INTERNATIONAL JOURNAL OF NOVEL RESEARCH AND DEVELOPMENT (IJNRD)
© 2026 IJNRD | Volume 11, Issue 11, November 2026 | ISSN: 2456-4184 | IJNRD.ORG

# Between Formal Commitment and Substantive effect: The National Assembly of Suriname and the Constitutional Stress test of CSME Law

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***Abstract:*** This article examines the role of Suriname's National Assembly in implementing obligations arising from the CSME, the economic core of CARICOM, which seeks to realize the free movement of goods, persons, services and capital. These obligations are laid down in the Revised Treaty of Chaguaramas (2001). The central question is how the Assembly fulfils its constitutional task in the context of CSME harmonization obligations, and to what extent this practice reflects Suriname's constitutional embedding in the Caribbean legal order. The article analyses two legal regimes: the free movement of persons (Articles 45 and 46 of the Treaty (2001)) and the CET, the system of common import tariffs on goods from third countries. Both regimes function as a constitutional stress test for the Surinamese legislature. The analysis identifies a pattern referred to here as legislative passivity. This does not mean that the legislature remains entirely inactive, but that national implementation of CSME obligations is characterized by four recurring features: (i) temporal delay between regional decision-making and national effectuation; (ii) selective implementation of regional obligations; (iii) partial adjustment of existing national regulation; and (iv) the absence of systematic revision of national regulation where it remains structurally in conflict with Community obligations. These features constitute the empirical basis for the concept of legislative passivity and cannot be explained solely by reference to individual implementation decisions or incidental policy choices. The article situates this finding within the conceptual framework of *"captive supranationalism"*, which describes a legal-order configuration in which supranational norms formally exist, but their substantive operation is structurally constrained by national constitutional and institutional conditions. The concept is distinguished from adjacent concepts such as *"hybrid legal order"*, *"constitutional pluralism"* and *"intergovernmentalism"*: it is relational rather than institutional, and analytical rather than typological. The analysis shows that Surinamese legislative practice scores negatively on the indicators of constitutional supremacy and effective enforcement. It concludes that the limited effect of CSME law in Suriname cannot be explained exclusively by incidental political choices or implementation problems, but is also connected to the constitutional and institutional structure of the Surinamese legal order. The certification procedure of Article 80 of the Treaty (2001) reveals the deepest tension: parliamentary approval competence is functionally conditioned by supranational review, without this conditioning being constitutionally anchored. This raises questions of democratic legitimacy and legal certainty that are central to international legal scholarship. The findings point to possible points of attention for the further constitutional and institutional structuring of the national effectuation of CSME obligations, in particular the relationship between national and Community law, the institutionalization of judicial dialogue, and the national mechanisms for implementation and enforcement.

***Index Terms*** **- CSME, CARICOM, captive supranationalism, constitutional effect, harmonization obligation.**

## I. INTRODUCTION

Suriname's membership of the Caribbean Community (CARICOM) and its participation in the Caribbean Single Market and Economy (CSME), established under the Revised Treaty of Chaguaramas (2001), have produced a constitutional configuration that is difficult to reconcile with the traditional premises of national sovereignty. While Suriname has formally accepted the normative claims of a regional legal order with supranational

aspirations, the actual operation of community obligations within the Surinamese legal order has remained incomplete and uneven [2], [4]. This article does not treat this discrepancy as a mere implementation deficit. It argues, instead, that the discrepancy is rooted in the constitutional architecture of the Surinamese legal order and in the way that architecture structures the relationship between national and regional normativity (compare [6]; [18]).

The Assembly of Suriname (the Assembly) occupies a pivotal position in this configuration. Under Article 70 of the Constitution, the Assembly is charged with the approval and transposition of international treaties and decisions of international organizations. Suriname's constitutional order is strictly dualist: Article 103 provides that a treaty acquires binding force only after parliamentary approval, and Article 104 requires that, where the nature of the treaty provisions so demands, further national legislation be enacted before the obligations take national effect [1]. Unlike the Kingdom of the Netherlands, where the Kingdom Government and the States General share responsibility for treaty approval, the Surinamese Assembly functions as the sole constitutional gatekeeper between the international and the national legal order.
The Assembly thus functions as a constitutional gatekeeper between the international and the national legal order. This gatekeeping function is not merely procedural; it is constitutive of the manner in which international and supranational norms acquire effect within the national legal order. The Assembly is not a passive conduit, but an active constitutional actor whose choices structure the relationship between the national and the regional legal order (compare [14]). This constitutional position explains why the role of the Assembly in the implementation of CSME obligations is central to this article. At the same time, CARICOM membership entails a continuing obligation to harmonize national legislation with CSME norms, which places pressure on the traditional conception of legislative sovereignty [6], [18].

CARICOM is a regional organization of fifteen member states, founded in 1973 and since 2001 based on the Revised Treaty of Chaguaramas. The CSME forms the economic core of this treaty: it aims to realize the free movement of goods, persons, services and capital between member states, as well as the harmonization of national legislation in areas relevant to the common market [9]. The CSME is therefore not merely a free-trade area, but a regional legal order with supranational features, comparable to, albeit much less developed than, the European Union (EU) [6], [17]. The comparison with the EU is instructive but must be handled with caution. Unlike the EU, CARICOM lacks a constitutional framework guaranteeing the supremacy and direct effect of community law. The Caribbean legal order is intergovernmental in nature and lacks a transfer of sovereignty comparable to that of the EU [2], [4]. This asymmetry is central to the analysis: it explains why the national constitutional order functions as a filter rather than a conduit for supranational norms. The Caribbean Court of Justice (CCJ) functions as the judicial body overseeing the uniform interpretation and application of the Treaty (2001) [10], [2].

The central question in this article is therefore: *how does the Assembly fulfil its constitutional task in the context of CSME harmonization obligations, and to what extent does this practice reflect Suriname's constitutional embedding in the Caribbean legal order?* The relevance of this question extends beyond the Surinamese case. It touches on a broader problem in international legal scholarship: how national constitutional orders accommodate -or resist-the normative claims of regional legal orders. The Surinamese case is therefore not merely of local interest; it provides a theoretically informed case study of a structural tension that is also visible in other regional integration orders, including the EU (compare [8]). The article thus contributes to the broader debate on the role of national parliaments in regional integration orders.

This article thus positions itself in relation to existing research. Where [2] and [4] focus on the role of the CCJ and the legal infrastructure of CARICOM, this article focuses on the national legislature as a constitutional actor. It thereby adds a perspective that remains underexposed in the existing literature: the manner in which the Assembly functions as gatekeeper between the international and national legal orders, and how its legislative practice structurally limits the substantive effect of CSME law (compare [14]). The article's contribution is threefold. First, it introduces the concept of *"captive supranationalism"* as an analytical framework for understanding the relationship between regional norm-formation and national effectuation. Second, it provides

a detailed, theoretically informed case study of the Surinamese legal order, which remains underexposed in the international literature. Third, it contributes to the broader debate on the role of national parliaments in regional integration orders by showing how a national constitutional order can structurally constrain the democratic legitimation of regional decision-making (compare [8]).

This article employs the concept of *"captive supranationalism"* as an analytical framework. The concept describes a legal-order configuration in which supranational norms formally exist, but their substantive operation is structurally constrained by national constitutional and institutional frameworks [37]. It builds on the analyses in [2] and [4] is elaborated in this article by reference to three structural conditions. Surinamese legislative practice, as analyzed here, functions as a concrete illustration of this model. The thesis would be refuted if it were shown that the Assembly systematically and timeously implements CSME obligations, despite the absence of constitutional supremacy and effective enforcement. This formulation of the refutation condition is methodologically significant: it specifies in advance what evidence would falsify the thesis, and it thereby protects the analysis against post hoc rationalization.

This article places this question within the broader conceptual framework of *"captive supranationalism"*, which was developed in the author's doctoral research and builds on the analyses [2] and [4]. This framework describes a regional legal order in which supranational norms formally exist, but their substantive operation is structurally constrained by national constitutional and institutional frameworks [37]. Surinamese legislative practice, as analyzed here, functions as a concrete illustration of this model.

To answer this question, two legal regimes are examined as contrasting cases: the free movement of persons, in particular the implementation of Articles 45 and 46 of the Treaty (2001), and the CET. These cases were selected because they represent different types of implementation questions. The free movement of persons requires, among other things, adjustment of national admission and labour regulation, whereas the CET primarily concerns the national effectuation of regionally determined tariff rules [11], [13]. The distinction between positive and negative harmonization is analytically important: it makes it possible to ascertain whether the identified pattern of legislative passivity occurs across different types of CSME obligations (compare [17]; [6]). The comparison makes it possible to ascertain whether the identified pattern occurs across different types of CSME obligations. In this sense, both regimes function as a constitutional stress test of the conditions under which regional obligations are effected nationally.

This article begins with an exposition of the constitutional framework within which the Assembly operates in implementing international public law. It then sets out the theoretical framework, in which the concept of *"captive supranationalism"* is systematically elaborated by reference to three indicators. Thereafter, the implementation of the free movement of persons is analyzed, followed by an examination of the CET regime. The certification procedure of Article 80 of the Treaty (2001) is then discussed as a form of constitutional irony. The article concludes with a conclusion. The article proceeds as follows. Section II sets out the research methodology, including the legal-doctrinal method, the selection of sources and the theoretical framework of *"captive supranationalism"*. Section III analyses the two CSME legal regimes and the certification procedure of Article 80, and synthesizes the findings within the conceptual framework. Section IV concludes by answering the central question and by reflecting on the broader implications for Suriname's position within CARICOM and for international legal scholarship.

## II. RESEARCH METHODOLOGY

### II.1 Population and Sample

This article is based on a qualitative, legal-doctrinal analysis of primary and secondary legal sources. The legal-doctrinal method is the established methodological approach within legal scholarship for the systematic reconstruction, interpretation and evaluation of positive law. It proceeds from the premise that legal norms cannot be adequately understood in isolation from their systemic context, their institutional embedding and their

application in legal practice. The method is therefore not merely descriptive, but interpretive and evaluative: it seeks to reconstruct the applicable legal framework, to identify internal tensions and gaps, and to assess the coherence and effectiveness of that framework against normative standards.

The primary sources comprise the Constitution of the Republic of Suriname (S.B. 1987 no. 116), the Revised Treaty of Chaguaramas (2001), national legislation, the Aliens Act 1991 (S.B. 1992 no. 3), the Foreigners' Work Permit Act (S.B. 1981 no. 162), the Act on Skilled Citizens of the Caribbean Community (S.B. 2006 no. 19), the Import Tariff Act (S.B. 1996 no. 80) and the Goods Traffic Act (S.B. 2003 no. 58), and case law of the CCJ, including *Myrie v. Barbados* (2013), *Hummingbird Rice Mills Ltd. v. Suriname* (2012) and *Tomlinson v. Belize and Trinidad and Tobago* (2016). The secondary sources consist of academic literature, reports (including the Jamaica Report 2017) and parliamentary documents.

The selection of primary sources is guided by three criteria. First, the sources must be directly relevant to the constitutional position of the Assembly in the implementation of CSME obligations. Second, they must represent the two legal regimes examined in this article: the free movement of persons and the CET. Third, they must include both the national and the regional dimension of the applicable legal framework, so that the interaction between national constitutional law and community law can be reconstructed (compare [6]). The parliamentary documents are included because they provide insight into the legislative intent and the *travaux préparatoires* of the national implementing legislation. On the evidentiary value of *travaux préparatoires* in CARICOM law, see [6, pp. 87-92].

The selection of CCJ case law is based on three criteria: (i) the case concerns the interpretation or application of the Revised Treaty of Chaguaramas (2001); (ii) the case has direct implications for the national implementation obligations of CARICOM member states; and (iii) the case has been cited in subsequent CCJ jurisprudence or in the academic literature (compare [2]; [4]). *Myrie v. Barbados* (2013) is included for its confirmation of the binding effect of the Conference of Heads of Government (CHG) decisions on free movement; *Hummingbird Rice Mills Ltd. v. Suriname* (2012) for its confirmation of the inter-state and individual operation of CET obligations; and *Tomlinson v. Belize and Trinidad and Tobago* (2016) for its clarification of the CCJ's original jurisdiction and the justiciability of community obligations.

**II.2 Data and Sources of Data**

The analysis focuses on the implementation of two CSME legal regimes: the free movement of persons and the CET. The selection of these case positions is based on their representativeness for the two central dimensions of CSME law: on the one hand, movement of persons (Articles 45-46), on the other, movement of goods (CET) (compare [6]; [9]). Both regimes represent different types of harmonization obligations: positive harmonization (adjustment of national legislation) versus negative harmonization (abstention from derogations) (compare [2]; [17]). The distinction between positive and negative harmonization is analytically important because it makes it possible to ascertain whether the identified pattern of legislative passivity occurs across different types of CSME obligations. Positive harmonization requires member states to adopt implementing legislation; negative harmonization requires them to refrain from measures incompatible with community obligations. The CET is a hybrid case: it requires national implementation (positive) but also prohibits unilateral tariff deviations (negative) (compare [17]; [6]).

The selection of the two regimes is further justified by their different institutional dynamics. The free movement of persons is characterized by a dynamic of expanding categories of *"skilled nationals"* through CHG decisions, which places continuous pressure on the national legislature to adjust its legislation. The CET, by contrast, is characterized by a dynamic of periodic adjustments by COTED, which requires the national legislature to transpose these adjustments timeously. The comparison thus makes it possible to examine whether the pattern of legislative passivity is regime-specific or structural (compare [2]; [4]).

The findings are interpreted qualitatively within the conceptual framework of captive supranationalism [37]. The analysis is thus not merely descriptive, but also normative: it assesses the extent to which Suriname meets the constitutional and institutional conditions for the effective effect of CSME law (compare [2]; [4]). The normative dimension is not derived from an external standard, but from the concept of captive supranationalism itself: if supranational norms formally exist but are structurally constrained in their substantive operation, the question arises whether the national legal order meets the conditions for effective effect. This question is answered in the concluding section. The normative assessment is therefore immanent: it evaluates the Surinamese legal order against the conditions that the concept of captive supranationalism identifies as constitutive of effective supranational effect [37].

**II.3 Theoretical framework**

*"Captive supranationalism"* denotes a configuration in which regional institutions are endowed with the capacity for autonomous norm-formation, legal interpretation and dispute settlement, but in which the national operation of those norms remains structurally dependent on constitutional and institutional conditions within the member states [37]. The concept is not a typology of legal orders. It is a relational framework that seeks to capture how supranational law-making and national effectuation are connected to one another. In this respect, it differs from *"hybrid legal order"*, which describes an institutional configuration without explaining the relational dynamic between legal orders. The concept is deliberately chosen as an alternative to *"hybrid legal order"* and *"constitutional pluralism"*, because these concepts do not adequately capture the specific relationship between regional norm-formation and national effectuation in CARICOM. *"Hybrid legal order"* describes an institutional configuration, but not the relational dynamic between legal orders. *"Constitutional pluralism"* presupposes a continuous institutional dialogue between legal orders, which is largely absent in CARICOM. *"Captive supranationalism"* fills this gap by focusing on the structural constraints that national constitutional orders impose on the substantive operation of supranational norms [37].

The framework draws on two intellectual traditions. The first is the neofunctionalism of Haas (1958), which interprets integration as a gradual relocation of loyalties from the national state to a supranational centre. The second is the approach of *"integration through law"* [2], which holds that integration is carried primarily by legal mechanisms. This second approach is historically connected to the jurisprudence of the European Court of Justice in the 1960s, in which the principles of direct effect and supremacy were articulated (compare [34], [35]). In *Van Gend en Loos* (1963) and *Costa/ENEL* (1964), the European Court of Justice established the principles of direct effect and supremacy of European law. These principles were subsequently received in the national legal orders of the member states. On the reception of these principles in CARICOM law, see [2] and [4].

Unlike in the EU, however, CARICOM lacks a constitutional framework guaranteeing the supremacy and direct effect of community law. The comparison with the EU is therefore instructive, but must be handled with caution: the Caribbean legal order is intergovernmental in nature and lacks a transfer of sovereignty comparable to that of the EU [2], [4]. The intergovernmental character of CARICOM is reflected in the decision-making structures of the Conference of Heads of Government (CHG) and the Council for Trade and Economic Development (COTED), in which member states retain veto power over major decisions [4]. The CCJ's compulsory and exclusive jurisdiction under Article 211 of the Treaty (2001) is a supranational feature, but it operates within an intergovernmental institutional framework [2]. Constitutional pluralism offers a sophisticated account of national-supranational interaction, but it presupposes a continuous institutional dialogue between legal orders (compare [8]). In CARICOM, that dialogue is largely absent, which is precisely the gap that captive supranationalism addresses.

The concept of *"captive supranationalism"* nonetheless corrects the neofunctionalist assumption that this dynamic gradually and irreversibly deepens [37]. Caribbean practice shows that supranational law-making at the regional level does not automatically lead to a corresponding national effect: the national constitutional order functions as a filter. The thesis would be refuted if it were shown that a national legal order, despite the absence of constitutional supremacy, judicial dialogue and effective enforcement, nevertheless systematically and

timeously implements supranational obligations. In that case, the national constitutional order would not function as a filter, but as a conduit. This formulation of the refutation condition is methodologically significant: it specifies in advance what evidence would falsify the thesis, and it thereby protects the analysis against post hoc rationalization. On the basis of this concept, three structural conditions for the effective national effect of supranational law are distinguished: (i) constitutional or statutory anchoring of the relationship between supranational and national law, including any supremacy; (ii) institutionalization of judicial dialogue between national courts and the regional court; and (iii) availability of effective mechanisms for the national effectuation and enforcement of community obligations [37]. The first indicator measures the presence of an explicit rule of supremacy; the second indicator measures the presence of an institutionalized judicial dialogue; the third indicator measures the presence of effective enforcement mechanisms. The three indicators are derived from the concept of captive supranationalism itself, and not from an external normative framework. They are therefore not arbitrary: they form the analytical core of the concept, and they make it possible to operationalize the concept for empirical legal research [37].

These indicators are not conceived as direct measures of legislative activity, but as structural conditions within which the national legislature and other state organs exercise their implementation and effectuation tasks. They are structural, not behavioral: they do not measure whether the legislature has adopted implementing legislation, but whether the constitutional and institutional conditions exist within which such legislation can be adopted and enforced. This distinction is important because legislative activity may occur without effective enforcement, and vice versa [2]. These three indicators were chosen because they form the core of effective supranational effect: absent or weakly developed constitutional supremacy, limited institutionalization of judicial dialogue and inadequate enforcement mechanisms can cause supranational obligations to take effect only partially or unevenly within the national legal order [2], [4]. They make it possible to analyze Surinamese legislative practice not merely descriptively, but also normatively: *to what extent does Suriname meet the constitutional and institutional conditions for the effective effect of CSME law?* The normative dimension of the analysis is derived from the concept of *"captive supranationalism"* itself: if supranational norms formally exist but are structurally constrained in their substantive operation, the question arises whether the national legal order meets the conditions for effective effect. This question is answered in the concluding section. The normative assessment is therefore not based on an external ideal of integration, but on the internal logic of the concept: it evaluates the Surinamese legal order against the conditions that the concept identifies as constitutive of effective supranational effect [37].

### II.4 Analytical framework

The analysis proceeds in three steps. First, the constitutional framework within which the Assembly operates in implementing international public law is set out. Second, the theoretical framework of *"captive supranationalism"* is elaborated by reference to the three indicators identified above. Third, two CSME legal regimes are examined as contrasting cases: the free movement of persons (Articles 45 and 46 of the Treaty (2001)) and the CET. The certification procedure of Article 80 of the Treaty (2001) is then discussed as a form of constitutional irony. The findings are interpreted qualitatively within the conceptual framework of captive supranationalism. The analysis thus combines a legal-doctrinal reconstruction of the applicable framework with a normative assessment of Surinamese legislative practice against the three structural indicators.

The analytical framework is deliberately sequenced. The first step reconstructs the constitutional framework, because the position of the Assembly cannot be understood without insight into the dualist structure of the Surinamese constitutional order (Articles 70, 80(2), 103, 104 and 106 of the Constitution). The second step elaborates the theoretical framework, because the concept of captive supranationalism provides the analytical categories (the three indicators) that structure the subsequent analysis. The third step examines the two legal regimes as contrasting cases, because the comparison makes it possible to ascertain whether the identified pattern occurs across different types of CSME obligations. The certification procedure of Article 80 is then discussed separately, because it reveals a constitutional tension that is not captured by the two regimes: the functional conditioning of parliamentary approval competence by supranational review, without constitutional anchoring.

The methodological limitations of the analysis should be acknowledged. First, the analysis is qualitative and legal-doctrinal in nature; it does not aim at statistical generalization, but at analytical generalization through the reconstruction of the applicable legal framework and the identification of structural patterns [37]. Second, the analysis is limited to two legal regimes; it does not purport to provide a complete overview of all CSME obligations. The selection of the two regimes is justified by their representativeness for the two central dimensions of CSME law, but it does not exclude the possibility that other regimes display different patterns. Third, the analysis is limited to the Surinamese legal order; it does not purport to provide a comparative analysis of all CARICOM member states, although comparisons with Trinidad and Tobago and Guyana are made where relevant (compare [6]). These limitations do not undermine the validity of the analysis, but they delineate its scope and its claims.

## III. RESULTS AND DISCUSSION

In this article, *"legislative passivity"* refers to a structural pattern in which national implementation is marked by four recurring characteristics. The first is temporal: there is a persistent gap between regional decision-making and national effectuation. The second is selective: only some regional obligations are transposed. The third is partial: existing national regulation is adjusted only at the margins. The fourth is systemic: where national regulation remains structurally in conflict with community obligations, no systematic revision is undertaken. The concept is structural, not behavioural: it does not measure whether the legislature has adopted implementing legislation, but whether the constitutional and institutional conditions exist within which such legislation can be adopted and enforced (compare [2]).

**Table 1. Assessment of Suriname's legislative practice against the three structural indicators**

| Indicator | Free Movement of Persons | CET |
|---|---|---|
| (i) Constitutional supremacy | Negative: no explicit rule of supremacy; review prohibition of Article 80(2) of the Constitution | Negative: no constitutional rule enabling review against the CET |
| (ii) Judicial dialogue | Negative: Article 214 preliminary reference procedure not implemented | Negative: Article 214 not implemented; *Hummingbird* via Article 222 |
| (iii) Effective enforcement | Negative: reliance on ad hoc interventions; *Myrie* confirms binding effect but enforcement remains limited | Negative: formal implementation ≠ substantive compliance (*Hummingbird*) |

The assessment is summarized in Table 1. What the table reveals is that, across both regimes, Suriname scores negatively on all three indicators. This is not an incidental outcome. The systematic character of the negative scores provides the empirical basis for the synthesis developed in Section III.D.

The analysis of the two CSME legal regimes examined confirms the pattern of legislative passivity as defined above. The pattern cannot be explained solely by reference to individual implementation decisions or incidental policy choices (compare [2]; [4]).

This concept does not imply that the legislature remains entirely inactive. Rather, it denotes a structural pattern characterized by four recurring features: (i) temporal delay between regional decision-making and national effectuation; (ii) selective implementation of regional obligations; (iii) partial adjustment of existing national regulation; and (iv) the absence of systematic revision of national regulation where it remains structurally in conflict with community obligations.

The analysis of the two CSME legal regimes examined reveals a recurring pattern in which national implementation occurs in a delayed, selective and partial manner. This pattern is designated in this article as legislative passivity. This concept does not imply that the legislature remains entirely inactive. Rather, it denotes

a structural pattern characterized by four recurring features: (i) temporal delay between regional decision-making and national effectuation; (ii) selective implementation of regional obligations; (iii) partial adjustment of existing national regulation; and (iv) the absence of systematic revision of national regulation where it remains structurally in conflict with community obligations. These features constitute the empirical basis for the concept of legislative passivity and cannot be explained solely by reference to individual implementation decisions or incidental policy choices (compare [2]; [4]).

This pattern cannot be attributed exclusively to individual legislative choices. The constitutional and institutional structure of the Surinamese legal order co-determines the conditions under which supranational obligations can be effected nationally. It is precisely this interaction between formal regional commitment and limited national effectuation that forms the core of the phenomenon designated in this article as captive supranationalism.

**A. Legal Regime I: Free Movement of Persons**

In the case of the free movement of persons, the legislature responds slowly and selectively to CHG decisions, without fundamentally revising the underlying restrictive national system (the Aliens Act, the Foreigners' Work Permit Act). The analysis reveals three structural limitations. First, there is a significant temporal gap: between the adoption of CHG decisions adding new categories and their actual implementation in national legislation, considerable delay arises. For example, it took four years before the 2007 CHG decision on the automatic six-month right of residence was actually applied in Surinamese practice. The expansion of rights for holders of an associate degree, adopted at the 2011 CHG meeting, has to date not been fully implemented (compare [31], paras. 54-55; [1], pp. 29-30).

Second, implementation is selective: not all CHG decisions are transposed timeously or fully into Surinamese legislation. The expansion of rights for holders of an associate degree or for household workers has been only partially effected. The result is an uneven playing field: a CARICOM national who can fully benefit from CSME freedoms in one member state may still be restricted in Suriname in his access to work (compare [32], para. 30; [13], pp. 4-5).

Third, the fundamental tension with the national system has not been resolved. The existing Aliens Act and the Foreigners' Work Permit Act have never been systematically revised. These Acts continue to proceed from a restrictive admission model: *"prohibited unless permitted"*, whereas community law adopts the opposite principle: *"permitted unless refused"* (compare [17], pp. 6-7; [1], pp. 31-32). The Decree on Facilitation of Personnel of CARICOM Nationals (S.B. 2009 no. 58) creates an exception for managerial, supervisory and technical personnel of CARICOM enterprises, but these categories do not coincide with those mentioned in Article 46 of the Treaty (2001). This creates a discrepancy: some CARICOM nationals are fully exempted from the work-permit obligation, while other categories (e.g., holders of an associate degree) still fall under the restrictive regime.

The tension outlined between the national *"prohibition unless"* model and the community *"right unless"* model is reinforced by the review prohibition of Article 80(2) of the Constitution. This provision deprives the courts of the power to review formal statutes against the Constitution. Although the courts may, under Article 106 of the Constitution, leave conflicting national provisions unapplied where they conflict with *"directly binding"* (*"eenieder verbindende"*) treaty provisions, the scope of this exception is unclear and barely crystallized in legal practice. The prevailing doctrine in Surinamese legal literature is that Article 106 constitutes an exception to the review prohibition, but the scope of this exception is contested (compare [1]; [14]). This constitutional vacuum places a disproportionate burden on the CARICOM national seeking to enforce his rights.

A comparison with other CARICOM member states makes Suriname's particular position visible. In Trinidad and Tobago, the Caribbean Community Act 2005 (Act No. 3 of 2005) obliges the national court to refer preliminary questions to the CCJ. Guyana has a comparable arrangement in the Caribbean Community Act 2006 (Act No. 8 of 2006). These incorporation acts contain an explicit rule of supremacy and regulate the effect and

supremacy of community law in the national legal order. Suriname, by contrast, has no such arrangement. The combination of the review prohibition of Article 80(2) and the absence of an explicit rule of supremacy for supranational law means that the national court in Suriname is only limitedly able to review the compatibility of national legislation with CSME law (compare [6], pp. 112-118).

The result is a hybrid and fragmented system: a dichotomy in legal position (some CARICOM nationals are exempted, others remain restricted), an unchanged basic philosophy (the *"prohibited unless permitted"* logic remains intact), and incomplete implementation (the underlying statutes have never been systematically revised). This case illustrates the pattern of selective and incomplete implementation: the legislature responds to specific CHG decisions by creating an exception within the existing restrictive system, but does not address the root of the problem. The Aliens Act and the Foreigners' Work Permit Act, both of which proceed from the *"prohibition unless"* model, have never been systematically revised to internalize the logic of community law. The result is a permanent tension between national and community law, which only the CARICOM national himself must resolve in legal practice (compare [4], pp. 161–162).

**B. Legal Regime II: Trade Policy and the CET**

In the case of trade policy and the CET, the legislature has indeed taken important steps with the Acts of 1996, but compliance and enforcement in practice fall short. The Import Tariff Act (1996) repealed the Import Duties Regulation 1981 and structured national regulation explicitly in conformity with the CET system. Suriname thereby lost the possibility of autonomously determining import tariffs: any derogation from the CET regime requires prior authorization by COTED. The Explanatory Memorandum to the Import Tariff Act acknowledges that, within this system, Suriname no longer has full freedom to determine its own tariffs (compare [12], pp. 3, 9; [1], pp. 5-10).

The Hummingbird case illustrates that formal implementation does not equal substantive compliance. Despite the formal implementation of the CET, Suriname unilaterally departed from its obligations, without prior authorization from COTED, so that the CCJ had to intervene to enforce compliance. The Court confirmed three fundamental principles: (i) the inter-state and individual operation of community law; (ii) the hierarchy of the CARICOM legal system; and (iii) the constitutional limits of national legislative autonomy. The third consideration is particularly relevant for the Assembly: it confirms that the approval of the Treaty (2001) cannot be understood as a nonbinding political statement of intent. By acceding, Suriname has legally committed itself to a normative framework that structurally limits its internal legislative freedom (compare [30], paras. 16-20, 34).

Moreover, the legislature proves unable to respond timeously to dynamic adjustments of the CET by COTED. The 2011 revision of the CET, in which tariffs for a large number of products were adjusted, was transposed into Surinamese legislation only in 2013. This delay led to legal uncertainty for importers, who were confronted with inconsistent tariffs. This pattern reinforces the finding of legislative passivity: the legislature responds, but with remarkable slowness, so that the effect of regional adjustments on Surinamese practice becomes visible only in delayed and fragmented form (compare [2]; [4]).

Assessed against the three indicators, Suriname scores negatively on this regime. On the first indicator (constitutional supremacy), Suriname scores negatively: although the CET is formally implemented in the Import Tariff Act (1996), there is no constitutional rule of supremacy enabling the courts to review national legislation against the CET. On the second indicator (judicial dialogue), Suriname scores negatively: the preliminary reference procedure of Article 214 of the Treaty (2001) has not been implemented, and the Hummingbird case was brought via the alternative route of Article 222 of the Treaty (2001). On the third indicator (enforcement), Suriname scores negatively: the Hummingbird case illustrates that formal implementation does not equal substantive compliance, and that enforcement depends on ad hoc interventions at regional level (compare [6]; [10]).

### C. The Certification Procedure of Article 80: Constitutional Irony

The certification procedure of Article 80 reveals the deepest tension. The parliamentary approval competence is functionally conditioned by supranational review, without this conditioning being constitutionally anchored. Under this provision, Suriname is obliged, prior to parliamentary approval by the Assembly of a bilateral trade treaty with a non-CARICOM state, to have the draft certified by the CARICOM Secretariat and, where tariff concessions are at issue, to obtain approval from COTED. This procedure brings two legal logics into collision. On the one hand, there is the constitutional starting point that the Assembly possesses the power to approve treaties (Articles 103-104 of the Constitution). On the other hand, there is the community obligation that such treaties can be dealt with only if they have been certified regionally in advance (compare [6], pp. 79-80, 180-190).

The Partial Scope Agreement concerning Tariff Preferences Concessions for the Rice Trade between Suriname and Brazil (2006) makes the constitutional implications concrete. The agreement grants Suriname the right to export annually 10,000 metric tonnes of rice to Brazil at a zero tariff and free of fiscal or monetary levies. Before the agreement was submitted to the Assembly, it underwent the certification review of Article 80. This review, carried out by the CARICOM Secretariat and COTED, implies that the parliamentary power of treaty approval is structurally embedded in a supranational assessment framework. The certification procedure places the Assembly before a dilemma: on the one hand, it is constitutionally competent to approve the treaty; on the other hand, the treaty has in fact already been approved by the CARICOM Secretariat and COTED. Parliamentary treatment is thereby reduced to a formality, in which the substantive assessment space of the Assembly is effectively hollowed out (compare [1], pp. 30-32).

This development is designated in this article as the *"irony of the sovereign legislature"*: the legislature formally retains its competences, but can exercise them only within a supranationally delimited framework. This tension between formal sovereignty and functional conditioning is characteristic of the position of national parliaments within regional integration orders. The constitutional vacuum that thereby arises raises questions about democratic legitimacy and legal certainty, all the more so since the Constitution offers no explicit basis for such a conditioning of the parliamentary approval competence (compare [37]).

### D. Synthesis: Legislative Passivity and Captive Supranationalism

The findings have important implications for Suriname's position within CARICOM. In a period in which regional integration is being further deepened, with discussions on the expansion of free movement, further harmonization of trade policy and the further development of the CSME, Suriname faces a fundamental choice. As set out in the theoretical framework, Surinamese legislative practice scores negatively on the first indicator (no constitutional supremacy), on the second indicator (limited institutionalization of judicial dialogue) and on the third indicator (no effective enforcement). The legislative passivity analyzed in this article is therefore not incidental, but structurally determined by the constitutional structure of the Surinamese legal order. Alternative explanations for the pattern of legislative passivity should be acknowledged. Political priorities, capacity constraints within the Assembly, the complexity of CSME regulation, and institutional inertia may all contribute to the observed pattern. The analysis does not purport to exclude these explanations. It rather claims that the constitutional and institutional structure of the Surinamese legal order is a necessary condition that co-determines the conditions under which supranational obligations can be effected nationally. The three indicators make it possible to identify the structural conditions within which political, institutional and capacity-related factors operate. The analysis is therefore complementary to, rather than exclusive of, alternative explanations.

The limited effect observed must therefore not be understood exclusively as the result of individual political or policy choices, but also as the outcome of the manner in which constitutional, treaty-based and institutional competences interact within the Surinamese legal order (compare [2]; [4]).

It touches the core of the relationship between national sovereignty and regional integration. This analysis suggests that the constitutional impasse is not inevitable: if the Assembly were to fulfil its role as gatekeeper more actively, sovereignty could be redefined as shared normative responsibility within the Caribbean legal order. This redefinition of sovereignty aligns with a broader discussion in European and international law, in which sovereignty is no longer understood exclusively as an exclusive and indivisible competence of the national state, but as a shared responsibility within a multi-layered legal order. Compare in this connection the discussion on constitutional pluralism [8] and on the role of national parliaments in the EU.

The thesis of *"captive supranationalism"* adds a specific dimension to this: it shows that the manner in which a national legal order fulfils its gatekeeping role is determinative of the question whether supranational norms do or do not have substantive effect. Sovereignty need not thereby be understood as loss or transfer, but as participation in a shared legal order. Integration then means not subjection, but an active role of the national legislature in shaping the regional legal order.

The contribution of this article to international legal scholarship can be stated in three propositions. The first is conceptual: *"captive supranationalism"* is offered as an analytical framework that is not confined to CARICOM, but can be applied to other regional integration orders in which supranational norms formally exist while their substantive operation remains structurally constrained by national constitutional and institutional conditions. The second is empirical: the article provides a detailed case study of the Surinamese legal order, which has remained underexposed in the international literature. The third is normative: the article contributes to the broader debate on the role of national parliaments in regional integration orders by showing how a national constitutional order can structurally constrain the democratic legitimation of regional decision-making (compare [8]).

## ACKNOWLEDGMENT

The author wishes to thank his supervisors, Prof. dr. Frank J. van Ommeren, Professor of Constitutional and Administrative Law and Dean of the Faculty of Law at Vrije Universiteit Amsterdam, and Prof. dr. Solke A.J. Munneke, supervisor and Professor of Constitutional Law at the University of Groningen, for their supervision, critical comments and valuable academic reflections during the doctoral research of which this article forms an elaboration.

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