

also agree on five individuals that are not nationals of either Party and who shall act as Chairperson to the arbitration panel. The CARIFORUM-EC Trade and Development Committee will ensure that the list is always maintained at this level.

2. Arbitrators shall have specialised knowledge of or experience in law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the Code of Conduct annexed to the Rules of Procedures.

3. The CARIFORUM-EC Trade and Development Committee may establish an additional list of 15 individuals having a sectoral expertise in specific matters covered by this Agreement. When recourse is made to the selection procedure of Article 207, the Chairperson of the CARIFORUM-EC Trade and Development Committee may use such a sectoral list upon agreement of both Parties. The CARIFORUM-EC Trade and Development Committee shall establish an additional list of 15 individuals having an expertise in the specific matters covered by Chapters 4 and 5 of Title IV.

Article 222

Relation with WTO obligations

1. Arbitration bodies set up under this Agreement shall not adjudicate disputes on each Party or Signatory CARIFORUM States' rights and obligations under the Agreement establishing the WTO.

2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, where a Party or Signatory CARIFORUM State has, with regard to a particular measure, instituted a dispute settlement proceeding, either under Article 206(1) of this Part or under the WTO Agreement, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. For purposes of this paragraph, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party or Signatory CARIFORUM State's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

3. Nothing in this Agreement shall preclude a Party or Signatory CARIFORUM State from implementing the suspension of obligations authorised by the Dispute Settlement Body of the WTO. Nothing in the WTO Agreement shall preclude Parties from suspending benefits under this Agreement.

Article 223

Time limits

1. All time limits laid down in this Part, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or fact to which they refer.

2. Any time limit referred to in this Part may be extended by mutual agreement of the Parties.

PART IV

GENERAL EXCEPTIONS

Article 224

General exception clause

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods, services or establishment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by the EC Party, the CARIFORUM States or a Signatory CARIFORUM State of measures which:

(a) are necessary to protect public security and public morals ⁽¹⁾ or to maintain public order;

⁽¹⁾ The Parties agree that, in accordance with Chapter 5 of Title IV, measures necessary to combat child labour shall be deemed to be included within the meaning of measures necessary to protect public morals or measures necessary for the protection of health.

(b) are necessary to protect human, animal or plant life or health;

(c) are necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety;

(iv) customs enforcement; or

Article 225

Security exceptions

(v) protection of intellectual property rights;

1. Nothing in this Agreement shall be construed:

(d) relate to the importation or exportation of gold or silver;

(a) to require the EC Party or a Signatory CARIFORUM State to furnish any information the disclosure of which it considers contrary to its essential security interests;

(e) are necessary to the protection of national treasures of artistic, historic or archaeological value;

(b) to prevent the EC Party or a Signatory CARIFORUM State from taking any action which it considers necessary for the protection of its essential security interests:

(f) relate to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption of goods, domestic supply or consumption of services and on domestic investors;

(i) relating to fissionable and fusionable materials or the materials from which they are derived;

(g) relate to the products of prison labour; or

(ii) relating to economic activities carried out directly or indirectly for the purpose of supplying or provisioning a military establishment;

(h) are inconsistent with Articles 68 and 77, provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collection of direct taxes in respect of economic activities, investors or service suppliers of the EC Party or a Signatory CARIFORUM State ⁽¹⁾.

(iii) connected with the production of or trade in arms, munitions and war materials;

(iv) relating to government procurement indispensable for national security or for national defence purposes; or

(v) taken in time of war or other emergency in international relations; or

2. The provisions of Title II and of Annex IV shall not apply to the EC Party and Signatory CARIFORUM States respective social security systems or to activities in the territory of each Party, which are connected, even occasionally, with the exercise of official authority.

(c) to prevent the EC Party or a Signatory CARIFORUM State from taking any action in order to carry out obligations it has accepted for the purpose of maintaining international peace and security.

⁽¹⁾ Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by the EC Party or a Signatory CARIFORUM State under its taxation system which: (i) apply to non-resident investors and services suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the EC Party's or Signatory CARIFORUM State's territory; or (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the EC Party's or Signatory CARIFORUM State's territory; or (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or (iv) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the EC Party's or Signatory CARIFORUM State's territory; or (v) distinguish investors and service suppliers subject to tax on worldwide taxable items from other investors and service suppliers, in recognition of the difference in the nature of the tax base between them; or (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the EC Party's or Signatory CARIFORUM State's tax base. Tax terms or concepts in paragraph (h) of this provision and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the EC Party or Signatory CARIFORUM State taking the measure.

2. The CARIFORUM-EC Trade and Development Committee shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and (c) and of their termination.

Article 226

Taxation

1. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the EC Party or a Signatory CARIFORUM State from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.

2. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the

avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.

3. Nothing in this Agreement shall affect the rights and obligations of the EC Party or a Signatory CARIFORUM State under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

PART V

INSTITUTIONAL PROVISIONS

Article 227

Joint CARIFORUM-EC Council

1. A Joint CARIFORUM-EC Council is hereby established, which shall supervise the implementation of this Agreement. The Joint CARIFORUM-EC Council shall meet at ministerial level at regular intervals, not exceeding a period of two years, and extraordinarily whenever circumstances so require, if the Parties so agree.

2. Without prejudice to the functions of the Council of Ministers as defined in Article 15 of the Cotonou Agreement, the Joint CARIFORUM-EC Council shall generally be responsible for the operation and implementation of this Agreement and shall monitor the fulfilment of its objectives. It shall also examine any major issue arising within the framework of this Agreement, as well as any other bilateral, multilateral or international question of common interest and affecting trade between the Parties.

3. The Joint CARIFORUM-EC Council shall also examine proposals and recommendations from the Parties for the review of this Agreement.

Article 228

Composition and rules of procedures

1. The Joint CARIFORUM-EC Council shall be composed, on the one hand, of the members of the Council of the European Union and members of the European Commission, and, on the other hand, of the representatives of the Governments of the Signatory CARIFORUM States.

2. The CARIFORUM States shall mandate one of their representatives to act on their behalf on all matters under this Agreement for which they have agreed to act collectively.

3. The Joint CARIFORUM-EC Council shall establish its own rules of procedure.

4. The Joint CARIFORUM-EC Council shall be chaired in turn by a representative of the EC Party and by a CARIFORUM representative, in accordance with the provisions laid down in its rules of procedure. The Joint CARIFORUM-EC Council shall

provide periodic reports on the operation of this Agreement to the Council of Ministers established in accordance with Article 15 of the Cotonou Agreement.

5. Members of the Joint CARIFORUM-EC Council may arrange to be represented, in accordance with the conditions laid down in its rules of procedure.

Article 229

Decision-making powers and procedures

1. In order to attain the objectives of this Agreement, the Joint CARIFORUM-EC Council shall have the power to take decisions in respect of all matters covered by the Agreement.

2. The decisions taken shall be binding on the Parties and the Signatory CARIFORUM States, which shall take all the measures necessary to implement them in accordance with each Party's and Signatory CARIFORUM State's internal rules.

3. The Joint CARIFORUM-EC Council may also make appropriate recommendations.

4. For the matters for which Signatory CARIFORUM States agree to act collectively the Joint CARIFORUM-EC Council shall adopt decisions and recommendations by mutual agreement between the Parties. For the matters for which Signatory CARIFORUM States have not agreed to act collectively, adoption of any decision shall require the agreement of the Signatory CARIFORUM State or States concerned.

Article 230

CARIFORUM-EC Trade and Development Committee

1. The Joint CARIFORUM-EC Council shall be assisted in the performance of its duties by a CARIFORUM-EC Trade and Development Committee composed of representatives of the Parties, normally at senior officials level. The CARIFORUM States shall mandate one of their representatives to act on their behalf on all matters under this Agreement for which they have agreed to act collectively. Any Party or Signatory CARIFORUM State