentials of my decision given off the cuff.

Because of the possible ramifications of that decision and for the avoidance of doubt and *ex debitio justicia*, I now formally put in writing the reasons for my decision.

3. The applicant, Carlisle Holdings, a registered Belizean Corporation, under the **Company Law** – **Chapter 250 of the Laws of Belize**,

Rev. Ed. 2000, is the defendant in Action No. 15 of 2005 brought by the Attorney General against it.

4. It is provided by **section 42(5)** of the **Belize Constitution** that legal proceedings for or against the State, shall be taken, in the case of civil proceedings, in the name of the Attorney General.

This, no doubt, is why it is the Attorney General, who is named as the plaintiff in Action No. 15 of 2005. In this action, the Attorney General as plaintiff had sought –

> *"1. A Declaration that the sale of the Government Shares and the Carlisle Shares to the Third Party Buyer, Innovative Communications Corporation (ICC) was duly completed on the 31st March 2004.*
>
> *2. A Declaration that the Option Deed dated February 17, 2004 entered into between the Plaintiff and the Defendant expired on the 31st March 2004.*
>
> *3. A Declaration that the Defendant has no further right to the Shares sold by the Defendant to the Plaintiff for onsale to the Third Party Buyer (ICC).*
>
> *4. A Declaration that the Defendant is not entitled to any further consideration other than the US$57.0 million already paid by the Plaintiff to the Defendant for the Carlisle Shares.*
>
> *5. A Declaration that the Arbitration commenced by the Defendant under the London Court of International Arbitration is unconscionable vexatious and oppressive.*
>
> *6. An injunction restraining the Defendant its officers and agents from pursuing any or all further proceedings in the Arbitration under the London Court of International Arbitration and from enforcing any award given by the said Court.*
>
> *7. Costs"*

5. Subsequently, the Attorney General as plaintiff in an application, *ex parte*, sought a stay of proceedings against Carlisle Holdings, the defendant, in London, of arbitration proceedings the latter had commenced there. I granted the stay by an Order of 19th January 2005.

6. But at a subsequent *inter partes* hearing, involving Carlisle Holdings, as the applicant, and the Attorney General as the respondent, the stay granted to the Attorney General was lifted and an injunction was granted against it not to take any further steps in this action, that is, Action No. 15 of 2005, until the outcome of arbitration proceedings that Carlisle Holdings had commenced in London. There has been, at least, as presently advised, no appeal or application for a stay of this Order of this Court dated 25th January 2005.

7. *Brief Background to proceedings between the parties*

The brief backdrop to the proceedings between the parties concern agreements between Carlisle Holdings and the Government of Belize (who is represented by the Attorney General in these proceedings in Belize) concerning the sale and purchase of some shares in Belize Telecommunications Ltd. (BTL). These agreements are contained in a Purchase Deed and an Option Deed, which were put in evidence in the proceedings before me. These two agreements in their clauses 15 and 6 respectively, provided for the settlement of disputes between the parties relating to the sale and purchase of these shares in BTL.

8. The **method** chosen by the parties for the settlement of any disputes between them concerning these agreements was **arbitration** and the **forum** agreed upon by them for this was the **London Court of International Arbitration**. And **English Law**

was agreed upon by them for the interpretation and application of their agreements.

9. At the full *inter partes* hearing therefore, this Court found that there was a valid and subsisting submission by both parties to the London Court of International Arbitration, which had been agreed upon voluntarily by them as the proper method and forum for the settlement of the disputes allegedly between them concerning the Purchase Deed and Option Deed relating to those shares of BTL.

10. *Developments in London*

Carlisle Holdings had bestirred itself and requested arbitration between the Government of Belize and itself by the London Court of International Arbitration. In due course certain developments started to unfold in London, which both parties had agreed would be the seat of any arbitration between them.

First, the Tribunal for the arbitration was constituted in London.

Secondly, Carlisle Holdings obtained from the High Court in London an anti-suit injunction against the Government of Belize from commencing any action against it relating to these agreements (and of course, those shares of BTL which are actually at the heart of the dispute between the parties) otherwise than by the arbitration agreed upon.

Thirdly, in the meantime, the Arbitration Tribunal in London, on the application of Carlisle Holdings, granted at first on 31 January 2005, a holding order and then on 7th February 2005, what it is convenient to call, for present purposes, an interlocutory relief by way of a conservatory order directed against the Government of Belize.

11. The gist or purport of this Order is briefly to prevent the Government of Belize from dealing with, by way of sale or diminution, of those shares of BTL in contention between the parties until the outcome of the arbitration proceedings in London.

12. I must point out here that from the evidence before me the Government of Belize (who as I had mentioned, is represented in these proceedings in this Court, by the Attorney General), had not taken part in the proceedings before the Tribunal in London even after an intimation by its legal adviser to the Tribunal that it was engaging counsel to conduct proceedings before the Tribunal in London on its behalf.

Fourthly, the Tribunal in London in considering Carlisle Holdings request for a conservatory Order regarding the shares, discussed the time table for the conduct and hearing of the arbitration proceedings. The importance of time in the exercise was recognized. Accordingly, the Tribunal has set June 13 to 16, 2005 for the hearing.

13. *Matrix of Defendant's (Carlisle Holdings) Application*

The brief background and development set out above form the matrix of Carlisle Holdings, who are formally the Defendant in the Attorney General's suit in Action No. 15 of 2005, application before this Court which was the subject of my *ex tempore* decision last Friday for which the present are my reasons for that decision.

As, I have already stated, the Tribunal in London, on 31 January 2005 first issued a holding order regarding the BTL shares and then on 7 February 2005, it issued the conservatory order by way of interlocutory relief in favour of Carlisle Holdings.

By its present application to this court, Carlisle Holdings has fashioned the reliefs it seeks in paragraphs (a) to (d) of its summons to mirror the conservatory Orders granted it by the Tribunal in London.

14. *Issue for Determination*

Two issues therefore arise for determination:

15. *1. Jurisdiction of this Court*

The first is whether this Court has jurisdiction to grant the prayers in the summons by Carlisle Holdings (which as I have said, are the mirror image of those granted by the Tribunal in London).

It is helpful to state that in argument before me, it became quite clear that it was common ground between both sides that this court does have the jurisdiction and power to grant the reliefs prayed for; and I must in this respect, acknowledge with gratitude the concession by Mr. Edwin Flowers S.C. and Mr. Michael Young S.C., both senior counsel for the respondent (the Attorney General and plaintiff in the Action No. 15 of 2005 on behalf of the Government of Belize). This concession is of considerable help and I commend the professional candour of both Messrs. Flowers and Young.

But I must advert to and state the juridical basis of the Court's jurisdiction in circumstances such as the application of Carlisle Holdings, which involve a **foreign arbitration** whose tribunal has issued certain interim conservatory orders directed at a party thereto and present within the jurisdiction of this court.

16. In principle, I am of considered view that from the provisions of **section 27(1) of the Supreme Court of Judicature Act** –

Chapter 91 of the **Laws of Belize** 2000 Rev. Ed., this court is clothed with the power, among other things, to grant interim injunctive relief when it is **just or convenient** to do so. This section so far as is material here provides:

> *"Subject to rules of court, the Court may grant … injunction … by an interlocutory order in all cases in which it appears to the Court to be just or convenient to do so".*

17. I take into account, of course, with respect, the view of Lord Mustill in the **Channel Tunnel Group Ltd. and Others v Balfour Beatty Construction Ltd. and Others (1993) A.C. 334 (1993) 2 WLR 262; Vol. 1 (1993) Lloyd's Law Report; 291**, that though similar the words of the United Kingdom Supreme Court 1981, in section 37(1) as are to be found in section 27(1) of the Belize's Supreme Court of Judicature Act, "and very wide it is firmly established by a long history of judicial self-denial that they are not to be taken at their face value and their application is subject to severe constraints".

After an instructive analysis of the history and application of section 37(1) of the United Kingdom Supreme Court Act, which is *para materia* with section 27(1) of Belize's Supreme Court of Judicature Act, on interim interlocutory relief (including mandamus, **injunction** or the appointment of a receiver) in the **Channel Tunnel** case, supra which related to arbitral proceedings in Brussels (therefore foreign arbitration for the purposes of English law, like the present case before me), Lord Mustill who delivered the lead judgment of the House Lords and with whom the other four Lords evidently agreed, stated:

> *"… If the English Court grants an interlocutory injunction by way of interim protection under s. 37 of the 1981 Act it is not playing any part in the decision of the dispute, but simply doing its best to ensure that the resolution by the arbitrators is fruitful … neither the arbitration agreement nor the Convention (of New York, which is in the Fourth Schedule of the Belize Arbitration Act – Chapter 125 of the Laws of Belize) contemplate that by transferring to the arbitrators the substance of the dispute, (as happened in the instant case by the order of this staying the Attorney General's action), the Court also divests itself of the right to use the sanctions of municipal law, which are not available to the arbitrators, in order to ensure that the arbitration is carried forward to the best advantage"* at p. 309, of the Lloyds Law Rep.

Lord Mustill concluded on this point:

> *"I thus see no difficulty in principle in an order which combines a mandatory stay with an interlocutory injunction by way of an interim relief".*

18. The conclusion of the House of Lords on this point in the **Channel Tunnel** case was cited with approbation and applied in the case of **The Lady Muriel (1995) 2 H.K.C. 320** (a decision of the Hong Kong Court of Appeal) where it was held that it was not a necessary condition of the grant of an "interim measure of protection" that it should be ancillary to relief to be granted by the Hong Kong Court, and that there was no reason in principle why an order made by a Hong Kong Court for a mandatory stay of a Hong Kong action should preclude the grant of an Order in that action for "interim protection" in aid of a foreign arbitration.

19. Again, the conclusion of the House of Lords on this point was followed and applied in the Canadian case of **B.M.W.E. v Canadian Pacific Ltd.** in **21 BCLR 201**, a decision of the Supreme Court of Canada. In that case McLachlin J., after referring with approval to the concurring judgment of Lord Brown-Wilkinson in the House of Lords in the **Channel Tunnel** case, **supra** on this point stated:

> *"Canadian Courts since Channel Tunnel have applied it for the proposition that the courts have jurisdiction to grant an injunction where there is a justiciable right, wherever that right may fall to be determined…"*

20. Further, on the jurisdiction of the court in the context of this application, I draw support from the test in **Mustill & Boyd on Commercial Arbitration** although the learned authors were writing in the context of **interim relief in England in aid of foreign arbitration** on this point and they state as follows:

> *"The court has jurisdiction to exercise its other statutory and common law powers over a foreign arbitration such as the power under section 37 of the Supreme Court Act 1981 … but it will do so with extreme reluctance, if at all, unless satisfied (a) that the order is not an encroachment on the power of the arbitrator, (b) that it is not an encroachment on the powers of the foreign court and (c) that the order is necessary to reinforce the procedural powers of the arbitration and to render their eventual decision more effective"* at pp 131 – 132.

21. In the light of all these authorities, I conclude that with the necessary caution and reluctance adumbrated in the **Channel**

Tunnel case, **supra**, this court does possess the jurisdiction to grant interim relief to parties in arbitration proceedings, including foreign arbitration, as in the instant case, where to do so is necessary in order to aid or facilitate that arbitration process which the parties had agreed upon. In my view the grant of interim relief by the court is, in the circumstances, to enable the court, as well, in the interest of justice; to hold or preserve the status quo between the parties before the final arbitrament of their dispute by the arbitral tribunal they had voluntarily agreed upon in their submission.

22. I therefore conceive the power of the court in the exercise of its jurisdiction in this context to be to ensure that the arbitral process freely chosen by the parties is not stopped dead in its tracks or subverted or its outcome rendered nugatory by one side or the other before the outcome of the process itself.

Surely, the Court must have such a salutary power, whether from its inherent jurisdiction or expressly by statute, as in my view, section 27(1) of the Supreme Court of Judicature seems to enable this court to do.

23. The interim conservatory relief sought by the applicant, Carlisle Holdings, in the instant application, is to ensure that nothing further happens to those shares of BTL, until the final determination of the arbitration between it and the Government of Belize.

24. Moreover, the rules of the forum, the London Court of International Arbitration which both the Government of Belize and Carlisle Holdings freely chose to settle by way of arbitration any dispute that might arise between them in relation to their agreements concerning the shares, do contemplate, recognize and allow either party to apply to any state court or other judicial authority for interim

or conservatory measures. Thus Article 25-3 of the London Court of International Arbitration expressly provides:

> *"The power of the Arbitral Tribunal under Article 25.1 shall not prejudice howsoever any party's right to apply to any state court or other judicial authority for interim or conservatory measures before the formation of the Arbitral tribunal and, in exceptional cases, thereafter"* (emphasis added).

This surely would include the Courts of Belize, to which both parties have closer affinity in virtue of their nationality: one, the respondent in this application is the Government of Belize and the other, the applicant, is a corporate citizen.

25. I therefore conclude on this score that the grant of the relief sought is clearly not an encroachment on the powers of the parties chosen arbitral tribunal, rather, it is necessary to reinforce the procedural powers of that tribunal and to render its eventual decision more effective. From the evidence before me, the arbitral tribunal has been constituted, albeit without, so far, any participation therein by the Government of Belize, and it is feared by the applicant that **something** might happen to the shares **before** the outcome of arbitral proceedings – see paragraphs 29, 30, 31, 32, 33, 34 and 35 of Mr. Philip Osborne's affidavit and the exhibits thereto.

26. Therefore, it is with caution and some reluctance that, in the circumstances of this application, that I find that there is jurisdiction to grant the interim conservatory relief sought by the applicant.

This however, leads me to the second issue that arises in this application.

27. *2.* *Can the interim conservatory relief sought by the Applicant lie against the respondent, the Attorney General, representing the Government of Belize?*

It has been vigorously contended for on behalf of the respondent that even if the Court has the necessary jurisdiction to grant the relief sought, there is however a statutory bar in the form and shape of the **Crown Proceedings Act** - Chapter 167 of the Laws of Belize – Rev. Ed. 2000, that would disable this court, nonetheless, from granting the interim conservatory relief sought: it is spiritedly contended that the Belize Supreme Court has no power to grant a) injunction and b) specific performance against the Crown/Government of Belize.

28. The respondent has prayed in aid section 19(1)(a) and (b) of the Crown Proceedings Act, as precluding this court from granting the relief sought. Section 19(1) provides in terms:

> *"19(1) In any civil proceedings by or against the Crown, the Court shall, subject to this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require:*
>
> *Provided that –*
>
> *(a) where in any proceedings against the Crown, any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but* ***may in lieu thereof make an order declaratory of the rights of the parties; and*** (emphasis added and I will say more on this later)
>
> *(b) in any proceedings against the Crown for the recovery of land or other property, the court shall not make an order for the recovery of the land or the delivery of the property, but may* ***in lieu therefore make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof".***

(emphasis added and I will say more on this later).

29. This spirited resistance has been maintained on behalf of the respondent even in the face of persuasive authorities to the contrary like the decision of the United Kingdom House of Lords in the case of **In Re M (1994) 1 A.C. 377**. In that case, the House of Lords held that an injunction could lie against an officer of the Crown. Lord Templeman said in that case:

> *"The judiciary enforce the law against individuals, against institutions and against the executive. The judges cannot enforce the law against the Crown as monarch because the Crown as monarch can do no wrong but judges enforce the law against the Crown as executive and against the individuals who from time to time represent the Crown. A litigant complaining of a breach of the law by the executive can sue the Crown as executive bringing his action against the Minister who is responsible for the department of State involved … To enforce the law the courts have power to grant remedies including injunctions against a minister in his official capacity … the argument that there is no power to enforce the law by injunction or contempt proceedings against a minister in his official capacity would, if upheld, establish the proposition that the executive obey the law as a matter of grace and not as a matter of necessity, a proposition which would reverse the result of the Civil War".*

30. But Mr. Young S.C. on behalf of the respondent, has sought to confine the effect of the decision in **In Re M supra** by arguing that that decision was given in the realm of **judicial review proceedings**. He tried valiantly as well to corral the binding authority of the decision of the Privy Council in the case of **Gairy v**

Grenada, **Privy Council Appeal No. 29 of 2000**, delivered on 19th June 2001 in which the Board after an examination of the Crown Proceedings Act of that country held that **mandamus** could lie against the Crown. Mr. Young S.C. argues that this case lies in the **constitutional** field and is therefore, unavailing to the applicant in the face of the provisions of the Crown Proceedings Act against the Respondent.

I, on the other hand, am persuaded by the Board's reasoning in the **Gairy case** **supra**, in particular at paragraph 19 of its judgment in rejecting a not dissimilar contention for the respondent in that case as follows:

> *"It is fallacious to suppose that the rights, powers and immunities of the Crown are* ***immutable****. They have over time been attenuated and abridged, on occasion as a result of violence (as after the Civil War in the seventeenth century), sometimes of legislation (for example, the Bill of Rights 1688, the Statute of Westminster 9131, the Crown Proceedings Act, 1947), sometimes of judicial decision (for example,* ***Conway v Rimmer (1986) A.C. 910, Council of Civil Service Unions v Minister for the Civil Service (1985) A.C. 374). It is in no way inconsistent for an independent state, while continuing to bear full allegiance to the Crown, to circumscribe the historic rights, powers and immunities pertaining to the Crown in its governmental capacity****".* (emphasis added)

31. The Crown Proceedings Act on which the respondent has relied as precluding this court from ordering the relief sought by the applicant has as its progenitor the United Kingdom Crown Proceedings Act

1947 and it became operational in Belize on 9th May 1953. In my view, developments in Belize have made much in roads to the age-old historic immunity of the Crown in litigation. Belize since 21 September 1981, is an independent country with a Parliamentary democracy with a written Constitution that in its section 6 guarantees the equality of all persons before the law and their entitlement without any discrimination to the equal protection of the law. Much too much water, in my view, has flown under the bridge since 1953 and now. As recounted by the Privy Council in **Gairy**, the powers, rights and immunities of the Crown are not immutable or set in stone. The Board in that case quoted with approval the dictum of M. Shai J. in the case of **N. Nagendra Rao and Co. v State of AP AIR 1994 S.C. 2663** in this context as follows:

> *"No legal or political system today can place the State above law as it is unjust and unfair for a citizen to be deprived of his property illegally by negligent act of officers of the state without any remedy … The modern social thinking of progressive societies and the judicial approach is to do away with archaic State protection and place the State or the Government at par with any other juristic legal entity".*

32. Also of some consideration in this application on the issue of injunctive relief against the respondent is the fact that the respondent voluntarily, with opened eyes, entered into commercial agreements in the course of which it surrendered any sovereign immunity it might otherwise have, and agreed to arbitration. Fundamental in this regard as well, in my view, is that when a government goes to the market place and enters into commercial transaction it would lie ill in its mouth to take refuge under the cloak of some feudal concepts of privilege and exemptions as evidently contained in sections 19(1)(a) and (b) of the Crown Proceedings

Act and as contended for the respondent as disabling this Court from granting the relief sought against it.

33. But more fundamentally, in any event, although section 19(1)(a) and (b) in their **proviso** speaks of not granting by the court of an injunction or specific performance against the respondent **qua** the Crown as contended for on its behalf, the **proviso** clearly states that instead, the Court may make an order declaratory of the rights of the parties. Therefore, it is clear that the court can make **declaratory** orders to the same effect.

34. As was stated in **In Re M** by Lord Woolf in this regard:

> *"… the Crown has a duty to obey the law as declared by the courts …if a minister acted in disregard of the law as declared by the courts, or otherwise was engaged in wrong doing, he would be acting outside his authority as a minister and so would expose himself to a personal liability for his wrong doing. … in ordinary circumstances ministers of the Crown and government departments invariably scrupulously observe decisions of the courts. Because of this, it is normally unnecessary for the courts to make an executory order against a minister or a government department since they will comply with any declaratory judgment made by the courts and pending the decision of the courts will not take any precipitous action".*

35. I am, therefore, of the view that whether any order made by this court is called **eo nominee** an **injunction** or not, or simply a **declaration**, the effect, in my view, on a closer reading of the provisions of section 19 of the Crown Proceedings Act on which reliance has been placed on behalf of the respondent, is the same

– see generally **Zamir and Woolf, <u>The Declaratory Judgment</u> 3rd Ed. 2002 – London, Sweet and Maxwell**.

I think it is the specter of coercive sanction that is ordinarily associated with an injunction that feeds, what can safely, I think, be described as the atavistic reaction that it cannot or should not be made against the Crown. But as Lord Bingham of Cornhill stated in the **<u>Gairy case</u> <u>supra</u>** -

> *"The expression "coercive" is sometimes used to describe an order which requires a party to do something. Such orders, directed to ministers and public officials, are common place … The expression is also used to describe mandatory orders to which there attaches a sanction (whether explicit or implicit), such as committal, for non-compliance. Such orders, regularly made against private individuals, are nor made against ministers and public officials. There is no need. Experience shows that if such orders are made there is compliance, at any rate in the absence of most compelling reasons for non-compliance. That is so in the United Kingdom, and the Board has no doubt it is so in Grenada also. But the Board would caution against the view that a mandatory order made against a minister (or a government or a public official) may be disregarded with impunity…"*

I can safely say that the experience of the United Kingdom and Grenada, of official compliance with orders of the court of which the Board spoke about is alive and well in Belize, and with respect, I adopt the Board's statement in this connection on this point.

36. In the light of all this, I am of the considered view that the contention on behalf of the respondent that an injunctive relief cannot lie against it is academic if not moot, for any declaration

incorporating the relief sought by the applicant would have the same effect as if an express injunction had been issued against the respondent. And I have every confidence that the respondent will not act contrary to such a declaration. I cannot accept that the Crown Proceedings Act fetters the hands of this court from granting the reliefs sought. In so far as the reliefs prayed for are concerned, it is the view of the court, that having agreed to go to arbitration, it is incumbent upon both parties to do everything practicable to facilitate and help that process in resolving any dispute there might be between them regarding the shares in BTL.

37. *Conclusion*

I am therefore of the view that on the authority of section 27(1) of the Supreme Court of Judicature Act on interim reliefs and guided by the decision in the **Channel Tunnel** case **supra** and the analogous decisions from other jurisdictions and on the inherent jurisdictions of this court, the applicant's prayers should be granted.

I accordingly therefore grant the prayers and hereby lift the stay I had originally granted in this action and declare that the respondent shall, from the date of this decision until the hearing and conclusion of the arbitration proceedings between it and the applicant, Carlisle Holdings:

(a) refrain from taking any further steps to effect the sale and transfer of the 19,343,451 ordinary shares of Belize Telecommunications Limited (hereinafter referred to as "BTL") (the "Shares" as defined in the Share Purchase Deed dated 15 December 2003 and hereinafter referred to as the Carlisle Shares) to Innovative Communications Corporation (hereinafter referred to as "ICC") or Belize Telecom Limited pursuant to a Master Agreement between the Government of Belize and ICC (signed but undated), an Agreement for Acquisition of Shares in Belize Telecommunications Limited between the Government of Belize and ICC dated 22 March 2004, an Agreement for Acquisition of Assets and Liabilities of Belize Telecommunications Limited between "NEWCO" and the Government of Belize (initialed, but

unsigned and undated), and/or an Addendum to Master Agreement and Exhibit B between ICC and the Government of Belize (signed by The Honourable Said Musa and Jeffrey Prosser) dated 12 August 2004, or any subsequent amendments or variations thereof;

(b) taking any steps to sell, transfer, charge, pledge or grant any option or other rights over or otherwise dispose of any of the Carlisle Shares or any interests in any of the Carlisle Shares;

(c) releasing or in any way diminishing the Plaintiff's possession of the share certificates in relation to the Carlisle Shares or of any right to possession of such shares that the Plaintiff currently enjoys; and

(d) taking any steps as shareholders of the Carlisle Shares to approve or implement any arrangement which would have the effect of altering the size or structure of BTL's issued or allotted share capital.

For the sake of clarity and avoidance of doubt, "respondent" includes the Attorney General on behalf of the Government of Belize, the Minister of Finance but and not limited to their agents, servants or employees.

The stay ordered in this action on 24 January 2005 hereafter continues in force.

A. O. CONTEH
Chief Justice

DATED: 21ST February, 2005.