

CHAPTER 4

General provisions*Article 65***List of arbitrators**

1. The Trade Committee shall, not later than three months after the provisional application of this Agreement, establish a list of 15 individuals who are willing and able to serve as arbitrators. Each of the Parties shall select five individuals to serve as arbitrators. The two Parties shall also agree on five individuals who are not nationals of either Party and who shall act as chairpersons of the arbitration panel. The Trade Committee will ensure that the list is always maintained at this level.

2. Arbitrators shall have specialised knowledge or experience of 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.

*Article 66***Relation with WTO obligations**

1. Arbitration bodies set up under this Agreement shall not arbitrate disputes on each Party's or, as the case may be, the relevant Pacific State's 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 as the case may be, the relevant Pacific State has, with regard to a particular measure, instituted a dispute settlement proceeding, either under Article 51(1) of this Agreement 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's or, as the case may be, Pacific 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 Pacific 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 67***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 to the dispute.

PART IV

INSTITUTIONAL PROVISIONS*Article 68***Trade Committee**

1. A Trade Committee is hereby established that is composed of representatives of the Parties.

2. The Trade Committee shall establish its rules of procedure and be co-chaired by a representative of the EC Party and a representative from the Pacific States. The two co-chairs shall alternate in presiding the meetings. Whoever is presiding a meeting shall be considered 'presiding co-chair' for the purposes of this Agreement until the moment in time when the next meeting commences and the role of a presiding co-chair shall be assumed by the other Party.

3. The Trade Committee shall deal with all matters necessary for the implementation of this Agreement.

4. In the performance of its functions, the Trade Committee may:

- (a) set up and oversee any special committees or bodies necessary for the implementation of this Agreement;
- (b) meet at any time agreed by the Parties;
- (c) consider any issues under this Agreement and take appropriate action in the exercise of its functions; and
- (d) take decisions or make recommendations in cases provided for in this Agreement.

5. The Trade Committee will delegate specific implementing decision-making powers to the special committees as provided for in the relevant provisions of the Agreement, in particular the Special Committee on Customs Cooperation and Rules of Origin.