

- (i) *compile, evaluate and publicise enactments for the protection of consumers in such States and recommend to COTED the enactment of legislation considered necessary or desirable for the protection of consumers;*
- (j) *promote, after consultation with the competent standardising agency and other public and private agencies or organisations, the establishment of quality standards for consumer products;*
- (k) *promote and monitor, after consultation with relevant agencies and departments of Government, the enforcement of legislation affecting the interests of consumers, including, but not limited to, legislation relating to weights and measures, food and drugs adulteration, the control of standards and price controls;*
- (l) *make recommendations to COTED for the enactment of legislation by the Member States for the effective enforcement of the rights of consumers.*

2. *The Commission shall:*

- (a) *draw to the attention of COTED business conduct by enterprises which impacts adversely on consumer welfare;*
- (b) *collaborate with competent Organs of the Community to promote consumer education and consumer welfare.*

CHAPTER NINE DISPUTES SETTLEMENT

ARTICLE 187 Scope of the Chapter

The provisions of this Chapter shall apply to the settlement of disputes concerning the interpretation and application of the Treaty, including:

- (a) *allegations that an actual or proposed measure of another Member State is, or would be, inconsistent with the objectives of the Community;*
- (b) *allegations of injury, serious prejudice suffered or likely to be suffered, nullification or impairment of benefits expected from the establishment and operation of the CSME;*
- (c) *allegations that an organ or body of the Community has acted ultra vires; or*
- (d) *allegations that the purpose or object of the Treaty is being frustrated or prejudiced.*

ARTICLE 188
Modes of Dispute Settlement

1. *Subject to the provisions of this Treaty, the disputes mentioned in Article 187 shall be settled only by recourse to any one of the following modes for the settlement of disputes, namely, good offices, mediation, consultations, conciliation, arbitration and adjudication.*

2. *Where a dispute has not been settled following the adoption of one of the modes referred to in paragraph 1 other than arbitration or adjudication, either party may have recourse to another mode.*

3. *Subject to the procedural rules applicable in respect of arbitration or adjudication, the parties may agree, pending a settlement, to have recourse to good offices, mediation or conciliation in order to arrive at a settlement.*

4. *Without prejudice to the exclusive and compulsory jurisdiction of the Court in the interpretation and application of this Treaty under Article 211, the parties may use any of the voluntary modes of dispute settlement provided for in this Article in the settlement of a dispute.*

ARTICLE 189
Expeditious Settlement of Disputes

Where a dispute arises between Member States, the parties shall proceed expeditiously to an exchange of views for the purpose of agreeing on:

- (a) a mode of settlement and where an agreed mode has been terminated, to another mode of settlement; or*
- (b) a mutually satisfactory method of implementation where a settlement has been reached and the circumstances require consultation regarding its implementation.*

ARTICLE 190
Notification of Existence and Settlement of Disputes

1. *Member States parties to a dispute shall notify the Secretary-General of:*

- (a) the existence and nature of the dispute; and*
- (b) any mode of dispute settlement agreed upon or initiated.*

2. *Where a settlement is reached the Member States concerned shall notify the Secretary-General of the settlement and the mode used in arriving at the settlement.*

3. *The Secretary-General shall, as soon as practicable after receiving the information pursuant to paragraphs 1 and 2, notify other Member States of the information received.*

ARTICLE 191
Good Offices

1. *Member States parties to a dispute may agree to employ the good offices of a third party, including those of the Secretary-General, to settle the dispute.*

2. *Good offices may begin or be terminated at any time. Subject to the procedural rules applicable in respect of arbitration or adjudication, good offices may continue during the course of arbitration or adjudication.*

ARTICLE 192
Mediation

1. *Where Member States parties to a dispute agree to settle the dispute by recourse to mediation, the parties may agree on a mediator or may request the Secretary-General to appoint a mediator from the list of conciliators mentioned in Article 196.*

2. *Mediation may begin or be terminated at any time. Subject to the procedural rules applicable in respect of arbitration or adjudication, mediation may continue during the course of arbitration or adjudication.*

3. *Proceedings involving mediation and, in particular, positions taken by parties during the proceedings, shall be confidential and without prejudice to the rights of the parties in any further proceedings.*

ARTICLE 193
Obligation to Enter Consultations

1. *A Member State shall enter into consultations upon the request of another Member State where the requesting Member State alleges that an action taken by the requested Member State constitutes a breach of obligations arising from or under the provisions of this Treaty.*

2. *Where a request for consultations is made pursuant to paragraph 1, the requested Member State shall enter into consultations within 14 days of the receipt of the request or a mutually agreed period.*

3. *Where:*

- (a) consultations have not been entered into within the period referred to in paragraph 2; or*
- (b) the consultations fail to settle the dispute within 45 days of the receipt of the request for consultations or the dates mutually agreed,*

the requesting Member State may resort to any mode of dispute settlement including arbitration and adjudication.

4. *Requests for consultations shall be in writing. The request shall state the reasons for the consultations and identify the measure at issue and the legal basis for the complaint.*

5. *The Secretary-General shall be notified of any request for consultations.*

6. *Consultations shall be confidential and without prejudice to the rights of the Member States in any further proceedings. However, before resorting to further proceedings, the Member States shall employ their best endeavours to settle the dispute.*

7. *In cases of urgency including those concerning perishable goods, the requested Member State shall enter into consultations within 3 days of the receipt of the request, and where such consultations are not entered into, the requesting Member State may resort to arbitration and adjudication.*

8. *Where consultations under paragraph 7 fail to settle the dispute within 7 days of the receipt of the request for such consultations, the requesting Member State may resort to arbitration and adjudication.*

9. *Whenever a Member State, other than the consulting Member States, considers that it has a legitimate interest in consultations being held pursuant to this Article, such Member State may notify the consulting Member States and the Secretary-General, within 10 days after the date of the circulation of the request for consultations, of its desire to be joined in the consultations. Such*

Member State shall be joined in the consultations, provided that the requested Member State agrees that the claim of legitimate interest is well-founded and based on similar facts and circumstances. In that event, the Member States concerned shall notify the Secretary-General. If the request to be joined in the consultations is not granted, the applicant Member State may request consultations under paragraph 1 of this Article.

ARTICLE 194
Obligations of Consulting Parties

Where Member States parties to a dispute agree to settle the dispute by consultations, they shall endeavour to arrive at a mutually satisfactory settlement of the dispute through the consultations, and to this end shall:

- (a) provide sufficient information to enable a full examination of how the action complained of constitutes a breach of obligations arising from or under the provisions of this Treaty referred to in Article 193; and*
- (b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as it is treated by the Member State providing the information.*

ARTICLE 195
Initiation of Conciliation Proceedings

Where Member States parties to a dispute have agreed to submit the dispute to conciliation under this Part, any such Member State may institute proceedings by notification addressed to the other party or parties to the dispute.

ARTICLE 196
Establishment of a List of Conciliators

1. *A List of Conciliators shall be established and maintained by the Secretary-General. Every Member State shall be entitled to nominate two conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the List. If at any time the number of conciliators nominated by a Member State is less than two, the Member State concerned shall be entitled to make such nominations as are necessary. The name of a conciliator shall remain on the List until withdrawn by the Member State which made the nomination and where a conciliator has been appointed to serve on any mediation or conciliation commission, the conciliator shall continue to serve on such commission until the completion of the relevant proceedings.*

2. *The term of a conciliator, including that of a conciliator appointed to fill a vacancy, shall be five (5) years and may be renewed.*

ARTICLE 197
Constitution of Conciliation Commission

A conciliation commission shall be constituted from time to time as follows:

- (a) subject to the provisions of this Article, a conciliation commission shall consist of three members;*
- (b) unless the parties otherwise agree, the party instituting the proceedings shall appoint one conciliator to be chosen from the List mentioned in Article 196. The conciliator appointed may be a national of the party making the appointment. Such an appointment shall be included in the notification*

mentioned in Article 195;

- (c) the other party to the dispute shall appoint a conciliator in the manner set forth in sub-paragraph (b) within ten days of the notification referred to in Article 195. If the appointment is not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General to make the appointment in accordance with sub-paragraph (e);*
- (d) within ten days after both conciliators have been appointed, they shall appoint a third conciliator chosen from the List referred to in Article 196, and who shall be the Chairman. If the appointment is not made within that period either party may, within the week of the expiration of that period, request the Secretary-General to make the appointment in accordance with sub-paragraph (e);*
- (e) within ten days of the receipt of a request under sub-paragraphs (c) and (d), the Secretary-General shall make the necessary appointments from the List referred to in Article 196 in consultation with the parties to the dispute;*
- (f) any vacancy on a conciliation commission shall be filled in the manner prescribed for the initial appointment;*
- (g) two or more Member States parties to the dispute which determine by agreement that they are of the same interest shall appoint one conciliator jointly;*
- (h) in disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply sub-paragraphs (a) to (f) in so far as may be possible.*

ARTICLE 198 **Amicable Settlement**

A conciliation commission may draw to the attention of the Member States parties to the dispute any measures which might facilitate an amicable settlement of the dispute.

ARTICLE 199 **Functions of Conciliation Commission**

A conciliation commission shall hear the Member States parties to the dispute, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

ARTICLE 200 **Procedure**

1. A conciliation commission shall, unless the Member States parties to the dispute otherwise agree, determine its own procedure. A conciliation commission may, with the consent of the parties to the dispute, invite any Member State to submit its views to the commission, orally or in writing. The report and recommendations and decisions of the commission regarding procedural matters shall be made by a majority vote of its members.

2. The Member States parties to the dispute may, by agreement applicable solely to that dispute, modify the procedure referred to in paragraph 1.

ARTICLE 201 **Report**

1. A conciliation commission shall report within three months of its constitution. Its

report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as a conciliation commission may deem appropriate for an amicable settlement.

2. *The conclusions or recommendations of a conciliation commission shall not be binding upon the parties.*

ARTICLE 202 **Termination**

The conciliation proceedings shall be deemed to be terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by notification addressed to the Secretary-General, or when a period of one month has expired from the date of transmission of the report to the parties.

ARTICLE 203 **Fees and Expenses**

The fees and expenses of a conciliation commission shall be borne by the Member States parties to the dispute.

ARTICLE 204 **Arbitration**

A Member State party to a dispute may, with the consent of the other party, refer the matter to an arbitral tribunal constituted in accordance with the provisions of this Chapter.

ARTICLE 205 **Constitution of the List of Arbitrators**

1. *For the purposes of constituting the arbitral tribunal referred to in Article 206, the Secretary-General shall establish and maintain a List of Arbitrators comprising persons chosen strictly on the basis of impartiality, reliability and sound judgment and who shall:*

- (a) have expertise or experience in law, international trade, other matters covered by this Treaty, or the settlement of disputes arising under international trade agreements;*
- (b) be independent of, and not be affiliated with or take instructions from any Member State; and*
- (c) comply with the Code of Judicial Conduct governing the behaviour of judges of the Court.*

2. *The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be five years and may be renewed.*

ARTICLE 206 **Constitution of Arbitral Tribunal**

1. *Each of the Member States parties to a dispute shall be entitled to appoint one arbitrator from the List of Arbitrators. The two arbitrators chosen by the parties shall be appointed within fifteen days following the decision to refer the matter to arbitration. The two arbitrators shall, within fifteen days following the date of their appointments, appoint a third arbitrator from the List who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.*

2. *Where either party to the dispute fails to appoint its arbitrator under paragraph 1, the*

Secretary-General shall appoint the arbitrator within ten days. Where the arbitrators fail to appoint a Chairman within the time prescribed, the Secretary-General shall appoint a Chairman within ten days.

3. *Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed from the List of Arbitrators within fifteen days following the decision to refer the matter to arbitration and the two arbitrators shall within fifteen days of their appointment appoint a third arbitrator from the List who shall be the Chairman.*

4. *Where no agreement is reached under paragraph three, the Secretary-General shall make the appointment within ten days and where the arbitrators fail to appoint a Chairman within the time prescribed the Secretary-General shall make the appointment within ten days.*

5. *Notwithstanding paragraphs 1, 2, 3 and 4, Member States parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator from the list who shall not be a national of a Party to the dispute.*

ARTICLE 207

Rules of Procedure of Arbitral Tribunal

1. *Subject to the relevant provisions of this Chapter, the arbitral tribunal shall establish its own rules of procedure.*

2. *The procedures shall assure a right to at least one hearing before the arbitral tribunal as well as the opportunity to provide initial and rebuttal written submissions.*

3. *The arbitral tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the arbitral tribunal, shall be confidential.*

4. *The arbitral tribunal may invite any Member State to submit views orally or in writing.*

5. *The award of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based.*

6. *Where the parties cannot agree on the interpretation or implementation of the award, either party may apply to the arbitral tribunal for a ruling within thirty days of the award. The term of the arbitral tribunal shall come to an end unless an application for a ruling has been received, in which case it shall continue for such reasonable time, not exceeding thirty days, as may be required to make the ruling.*

7. *Decisions of the arbitral tribunal shall be taken by a majority vote of its members and shall be final and binding on the Member States parties to the dispute.*

ARTICLE 208

Third Party Intervention

A Member State which is not a party to a dispute, on delivery of a notification to the parties to a dispute and to the Secretary-General, shall be entitled to attend all hearings and to receive written submissions of the parties to a dispute and may be permitted to make oral or written submissions to the arbitral tribunal.

ARTICLE 209

Additional Information from Experts

Where proceedings have commenced, the arbitral tribunal may, on its own initiative or on the request of a party to the dispute, seek information and technical advice from any expert or body that it considers appropriate, provided that the parties to the dispute so agree and subject to

such terms and conditions as the parties may agree.

ARTICLE 210
Expenses of Arbitral Tribunal

1. *The expenses of the arbitral tribunal, including the fees and subsistence allowances of arbitrators and experts engaged for the purposes of a dispute, shall be borne equally by the Member States parties to the dispute unless the arbitral tribunal, taking into account the circumstances of the case, otherwise determines.*

2. *Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.*

ARTICLE 211
Jurisdiction of the Court in Contentious Proceedings

1. *Subject to this Treaty, the Court shall have compulsory and exclusive jurisdiction to hear and determine disputes concerning the interpretation and application of the Treaty, including:*

- (a) disputes between the Member States parties to the Agreement;*
- (b) disputes between the Member States parties to the Agreement and the Community;*
- (c) referrals from national courts of the Member States parties to the Agreement;*
- (d) applications by persons in accordance with Article 222,*

concerning the interpretation and application of this Treaty.

2. *For the purpose of this Chapter, “national courts” includes the Eastern Caribbean Supreme Court.*

ARTICLE 212
Advisory Opinions of the Court

1. *The Court shall have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty.*

2. *Advisory opinions shall be delivered only at the request of the Member States parties to a dispute or the Community.*

ARTICLE 213
Institution of Proceedings

Any party to a dispute may institute proceedings in accordance with the Rules of Court governing Original Jurisdiction.

ARTICLE 214
Referral to the Court

Where a national court or tribunal of a Member State is seised of an issue whose resolution involves a question concerning the interpretation or application of this Treaty, the court or tribunal concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.

ARTICLE 215
Compliance with Judgments of the Court

The Member States, Organs, Bodies of the Community, entities or persons to whom a judgment of the Court applies, shall comply with that judgment promptly.

ARTICLE 216
Compulsory Jurisdiction of the Court

1. *The Member States agree that they recognise as compulsory, ipso facto and without special agreement, the original jurisdiction of the Court referred to in Article 211.*

2. *In the event of a dispute as to whether the Court has jurisdiction, the matter shall be determined by decision of the Court.*

ARTICLE 217
Law to be Applied by the Court in the Exercise of its Original Jurisdiction

1. *The Court, in exercising its original jurisdiction under Article 211, shall apply such rules of international law as may be applicable.*

2. *The Court may not bring in a finding of non liquet on the ground of silence or obscurity of the law.*

3. *The provisions of paragraphs 1 and 2 shall not prejudice the power of the Court to decide a dispute ex aequo et bono if the parties so agree.*

ARTICLE 218
Application for Interim Measures

The Court shall have the power to prescribe, if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of either party.

ARTICLE 219
Revision of Judgments of the Court in the Exercise of its Original Jurisdiction

1. *The Court shall, in the exercise of its Original Jurisdiction, be competent to revise its judgment on an application made in that behalf.*

2. *An application for the revision of a judgment of the Court in the exercise of its original jurisdiction may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and to the party claiming revision: provided always the ignorance of that fact was not due to negligence on the part of the applicant.*

3. *Proceedings for a revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.*

4. *The Court may require previous compliance with the terms of the judgment before it admits proceedings for a revision.*

5. *The application for a revision shall be made within six months of the discovery of the*

new fact.

6. *No application for a revision may be made after the lapse of five years from the date of the judgment.*

ARTICLE 220
Rules of Court Governing Original Jurisdiction

The Rules of Court established by the President of the Court in accordance with Article XXI of the Agreement shall apply in the exercise of the original jurisdiction of the Court.

ARTICLE 221
Judgment of the Court to Constitute Stare Decisis

Judgments of the Court shall constitute legally binding precedents for parties in proceedings before the Court unless such judgments have been revised in accordance with Article 219.

ARTICLE 222
Locus Standi of Private Entities

Persons, natural or juridical, of a Contracting Party may, with the special leave of the Court, be allowed to appear as parties in proceedings before the Court where:

- (a) the Court has determined in any particular case that this Treaty intended that a right or benefit conferred by or under this Treaty on a Contracting Party shall enure to the benefit of such persons directly; and*
- (b) the persons concerned have established that such persons have been prejudiced in respect of the enjoyment of the right or benefit mentioned in paragraph (a) of this Article; and*
- (c) the Contracting Party entitled to espouse the claim in proceedings before the Court has:*
 - (i) omitted or declined to espouse the claim, or*
 - (ii) expressly agreed that the persons concerned may espouse the claim instead of the Contracting Party so entitled; and*
- (d) the Court has found that the interest of justice requires that the persons be allowed to espouse the claim.*

ARTICLE 223
Alternative Disputes Settlement

1. *The Member States shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other modes of alternative disputes settlement for the settlement of private commercial disputes among Community nationals as well as among Community nationals and nationals of third States.*

2. *Each Member State shall provide appropriate procedures in its legislation to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.*

3. *A Member State which has implemented the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the Arbitration Rules of the United Nations*

Commission on International Trade Law shall be deemed to be in compliance with the provisions of paragraph 2 of this Article.

ARTICLE 224
General Undertaking

Each Member State undertakes to employ its best endeavours to complete the constitutional and legislative procedures required for its participation in the regime establishing the Court as soon as possible.

CHAPTER TEN
GENERAL AND FINAL PROVISIONS

ARTICLE 225
Security Exceptions

Nothing in this Treaty shall be construed:

- (a) as requiring any Member State to furnish information, the disclosure of which it considers contrary to its essential security interests;*
- (b) as preventing any Member State from taking any action which it considers necessary for the protection of its essential security interests:*
 - (i) relating to the supply of services carried out directly or indirectly for the purpose of provisioning a military establishment;*
 - (ii) in time of war or other emergency in international relations; or*
- (c) as preventing any Member State from taking any action in pursuance of its obligations for the maintenance of international peace and security.*

ARTICLE 226
General Exceptions

1. Nothing in this Chapter shall be construed as preventing the adoption or enforcement by any Member State of measures:

- (a) to protect public morals or to maintain public order and safety;*
- (b) to protect human, animal or plant life or health;*
- (c) necessary to secure compliance with laws or regulations relating to customs enforcement, or to the classification, grading or marketing of goods, or to the operation of monopolies by means of state enterprises or enterprises given exclusive or special privileges;*
- (d) necessary to protect intellectual property or to prevent deceptive practices;*
- (e) relating to gold or silver;*
- (f) relating to the products of prison labour;*
- (g) relating to child labour;*
- (h) imposed for the protection of national treasures of artistic, historic or*