



MONTSERRAT

## CHAPTER 13.10

# REVISED TREATY OF BASSETERRE ESTABLISHING THE ORGANISATION OF EASTERN CARIBBEAN STATES ECONOMIC UNION ACT

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### REVISED TREATY OF BASSETERRE ESTABLISHING THE ORGANISATION OF EASTERN CARIBBEAN STATES ECONOMIC UNION ACT

Act 6 of 2013 .. in force 1 June 2013 (S.R.O. 42/2013)

Amended by Act 8 of 2015 .. in force 4 June 2015

Page

3





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Page

3



**CHAPTER 13.10**  
**REVISED TREATY OF BASSETERRE**  
**ESTABLISHING THE ORGANISATION OF EASTERN**  
**CARIBBEAN STATES ECONOMIC UNION ACT**  
**ARRANGEMENT OF SECTIONS**

SECTION

1. Short title
2. Interpretation
3. Revised Treaty & Protocol to have force of law
4. Financial provisions for giving effect to the Revised Treaty
5. Amendment of Schedule
6. Regulations  
Schedule

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**CHAPTER 13.10**  
**REVISED TREATY OF BASSETERRE**  
**ESTABLISHING THE ORGANISATION OF EASTERN**  
**CARIBBEAN STATES ECONOMIC UNION ACT**

*(Acts 6 of 2013 and 8 of 2015)*

AN ACT TO GIVE THE FORCE OF LAW TO THE REVISED TREATY OF BASSETERRE ESTABLISHING THE ORGANISATION OF EASTERN CARIBBEAN STATES ECONOMIC UNION AND THE PROTOCOL OF THE EASTERN CARIBBEAN ECONOMIC UNION IN MONTSERRAT, AND FOR RELATED MATTERS.

**Commencement**

*[1 June 2013]*

**Short title**

**1.** This Act may be cited as the Revised Treaty of Basseterre Establishing the Organisation of Eastern Caribbean States Economic Union Act.

## Interpretation

2. In this Act—

“**Protocol**” means the Protocol to the Revised Treaty which establishes the Eastern Caribbean Economic Union;

“**Revised Treaty**” means the Revised Treaty of Basseterre Establishing the Organisation of Eastern Caribbean States Economic Union done at Gros Islet on 18 June 2010.

## Revised Treaty & Protocol to have force of law

3. (1) Subject to subsection (2), the Revised Treaty and the Protocol as set out in the Schedule shall have the force of law in Montserrat.

(2) Articles 5.3 and 14 of the Revised Treaty shall not have the force of law in Montserrat.

*(Amended by Act 8 of 2015)*

## Financial provisions for giving effect to the Revised Treaty

4. All monies required to be paid by the Government of Montserrat for the purpose of meeting the obligations of Montserrat under the Revised Treaty shall be a charge on the Consolidated Fund.

## Amendment of Schedule

5. (1) Where the Revised Treaty is amended under Article 29 of the Revised Treaty, the Governor acting on the advice of Cabinet may, by Order, amend the Schedule accordingly.

(2) An Order made under subsection (1) may contain such consequential, supplemental or ancillary provisions (including provisions amending this Act) as appear to the Governor acting on the advice of Cabinet to be necessary or expedient for the purpose of giving due effect to the amendment of the Revised Treaty.

## Regulations

6. The Governor acting on the advice of Cabinet may make regulations to give effect to the provisions of the Revised Treaty and this Act.

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**SCHEDULE**

*(Section 3)*

**REVISED TREATY OF BASSETERRE ESTABLISHING THE  
ORGANISATION OF EASTERN CARIBBEAN STATES ECONOMIC UNION**

**CONTENTS**

**PREAMBLE**

ARTICLE 1:	USE OF TERMS
ARTICLE 2:	THE ORGANISATION OF EASTERN CARIBBEAN STATES
ARTICLE 3:	MEMBERSHIP
ARTICLE 4:	PURPOSES AND FUNCTIONS OF THE ORGANISATION
ARTICLE 5:	GENERAL UNDERTAKING AS TO IMPLEMENTATION
ARTICLE 6:	INSTITUTIONS OF THE ORGANISATION
ARTICLE 7:	ORGANS OF THE ORGANISATION
ARTICLE 8:	COMPOSITION AND FUNCTIONS OF THE OECS AUTHORITY
ARTICLE 9:	COMPOSITION AND FUNCTIONS OF THE COUNCIL OF MINISTERS
ARTICLE 10:	COMPOSITION AND FUNCTIONS OF THE OECS SSEMBLY
ARTICLE 11:	COMPOSITION AND FUNCTIONS OF THE ECONOMIC AFFAIRS COUNCIL
ARTICLE 12:	THE OECS COMMISSION
ARTICLE 13:	THE DIRECTOR-GENERAL OF THE ORGANISATION
ARTICLE 14:	AREAS OF LEGISLATIVE COMPETENCE OF THE ORGANISATION
ARTICLE 15:	CO-ORDINATION AND HARMONISATION OF FOREIGN POLICY
ARTICLE 16:	EXTERNAL AUDITOR
ARTICLE 17:	THE BUDGET OF THE ORGANISATION
ARTICLE 18:	PROCEDURE FOR THE SETTLEMENT OF DISPUTES
ARTICLE 19:	PARTICIPATION IN OTHER ARRANGEMENTS
ARTICLE 20:	RELATIONS WITH OTHER INTERNATIONAL ORGANISATIONS AND OTHER COUNTRIES
ARTICLE 21:	LEGAL PERSONALITY, PRIVILEGES AND IMMUNITIES
ARTICLE 22:	HEADQUARTERS OF THE ORGANISATION
ARTICLE 23:	THE FIRST MEETING OF THE AUTHORITY UNDER THIS TREATY
ARTICLE 24:	ANNEX AND PROTOCOL
ARTICLE 25:	SIGNATURE, RATIFICATION AND ACCESSION BY MEMBER STATES
ARTICLE 26:	ENTRY INTO FORCE
ARTICLE 27:	ADMISSION TO MEMBERSHIP
ARTICLE 28:	WITHDRAWAL
ARTICLE 29:	AMENDMENTS

ARTICLE 30: REGISTRATION  
ANNEX ON SETTLEMENT OF DISPUTES

**PROTOCOL OF OECS ECONOMIC UNION**

ARTICLE 1: ECONOMIC UNION  
ARTICLE 2: OBJECTIVES  
ARTICLE 3: PRINCIPLES  
ARTICLE 4: IMPORT DUTIES  
ARTICLE 5: MARKET AREA ORIGIN FOR TARIFF PURPOSES  
ARTICLE 6: THE COMMON CUSTOMS TARIFF  
ARTICLE 7: REVENUE DUTIES AND INTERNAL TAXATION  
ARTICLE 8: EXPORT DRAWBACK  
ARTICLE 9: DUMPED AND SUBSIDISED IMPORTS  
ARTICLE 10: GOODS IN FREE CIRCULATION IN THE  
ECONOMIC UNION AREA  
ARTICLE 11: EXCLUSION FROM THIS PROTOCOL  
ARTICLE 12: MOVEMENT OF PERSONS  
ARTICLE 13: DEVELOPMENT POLICIES  
ARTICLE 14: MONETARY POLICY  
ARTICLE 15: FISCAL POLICY  
ARTICLE 16: INCOMES POLICY  
ARTICLE 17: INTERNATIONAL ECONOMIC RELATIONS  
ARTICLE 18: TRADE  
ARTICLE 19: TRANSPORT AND CIVIL AVIATION  
ARTICLE 20: AGRICULTURE  
ARTICLE 21: TOURISM  
ARTICLE 22: EDUCATION  
ARTICLE 23: HUMAN AND SOCIAL DEVELOPMENT  
ARTICLE 24: ENVIRONMENTAL SUSTAINABILITY  
ARTICLE 25: TELECOMMUNICATIONS AND INFORMATION  
TECHNOLOGIES  
ARTICLE 26: SERVICES  
ARTICLE 27: RIGHT OF ESTABLISHMENT AND FREEDOM OF  
TRADE IN SERVICES  
ARTICLE 28: THE ECONOMIC AFFAIRS COUNCIL  
ARTICLE 29: THE OECS COMMISSION  
ARTICLE 30: GENERAL CONSULTATIONS AND COMPLAINTS  
PROCEDURE  
ARTICLE 31: EXAMINING COMMITTEE  
ARTICLE 32: DIFFICULTIES IN PARTICULAR SECTORS  
ARTICLE 33: RELATIONS WITH INTERNATIONAL  
ORGANISATIONS  
ARTICLE 34: WITHDRAWAL  
ARTICLE 35: AMENDMENT



**PREAMBLE**

THE GOVERNMENTS OF THE CONTRACTING STATES,

RECALLING the links of their common history and the need to build on that history for the benefit of their peoples; RECOGNISING the progress that has been made towards their integration under the Treaty of Basseterre 1981 and the Agreement Establishing the East Caribbean Common Market;

CONVINCED that at this time it is necessary to deepen the level of integration and the pursuit of a common economic purpose which has obtained under the Treaty of Basseterre 1981 and the Agreement Establishing the East Caribbean Common Market; MINDFUL of their obligations toward the wider grouping of the CARICOM Single Market and Economy; DETERMINED to enhance the level of regional co-operation between States that are parties to the Treaty of Basseterre 1981;

**HAVE AGREED AS FOLLOWS:**

**ARTICLE 1: USE OF TERMS**

1.1 In this Treaty, unless the context requires otherwise—

“**Associate Member State**” means a State or territory that has associate membership of the Organisation under Article 3;

“**Chief Justice**” means the Chief Justice of the Eastern Caribbean Supreme Court;

“**Chief Registrar**” means the Chief Registrar of the Eastern Caribbean Supreme Court;

“**Director-General**” means the Director-General of the Organisation appointed under Article 13.1;

“**Directors**” mean appointees to the highest level of the staff of the OECS Commission below that of the Director-General;

“**Dispute Settlement Annex**” means the Annex to this Treaty entitled the Annex on Settlement of Disputes;

“**Eastern Caribbean Central Bank**” means the Eastern Caribbean Central Bank established under the Eastern Caribbean Central Bank Agreement;

“**Eastern Caribbean Central Bank Agreement**” means the Eastern Caribbean Central Bank Agreement 1983;

“**Eastern Caribbean Court of Appeal**” means the Court of Appeal of the Eastern Caribbean Supreme Court;

- “**Economic Union**” means the Eastern Caribbean Economic Union established by Article 1.1 of the Economic Union Protocol;
- “**Economic Union Protocol**” means the Protocol to this Treaty entitled the Protocol of Eastern Caribbean Economic Union;
- “**external**” means, except in Article 16, external to the group comprising Member States of the Organisation;
- “**full Member State**” means a State or territory that has full membership of the Organisation under Article 3;
- “**Member State**” means a full Member State or an Associate Member State of the Organisation;
- “**Monetary Council**” means the Monetary Council under the Eastern Caribbean Central Bank Agreement;
- “**OECS Assembly**” means the OECS Assembly established by Article 7.1(c);
- “**OECS Authority**” means the Authority of Heads of Government of the Member States of the Organisation established by Article 7.1(a);
- “**OECS Commission**” means the OECS Commission established by Article 7.1(e);
- “**OECS Secretariat**” means the Secretariat of the Organisation of Eastern Caribbean States under the Treaty of Basseterre 1981;
- “**Organisation**” means the Organisation of Eastern Caribbean States established under the Treaty of Basseterre 1981 and continued under Article 2;
- “**third countries**” or “**third States**” means countries or States, as the case may be, which are not Member States of the Organisation;
- “**Treaty of Basseterre 1981**” means the Treaty establishing the Organisation of Eastern Caribbean States done at Basseterre on 18 June 1981.

1.2 Where any office under this Treaty becomes vacant for any reason, including death, incapacity, resignation, or termination for cause, unless otherwise provided, the person or body with the right to appoint to the office may make a new appointment thereto, and that new appointment may be for a new term of office or for the remainder of the unexpired period or may be an acting appointment for such lesser period as that person or body may choose.

## ARTICLE 2: THE ORGANISATION OF EASTERN CARIBBEAN STATES

2.1 The Organisation of Eastern Caribbean States established under the Treaty of Basseterre 1981 is preserved and continued under this Treaty.

2.2 Until the coming into force of this Treaty in respect of a Member State, the provisions of the Treaty of Basseterre 1981 shall continue to apply between that Member State and any other Member State.

2.3 Upon the coming into force of this Treaty in respect of a Member State, the provisions of the Treaty of Basseterre 1981 shall cease to apply between that Member State and any other Member State which is a party to this Treaty, except to the extent that this Treaty provides for the continued application of the Treaty of Basseterre 1981.

### ARTICLE 3: MEMBERSHIP

3.1 The parties to the Treaty of Basseterre 1981 which were accorded full membership of the Organisation shall continue to be full members, and include—

- (a) Antigua and Barbuda;
- (b) The Commonwealth of Dominica;
- (c) Grenada;
- (d) Montserrat;
- (e) Saint Christopher and Nevis;
- (f) Saint Lucia; and
- (g) Saint Vincent and the Grenadines.

3.2 The parties to the Treaty of Basseterre 1981 which were accorded associate membership of the Organisation shall continue to be associate members, and include—

- (a) Anguilla; and
- (b) British Virgin Islands.

3.3 A State or Territory in the Caribbean region not party to the Treaty of Basseterre 1981 may become a full Member State or Associate Member State in accordance with Article 27. The OECS Authority shall determine the nature and extent of the rights and obligations of Associate Member States.

### ARTICLE 4: PURPOSES AND FUNCTIONS OF THE ORGANISATION

4.1 The major purposes of the Organisation shall be—

- (a) to promote co-operation among the Member States and at the regional and international levels having due regard to the Revised Treaty of Chaguaramas and the Charter of the United Nations;
- (b) to maintain unity and solidarity among the Member States and the defence of their sovereignty, territorial integrity and independence;
- (c) to assist the Member States in the realisation of their obligations and responsibilities to the international community with due regard to the role of international law as a standard of conduct in their relationship;
- (d) to seek to achieve the fullest possible harmonisation of foreign policy among the Member States, to seek to adopt wherever possible, common positions on international issues, and to establish and maintain, wherever possible, arrangements for joint overseas representation and common

services;

- (e) to establish the Economic Union as a single economic and financial space;
- (f) to be an institutional forum to discuss and facilitate constitutional, political and economic changes necessary for the successful development of Member States and their successful participation in the regional and global economies; and
- (g) to pursue the said purposes through its respective Institutions and Organs by discussion of questions of common concern for the Member States and by agreement and common action.

4.2 In achieving the purposes of the Organisation the Member States shall implement decisions of the Organisation under this Treaty and otherwise endeavour to co-ordinate, harmonise and undertake joint actions and pursue joint policies particularly in the fields of—

- (a) mutual defence and security (including police and prisons);
- (b) the judiciary and the administration of justice;
- (c) external relations including overseas representation;
- (d) international trade agreements and other external economic relations;
- (e) financial and technical assistance from external sources;
- (f) international marketing of goods and services including tourism;
- (g) external transportation and communications including civil aviation;
- (h) public administration and management;
- (i) audit;
- (j) tax administration;
- (k) regulatory and competition authorities;
- (l) education including tertiary education;
- (m) scientific, technical and cultural co-operation;
- (n) intellectual property rights;
- (o) matters relating to the sea and its resources;
- (p) telecommunications;
- (q) economic integration of the Member States through the provisions of the Economic Union Protocol;
- (r) currency and central banking;
- (s) statistics;
- (t) institutional arrangements for economic consultation and information dissemination;
- (u) social protection mechanisms;
- (v) social policy framework;
- (w) the development of arts and culture; and
- (x) such other activities calculated to further the purposes of the Organisation as the Member States may from time to time decide.

**ARTICLE 5: GENERAL UNDERTAKING AS TO IMPLEMENTATION**

5.1 Member States shall take all appropriate measures, whether general or particular, to ensure the carrying out of obligations arising out of this Treaty or resulting from decisions taken by the Institutions of the Organisation. They shall facilitate the achievement of the purposes of the Organisation.

5.2 In particular and without prejudice to the generality of the preceding paragraph, each Member State shall take all steps to secure the enactment of such legislation as is necessary to give effect to this Treaty and decisions taken thereunder.

5.3 Without prejudice to the generality of the foregoing—

- (a) a full Member State which is independent undertakes to enact the legislation necessary to—
  - (i) delegate to the Organisation the said Member State's authority to legislate in the areas of competence of the Organisation outlined in Article 14; or
  - (ii) receive Acts of the Organisation made by the OECS Authority, and Regulations and Orders made by the Council of Ministers, from the Organisation in the areas of competence of the Organisation outlined in Article 14,

with the intention that the Acts, Regulations and Orders have direct effect in the laws of the Member State;

- (b) a Member State which is not an independent State undertakes to enact legislation to provide for the reception into its law of the legislation made under this Article. The legislation—
  - (i) shall enable reception of Acts of the Organisation made by the OECS Authority, and Regulations and Orders made by the Council of Ministers, from the Organisation without the need for enactment by the Member State's Legislature either generally or on a case by case basis;
  - (ii) may make the reception of the Acts, Regulations and Orders subject to the discretion of a competent authority in the Member State.

5.4 Nothing in this Treaty requires a Member State to undertake amendments to its Constitution, and its obligations as to implementation are circumscribed accordingly.

5.5 Nothing in this Treaty requires a Member State to act prejudicially to the requirements of public participation and discussion which flow from good governance in a democratic society.

**ARTICLE 6: INSTITUTIONS OF THE ORGANISATION**

6.1 There are hereby recognised as Institutions of the Organisation—

- (a) the Eastern Caribbean Supreme Court;

- (b) the Eastern Caribbean Central Bank; and
- (c) the Eastern Caribbean Civil Aviation Authority;

provided that this Article does not impair any powers or jurisdiction of any of those Institutions.

6.2 The OECS Authority may by unanimous decision add to the list of Institutions in Article 6.1 any inter-Governmental entity whose functions relate at least to all the full Member States.

#### **ARTICLE 7: ORGANS OF THE ORGANISATION**

7.1 There are hereby established the following principal Organs through which the Organisation shall accomplish the functions entrusted to it under this Treaty—

- (a) the Authority of Heads of Government of the Member States;
- (b) the Council of Ministers;
- (c) the OECS Assembly;
- (d) the Economic Affairs Council; and
- (e) the OECS Commission.

7.2 The Organs of the Organisation shall perform the functions and act within the limits of the powers conferred upon them by or under this Treaty and by the Dispute Settlement Annex and the Economic Union Protocol. They may with the approval of the OECS Authority establish such subsidiary Organs as they deem necessary for the performance of their functions.

#### **ARTICLE 8: COMPOSITION AND FUNCTIONS OF THE OECS AUTHORITY**

8.1 The OECS Authority shall be composed of the Member States represented by their Heads of Government.

8.2 Any member of the OECS Authority may, as appropriate, designate a Minister to represent such member at any meeting of the OECS Authority.

8.3 Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the OECS Authority.

8.4 The OECS Authority shall be the supreme policy-making Organ of the Organisation. It shall be responsible for, and have the general direction and control of the performance of the functions of, the Organisation for the progressive development of the Organisation and the achievement of its purposes.

8.5 The OECS Authority shall have power to make decisions on all matters within its competence. All such decisions other than decisions on procedural matters shall require the affirmative vote of all full Member States present and voting at the meeting of the OECS Authority at which such decisions were taken, provided that such

decisions shall have no force and effect until the Heads of Government of those full Member States, if any, which were not present at that meeting, have within the consideration periods expressed either support for, or abstention in relation to, the decision. The absence of a response from any such Head of Government by the end of the relevant consideration period shall have thereafter the same effect as an abstention by that Member State from voting would have had if the Head of Government had been present at the meeting of the OECS Authority. The consideration period for a Head of Government is for this purpose the period terminating thirty days after that Head of Government has received from the OECS Commission advice of the decision in question.

8.6 Decisions on procedural matters shall be made by a majority of all full Member States present and voting at the meeting of the OECS Authority at which such decisions were taken.

8.7 For the purposes of this Treaty, the decision that a matter is a procedural matter is not a decision on procedural matters, and in the absence of a decision that the matter is procedural, the matter is deemed not to be procedural.

8.8 Decisions by the OECS Authority under the preceding paragraphs shall be binding on all Member States and on all Organs of the Organisation and effect shall be given to any such decisions provided that it is within the sovereign competence of Member States to implement them.

8.9 Reference in this Treaty to a unanimous decision of the OECS Authority means a reference to a decision taken in compliance with the preceding paragraphs, other than a decision on procedural matters, provided that—

- (a) where the OECS Authority is taking a decision in relation to the Economic Union Protocol, the reference to full Member States in the preceding paragraph shall refer only to those full Member States which are parties to the Economic Union Protocol under Article 24; and
- (b) a Member State which is in arrears in the payment of its financial contributions to the Organisation shall be deemed to be abstaining, and shall not be considered as present and voting, in all votes on matters falling for the OECS Authority's decision as long as the amount of that Member State's arrears equals or exceeds the amount of the contributions due from it for the preceding full year, save that a majority of the other Member States of the OECS Authority may permit the Member State in arrears to vote.

8.10 The OECS Authority may enact Acts of the Organisation within the sphere of the legislative competence of the Organisation under Article 14 after referring to the OECS Assembly for its report any proposal to do so. The report of the OECS Assembly is not binding on the OECS Authority.

8.11 The OECS Authority may make such recommendations and give such directives as it deems necessary for the achievement of the purposes of the Organisation and for ensuring the smooth functioning of the Organs of the

Organisation. In particular, the OECS Authority may give directives to and reverse any decision of another Organ or any officer of the Organisation, without prejudice to rights which may have accrued prior to giving such directives or reversing such decision.

8.12 The OECS Authority may establish, and designate as such, Organs of the Organisation, in addition to those specified in Article 7.1 of this Treaty, as it deems necessary for the achievement of the purposes of the Organisation.

8.13 The OECS Authority shall be the final authority for the conclusion of treaties or other international agreements on behalf of the Organisation and for entering into relationships between the Organisation and other international organizations and third countries.

8.14 Subject to the relevant provisions of this Treaty, the OECS Authority shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Organisation and shall be the final authority on questions arising in relation to the financial affairs of the Organisation.

8.15 The OECS Authority shall meet at least twice a year. It shall determine its own procedure including that for convening meetings, for the conduct of business thereat and at other times, and for the annual rotation of the office of the Chairman among its members in accordance with the principle of alphabetical order of the Member States except where otherwise agreed.

8.16 The OECS Authority shall in addition meet in extraordinary session whenever it deems necessary in accordance with the rules laid down in its rules of procedure.

#### **ARTICLE 9: COMPOSITION AND FUNCTIONS OF THE COUNCIL OF MINISTERS**

9.1 The Council of Ministers shall comprise Member States, acting through such Ministers of Government named by their Heads of Government from time to time as such Heads of Government may designate, save always that a Member State which appoints more than one Minister of Government shall remain entitled only to one vote in the Council of Ministers.

9.2 The Council of Ministers shall be responsible to the OECS Authority. It shall take appropriate action on any matters referred to it by the OECS Authority and shall have the power to make recommendations to the OECS Authority.

9.3 The Council of Ministers shall have responsibility for—

- (a) considering and reporting to the OECS Authority on recommendations of the OECS Commission for the making of Acts of the Organisation; and
- (b) considering and enacting into Organisation law regulations and other implementing instruments to give effect to the Acts of the Organisation enacted by the OECS Authority.



9.4 In discharging its functions under Article 9.3(b), the Council of Ministers shall follow any directions of the OECS Authority relating to consultation with the OECS Assembly, and may in the absence of such directions opt to undertake such consultation.

9.5 Regulations made by the Council of Ministers shall have the same binding force as the Acts of the Organisation which authorise them, provided that the question whether Regulations so made are so authorised shall be subject to judicial review.

9.6 The Council of Ministers shall have power to make decisions on all matters within its competence under this Article. All such decisions other than decisions on procedural matters shall require the affirmative vote of all full Member States present and voting at the meeting of the Council of Ministers at which such decisions were taken, provided that such decisions shall have no force and effect until the Ministers of those full Member States, if any, which were not represented at that meeting, have within the consideration periods expressed either support for, or abstention in relation to, the decision. The absence of a response from any such Minister by the end of the relevant consideration period shall have thereafter the same effect as an abstention by that Member State from voting would have had if that Member State had been represented at the meeting of the Council of Ministers. The consideration period for a Minister is for this purpose the period terminating thirty days after that Minister has received from the OECS Commission advice of the decision in question.

9.7 Decisions on procedural matters shall be made by a majority of all full Member States present and voting at the meeting of the Council of Ministers at which such decisions were taken.

9.8 Decisions by the Council of Ministers under the preceding paragraphs shall be binding on all Member States and on all Organs of the Organisation other than the OECS Authority, and effect shall be given to any such decisions provided that it is within the sovereign competence of Member States to implement them.

9.9 Reference in this Treaty to a unanimous decision of the Council of Ministers means a reference to a decision taken in compliance with the preceding paragraphs, other than a decision on procedural matters, provided that a Member State which is in arrears in the payment of its financial contributions to the Organisation shall be deemed to be abstaining, and shall not be considered as present and voting, in all votes on matters falling for the Council of Ministers' decision as long as the amount of that Member State's arrears equals or exceeds the amount of the contributions due from it for the preceding full year, save to the extent that a majority of the other Member States in the OECS Authority may permit the Member State in arrears to vote.

9.10 Subject to any directives that the OECS Authority may give and to this Treaty, the Council shall determine its own procedure, including—

- (a) the frequency of meetings;
- (b) the procedure for the conduct of business; and
- (c) the annual rotation of the office of Chairman among its members in accordance with the principle of alphabetical order of the Member States

except where otherwise agreed.

#### **ARTICLE 10: COMPOSITION AND FUNCTIONS OF THE OECS ASSEMBLY**

10.1 The OECS Assembly shall comprise Members who are representatives, as provided in this Article, of the members of the Parliament and of the members of the Legislatures of the Member States.

10.2 Each Parliament of an independent State which is a full Member State shall be entitled to elect five of its members to the OECS Assembly. Each Legislature of any other Member State shall be entitled to elect three of its members to the OECS Assembly.

10.3 For the purposes of Article 10.2—

- (a) the members of Parliament shall comprise elected government members chosen by the elected government members and elected opposition members chosen by the elected opposition members. The respective numbers of government members and opposition members shall reflect as nearly as possible the proportionate representation of government and opposition members in the selecting Parliament, provided that at least one member is chosen by the elected opposition members; and
- (b) the members of the Legislature shall include at least two elected members chosen by the elected government members and shall include one elected member chosen by the elected opposition members.

Provided that the Head of Government and the Leader of the Opposition shall be one of the government members and opposition members respectively.

Provided further that where there are no elected opposition members of Parliament or of the Legislature, the Head of State of the respective Member State shall designate one person to represent the opposition parties.

10.4 Where under Article 10.3—

- (a) the proportion calculation leaves the distribution of seats between government and opposition members uncertain; or
- (b) disagreement among government members or among opposition members gives rise to uncertainty of selection,

the uncertainty shall be resolved by the relevant Parliament or Legislature by its ordinary procedures.

10.5 The tenure of membership of the OECS Assembly shall be two years from the date of election under Article 10.2 or until the next general election for, the Parliament or Legislature, whichever period is shorter.

10.6 The OECS Assembly shall when it is first convened elect from among eligible citizens a Speaker of the OECS Assembly to preside over its deliberations, and shall

thereafter so elect whenever it is convened for the first time after the term of office of Speaker of the OECS Assembly has expired under Article 10.8. A former Speaker of the OECS Assembly who remains an eligible citizen is eligible for re-election.

10.7 The OECS Assembly shall whenever it elects a Speaker of the OECS Assembly under Article 10.6 elect also from among eligible citizens a Deputy Speaker of the OECS Assembly to preside over its deliberations in the absence of the Speaker of the OECS Assembly. A former Deputy Speaker of the OECS Assembly who remains an eligible citizen is eligible for re-election.

10.8 The term of office of the Speaker of the OECS Assembly shall run from the date of election to that office under Article 10.6 until the day preceding the date for which the OECS Assembly is convened for the first time after the expiry of two years from such date of election. The term of office of the Deputy Speaker of the OECS Assembly shall run from the date of election to that office under Article 10.7 until the day preceding the date for which the OECS Assembly is convened for the first time after the expiry of two years from such date of election.

10.9 Where, before the expiry of the term of office under Article 10.8, a vacancy in the office of Speaker of the OECS Assembly or in the office of Deputy Speaker of the OECS Assembly occurs on account of death, incapacity, resignation, or termination for cause pursuant to rules and regulations under Article 10.10, the OECS Assembly shall, when it is next convened, elect an eligible citizen to serve for any unexpired period of the term of office.

10.10 The terms and conditions of service of the Speaker of the OECS Assembly and of the Deputy Speaker of the OECS Assembly and the expense allowances to be paid to Members of the OECS Assembly shall be governed by such rules and regulations as are approved by the OECS Authority, which rules and regulations may allocate the relevant cost among the Member States of the Organisation.

10.11 An eligible citizen for the purpose of this Article is a citizen or a belonger of a Member State who is not disqualified from election to Parliament or the Legislature, as the case may be, in that Member State and who is not a member of the Parliament or Legislature of any Member State.

10.12 The Director-General shall appoint under Article 13.4 a Clerk to the OECS Assembly and such other members of staff as may, in the opinion of the Director-General, be required to assist the Speaker of the OECS Assembly, the Deputy Speaker of the OECS Assembly and the Clerk to the OECS Assembly in relation to the functioning of the OECS Assembly.

10.13 The OECS Assembly shall, within such time period as the OECS Authority may prescribe, consider and report—

- (a) to the OECS Authority—
  - (i) on any proposal to enact an Act of the Organization under Article 8.10; and
  - (ii) on any other matter referred to the OECS Assembly by the OECS

Authority; and

- (b) to the Council of Ministers in the case of any proposal to make Regulations which has been referred to the OECS Assembly under Article 9.4.

10.14 The OECS Authority shall give directions relating to the convening of the OECS Assembly and such other aspects of the OECS Assembly's procedure as the OECS Authority considers fit. Subject to such directions, the OECS Assembly may determine its own procedure.

#### **ARTICLE 11: COMPOSITION AND FUNCTIONS OF THE ECONOMIC AFFAIRS COUNCIL**

11.1 The Economic Affairs Council shall comprise Member States, acting through such Ministers of Government named by their Heads of Government from time to time as such Heads of Government may designate, save always that a Member State which appoints more than one Minister of Government shall remain entitled only to one vote in the Economic Affairs Council.

11.2 Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Council.

11.3 The Council shall have as its functions those functions entrusted to it under the Economic Union Protocol.

11.4 The provisions of the Economic Union Protocol, to the extent that they are not incompatible with the provisions of this Treaty, shall be deemed to be incorporated in and to form an integral part of this Treaty.

11.5 Decisions of the Council shall have the same binding force as the provisions which authorise them under this Treaty and the Economic Union Protocol, provided that the question whether decisions so made are so authorised shall be subject to judicial review.

#### **ARTICLE 12: THE OECS COMMISSION**

12.1 The OECS Commission shall be the principal Organ responsible for the general administration of the Organisation.

12.2 The OECS Commission shall comprise the Director-General, who shall convene and preside at meetings of the OECS Commission, and one Commissioner of Ambassadorial rank named by each Member State. A Commissioner shall, subject to Article 15.4, represent the OECS Commission in the Member State appointing that Commissioner.

12.3 The decisions of the OECS Commission shall be taken by a simple majority vote.

12.4 The OECS Commission's functions shall include the provision of Secretariat

services to the Organs of the Organisation, including—

- (a) servicing of meetings of the Organs of the Organisation; and
- (b) taking up action on decisions, recommendations or directives approved at such meetings.

12.5 The OECS Commission shall—

- (a) make reports of activities and an annual report to the OECS Authority on the work of the Commission;
- (b) keep the functioning of the Organisation under continuous review and report the findings to the relevant Organs;
- (c) make recommendations to the OECS Authority and the Council of Ministers on the making of Acts and Regulations of the Organisation and provide drafts of such Acts and Regulations to be considered for enactment;
- (d) monitor the implementation of Acts and Regulations of the Organisation;
- (e) oversee the preparation of the draft agenda for Meetings of the OECS Authority and submit the draft agenda to the OECS Authority for its approval; and
- (f) undertake such other work and studies and perform such other services relating to the functions of Organisation as may be required under this Treaty or by the OECS Authority or by any other Organ from time to time and also make proposals relating thereto as may assist in the efficient and harmonious functioning and development of the Organisation.

### **ARTICLE 13: THE DIRECTOR-GENERAL OF THE ORGANISATION**

13.1 There shall be a Director-General of the Organisation who shall be the Chief Executive Officer of the Organisation and shall have responsibility for the day to day administration of the Organisation. The Director-General shall be appointed by the OECS Authority to serve in that capacity for a term of four (4) years and shall be eligible for re-appointment.

13.2 The Director-General shall in the performance of the Director-General's functions be responsible to the OECS Authority, to the OECS Commission, and through the OECS Commission to the Council of Ministers and to the Economic Affairs Council. The Director-General shall be responsible for the general efficiency of the OECS Commission's administrative service, for co-ordination of the activities of the Organisation and for the operation of the administrative apparatus in general. The Director-General shall similarly be responsible through the OECS Commission to any Organ established by the OECS Authority pursuant to Article 7.2 of this Treaty.

13.3 The terms and conditions of service of the Director-General and the staff of the OECS Commission shall be governed by such rules and regulations as are approved by the OECS Authority.

13.4 Subject to the provisions of this paragraph, the Director-General shall have the

discretion to appoint all staff of the OECS Commission other than Directors, who are appointed by the Director-General with the prior approval of the OECS Commission. In appointing officers to posts on the staff of the OECS Commission due regard shall be paid, subject to the paramount consideration of securing the highest standards of efficiency, competence and integrity, to the desirability of maintaining an equitable distribution of appointments to such posts among citizens and belongers of the Member States.

13.5 The Director-General shall have the responsibility to ensure that all persons found suitable for employment under Article 13.4 are duly cleared in respect of security before engagement.

13.6 In the performance of their duties the Director-General and other members of the staff of the OECS Commission shall neither seek nor accept instructions from any Government or from any other authority external to the Organisation. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organisation.

13.7 Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director-General and other members of the staff of the OECS Commission and not to seek to influence them in the discharge of their responsibilities.

13.8 The holder of the office of Director-General of the Organisation under the Treaty of Basseterre 1981 shall succeed to the office of Director-General under this Treaty and shall occupy that office for the duration of any unexpired term that would have obtained under the Treaty of Basseterre 1981.

13.9 The holder of any office or employment in the OECS Secretariat may elect to hold an equivalent office of employment in the OECS Commission on terms as if the date of assumption of the office or employment was the date of such assumption of office or employment in the OECS Secretariat.

#### **ARTICLE 14: AREAS OF LEGISLATIVE COMPETENCE OF THE ORGANISATION**

14.1 The Member States agree to accord to the Organisation under Article 5.3 and subject to Article 5.4 legislative competence in relation to—

- (a) common market including customs union;
- (b) monetary policy, the competence in this category to be exercised on the recommendation of the Monetary Council;
- (c) trade policy;
- (d) maritime jurisdiction and maritime boundaries; and
- (e) civil aviation, the competence in this category to be exercised on the recommendation of the Board of Directors of the Eastern Caribbean Civil Aviation Authority;

provided that a Member State need not take steps to repeal its laws in relation to such

matters (which laws are otherwise compatible with this Treaty) in advance of the enactment of any Act of the Organisation, but shall refrain with effect from the date of coming into force of this Treaty from enacting any new legislation in relation to such matters save with the approval of or under powers delegated by the OECS Authority.

14.2 The Member States agree to accord to the Organisation under Article 5.3 and subject to Article 5.4 legislative competence in relation to—

- (a) common commercial policy;
- (b) environmental policy; and
- (c) immigration policy;

reserving their right to legislate in relation to those matters within aspects of such policy not pre-empted by or under the authority of any Act of the Organisation.

14.3 In the areas of legislative competence of the Organisation which do not fall under Article 14.1, the Organisation shall enact Acts of the Organisation only if and in so far as the objectives of the proposed action cannot, in the opinion of the OECS Authority, be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by enacting an Act of the Organisation.

14.4 At the time of ratifying or acceding to this Treaty—

- (a) a full Member State which is not an independent State; and
- (b) an Associate Member State;

that is a party to the Treaty of Basseterre 1981, may make reservations in respect of this Article.

#### **ARTICLE 15: CO-ORDINATION AND HARMONISATION OF FOREIGN POLICY**

15.1 Unless objection is offered by the receiving States or international organisations and conferences concerned, Member States may establish and maintain arrangements for joint overseas diplomatic or other representation, including, where appropriate, the accreditation of one representative to one or more States, international organisations or conferences.

15.2 Where such objection, referred to in the preceding paragraph, is made by an international organisation or conference by virtue of its constitution or rules of procedure or for any other reason and where the Member States are members of such organisation or conference, the Director-General shall take all appropriate steps, consistent with the constitution or rules of procedure of such organisation or conference, as to ensure the optimum realisation of the benefits of their membership of such organisation or conference.

15.3 The Director-General shall have the authority and responsibility for transmitting directives of the OECS Authority on joint foreign policy matters to heads of overseas diplomatic and other missions established by the Organisation. The Director-General

shall take precedence in matters of protocol over the heads of such missions.

15.4 Heads of diplomatic or other missions of the Organisation shall be appointed in accordance with the national law of each Member State on the recommendation of the OECS Authority. Heads of diplomatic or other missions of the Organisation may at any time resign their offices by written notice to the Director-General, who shall promptly transmit any such notice to the Member States.

15.5 Subject to the preceding paragraph, the staff of such missions shall be appointed by the Director-General. In appointing such staff the Director-General shall have due regard to the provisions of Articles 13.4 to 13.5 of this Treaty. The terms and conditions of service of such staff shall, save as otherwise determined by the OECS Authority, be governed by such rules and regulations as govern the staff at the headquarters of the Organisation.

15.6 The expenses for diplomatic or other representatives referred to in paragraph 1 of this Article shall be apportioned among the Member States participating in such arrangements. The expenses for diplomatic or other representatives referred to in paragraph 4 of this Article shall be apportioned among the Member States.

#### **ARTICLE 16: EXTERNAL AUDITOR**

16.1 There shall be an External Auditor of the Organisation who shall be appointed and removed by the OECS Authority.

16.2 Subject to the provisions of the preceding paragraph the regulations governing the terms and conditions of service and powers of the External Auditor shall be approved by the OECS Authority.

#### **ARTICLE 17: THE BUDGET OF THE ORGANISATION**

17.1 There shall be established a budget of the Organisation.

17.2 All expenses of the Organisation shall be approved in respect of each financial year by the OECS Authority and shall be chargeable to the budget.

17.3 Revenues of the budget shall be derived from annual contributions by the Member States and from such other sources as may be determined by the OECS Authority.

17.4 The budget shall be in balance as to revenues and expenditures.

17.5 A draft budget for each financial year shall be prepared by the Director-General for the approval of the OECS Authority and transmitted to the OECS Authority through the OECS Commission.

17.6 A transitional budget of the Organisation for the first twelve months after this Treaty comes into force shall apply pending—

- (a) the adoption by the OECS Authority of the first budget of the Organisation



- under this Treaty and pursuant to the preceding paragraphs; or
- (b) the exercise by the OECS Authority of its powers relating to the financial arrangements of the Organisation under Article 23,

whichever first occurs.

17.7 The transitional budget of the Organisation shall equal such part of the amount budgeted for the last completed financial year under the Treaty of Basseterre 1981 as was equal to the approved contribution of the Member States of this Treaty to that budget approved for that year under the Treaty of Basseterre 1981, and the heads of approved expenditure and the allocation of expenditure among those heads shall parallel *mutatis mutandis* those approved for that year under the Treaty of Basseterre 1981.

17.8 There shall be special budgets to meet extraordinary expenditures of the Organisation.

17.9 Each Member State shall pay regularly and, subject to Article 23, in advance its annual contribution to the budget of the Organisation and pay promptly its contribution to any special budget under the preceding paragraph.

#### **ARTICLE 18: PROCEDURE FOR THE SETTLEMENT OF DISPUTES**

18.1 Any dispute that may arise regarding the interpretation and application of this Treaty shall, where parties to the dispute belong to the category of eligible parties under Article 18.5, upon the request of any of them, be amicably resolved by consultation.

18.2 If the dispute is not resolved within a waiting period of three months of the date on which the request referred to in the preceding paragraph has been made, any eligible party to the dispute may submit it to the procedures provided for in the Dispute Settlement Annex by submitting a request to that effect to the Director-General and informing the other party or parties to the dispute of the request. Where the Organisation is a party to the dispute, the functions of the Director-General under this Article shall be exercised by the Eastern Caribbean Court of Appeal through the Chief Registrar.

18.3 Any eligible party to a dispute may before the expiration of the waiting period of three months under the preceding paragraphs apply to the Eastern Caribbean Court of Appeal through the Chief Registrar for a waiver of that waiting period, and the Court may grant the application where it considers that the urgency of the matter requires such a waiver.

18.4 The Economic Union Protocol may provide for exemption from or shortening of the waiting period of three months under Article 18.2.

18.5 The eligible parties for the purpose of Article 18.1 comprise the full Member States, the Associate Member States and the Organisation.

18.6 The provisions of this Article and the Dispute Settlement Annex do not apply to proceedings commenced before the coming into force of this Treaty. Such proceedings shall be governed solely by the provisions of the Treaty of Basseterre 1981, which shall continue to apply in full force until such proceedings are completed or discontinued by the complainant Member State under that Treaty.

18.7 The budget of the Organisation shall include provision for any resources necessary to support the discharge by the Eastern Caribbean Court of Appeal of its functions under this Treaty. To the extent that such provision is insufficient to meet the requirements of the discharge of those functions, the Eastern Caribbean Court of Appeal may require the parties to any dispute before it to advance payment against the Court's estimated costs of the proceedings and may in its orders and judgments in the case allocate to the parties, in such shares as it considers just, the liability for those costs.

#### **ARTICLE 19: PARTICIPATION IN OTHER ARRANGEMENTS**

19.1 Nothing in this Treaty shall preclude any Member State from participating in other arrangements either with other Member States or non-Member States provided that its participation in such arrangements does not derogate from the provisions of this Treaty.

19.2 The rights and obligations arising from agreements concluded before the entry into force of this Treaty between Member States, or between Member States and other countries or organisations, shall not be affected by the provisions of this Treaty.

19.3 To the extent that such agreements in Article 19.2 are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common negotiating position.

#### **ARTICLE 20: RELATIONS WITH OTHER INTERNATIONAL ORGANISATIONS AND OTHER COUNTRIES**

20.1 The Organisation shall seek to establish such relations with other international organizations and other countries as may facilitate the attainment of its purposes. To this end, the Organisation may pursuant to Article 8.13 conclude formal agreements or establish effective working relationships with such organizations and Governments of other countries.

20.2 The Organisation may decide, in accordance with its rules of procedure, to admit as observers at its deliberations representatives of non-Member States or other entities.

**ARTICLE 21: LEGAL PERSONALITY, PRIVILEGES  
AND IMMUNITIES**

- 21.1 The Organisation, as an international organization, shall enjoy legal personality.
- 21.2 The Organisation shall have in the territory of each Member State—
- (a) the legal capacity required for the performance of its functions under this Treaty; and
  - (b) power to acquire, hold or dispose of real or personal, moveable or immoveable property.
- 21.3 In the exercise of its legal personality under this Article, the Organisation shall be represented by the Director-General.
- 21.4 The privileges and immunities to be granted to the members of the OECS Commission and to the senior officials of the Organisation at its headquarters and in the Member States shall be the same accorded to members of a diplomatic mission accredited at the headquarters of the Organisation and in the Member States under the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961. Similarly the privileges and immunities granted to the OECS Commission at the headquarters of the Organisation shall be the same as granted to diplomatic missions at the headquarters of the Organisation under the said Convention. Other privileges and immunities to be recognised and granted by the Member States in connection with the Organisation shall be determined by the OECS Authority.

**ARTICLE 22: HEADQUARTERS OF THE ORGANISATION**

22. The location of the headquarters of the Organisation shall be determined by the OECS Authority.

**ARTICLE 23: THE FIRST MEETING OF THE  
AUTHORITY UNDER THIS TREATY**

23. At its first meeting after the entry into force of this Treaty the OECS Authority shall review and take any decisions required relating to the financial arrangements for meeting the expenses of the Organisation and give such directions to the Organs of the Organisation as are necessary for the expeditious and effective implementation of the provisions of this Treaty.

**ARTICLE 24: ANNEX AND PROTOCOL**

- 24.1 The Dispute Settlement Annex and the Economic Union Protocol shall form an integral part of this Treaty.
- 24.2 At the time of ratifying or acceding to this Treaty—
- (a) a full Member State which is not an independent State; and
  - (b) an Associate Member State;

that is a party to the Treaty of Basseterre 1981, may make reservations in respect of the Economic Union Protocol.

24.3 Except as provided in Article 24.2, a party to this Treaty is a party to the Economic Union Protocol.

#### **ARTICLE 25: SIGNATURE, RATIFICATION AND ACCESSION BY MEMBER STATES**

25.1 This Treaty shall be open for signature to all countries specified in Articles 3.1 and 3.2 of this Treaty.

25.2 This Treaty is subject to ratification or accession by the signatories in accordance with their respective constitutional processes.

25.3 The original text of this Treaty shall be deposited with the OECS Secretariat which shall transmit certified copies thereof to all the signatories.

25.4 Instruments of ratification shall be deposited with the OECS Secretariat.

25.5 Instruments of accession shall be deposited with the OECS Commission.

#### **ARTICLE 26: ENTRY INTO FORCE**

26. This Treaty shall enter into force immediately upon receipt by the OECS Secretariat of the fourth instrument of ratification from among countries specified in Article 3.1 of this Treaty which have the status of independent States.

#### **ARTICLE 27: ADMISSION TO MEMBERSHIP**

27.1 After this Treaty has entered into force in accordance with the provisions of Article 26 thereof, any State or Territory specified in Article 3.3 of this Treaty may apply to the OECS Authority to become a Full Member or Associate Member of the Organisation and may, if the OECS Authority so decides, be admitted as such.

27.2 Unless otherwise decided by the OECS Authority, admission to membership of the Organisation shall take effect immediately upon the receipt of the instrument of accession.

27.3 Instruments of accession shall be deposited with the OECS Commission.

#### **ARTICLE 28: WITHDRAWAL**

28.1 This Treaty shall be of unlimited duration.

28.2 Any Member State may withdraw from the Organisation upon giving written notice of such withdrawal to the Director-General who shall promptly notify the other Member States and the OECS Commission. Such withdrawal shall take effect twelve months after the notice is received by the Director-General.

28.3 Any Member State which withdraws from the Organisation shall discharge its financial obligations to the Organisation and shall respect any commitments undertaken before the effective date of withdrawal.

28.4 Any Member State which withdraws from the Organisation during the period of its operation has no claim to any part of the proceeds until the liquidation of the assets of the Organisation on the termination of this Treaty, at which time it shall be entitled to the value of its assets as at the date of withdrawal.

#### **ARTICLE 29: AMENDMENTS**

29.1 Any Member State may make written proposals for the amendment of this Treaty, including the Dispute Settlement Annex, and any party to the Economic Union Protocol may make written proposals for amendments thereto.

29.2 Amendments shall be effected by a unanimous decision of the OECS Authority. Any such amendment shall come into force on the later of —

- (a) the thirtieth day following the date of its receipt—
  - (i) before the coming into force of this Treaty, by the OECS Secretariat;
  - (ii) with effect from the coming into force of this Treaty, by the OECS Commission; and
- (b) the date fixed by the OECS Authority for the amendment to come into force.

The text of any amendment shall be promptly communicated by the Director-General to the OECS Commission which shall transmit certified copies thereof to all the parties to this Treaty and shall also inform them of the date of entry into force of any such amendment.

#### **ARTICLE 30: REGISTRATION**

This Treaty and all its Protocols shall be registered by the OECS Commission with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations and shall also be registered with the Secretariat of the Caribbean Community.

**ANNEX ON SETTLEMENT OF DISPUTES**

1. The disputes mentioned in Article 18.1 of this Treaty shall be settled—
  - (a) if all eligible parties to the dispute under Article 18.5 agree, and subject to Article 30 of the Economic Union Protocol, by recourse to any of the following modes for the settlement of disputes, namely, good offices, consultation, conciliation, arbitration and adjudication; and
  - (b) failing such agreement, by adjudication by the Court of Appeal of the Eastern Caribbean Supreme Court at the request of any such eligible party.
2. Where the eligible parties to a dispute agree to resort to the use of good offices—
  - (a) they shall have recourse by agreement to such good offices of a third party, who may be an eligible party who is not a party to the dispute in question, to settle the dispute;
  - (b) the good offices may begin at any time by agreement of the eligible parties to the dispute;
  - (c) the good offices may be terminated at any time at the instance of any eligible party to the dispute; and
  - (d) subject to the procedural rules applicable in respect of conciliation, arbitration or adjudication, good offices may continue by agreement of the eligible parties during the course of such conciliation, arbitration or adjudication.
3. Consultations may be continued or reopened at any time by the agreement of the eligible parties to the dispute, but may after the expiration of the waiting period of three months be terminated at the instance of any eligible party to the dispute.
4. In relation to conciliation.
  - 4.1 A list of conciliators consisting of persons enjoying the highest reputation for fairness, competence and integrity shall be maintained by the Chief Registrar.
  - 4.2 Each Member State is entitled to nominate two persons to the list of conciliators.
  - 4.3 Other conciliators may be added at the discretion of the Chief Justice.
  - 4.4 The term of a conciliator listed by a Member State under this paragraph, including that of any conciliator nominated to fill a casual vacancy among the category of conciliators nominated by Member States, shall be five years and may be renewed. The term of any other conciliator shall be decided by the Chief Justice at the time of listing as a conciliator and may also be renewed.
  - 4.5 A conciliator whose term expires shall continue to fulfil any function for which that conciliator shall have been chosen under the following paragraphs.

4.6 Appointment as a conciliator under Annex A of the Treaty of Basseterre 1981 shall continue in force until the expiry of the term under that Treaty, and all time limits on and calculations of duration of tenure of such appointment shall be governed by the Treaty of Basseterre 1981 until there are no more continuing appointments which were made under that Treaty. A renewal of an appointment is for this purpose not a continuing appointment.

4.7 Where the eligible parties to a dispute agree to resort to conciliation, they shall notify the Director-General, who shall subject to paragraph 5.12, bring the dispute before a Conciliation Commission constituted as follows—

- (a) the Member State or Member States constituting one of the parties to the dispute shall appoint—
  - (i) one conciliator who is a citizen of that State or of one of those States and who may or may not be chosen from the list referred to in paragraph 4.1; and
  - (ii) one conciliator who is not a citizen of that State or of any of those States and who shall be chosen from the list;
- (b) the Member State or Member States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within thirty days following the date on which the Director-General received the request;
- (c) the four conciliators shall, within thirty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be Chairman;
- (d) if the appointment of the Chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Director-General within thirty days following the expiry of that period. The appointment of the Chairman may be made by the Director-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute; and
- (e) any vacancy shall be filled in the manner prescribed for the initial appointment.

4.8 The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Member State of the Organisation to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4.9 The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement of the dispute.

4.10 The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the

dispute.

4.11 The Commission shall report within six months of its constitution. Its report shall be deposited with the Director-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties.

4.12 The Director-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the Organisation.

5. In relation to arbitration—

5.1 A list of persons qualified for membership of an Arbitral Tribunal (hereinafter described as “**panelists**”) consisting of persons chosen strictly on the basis of impartiality, reliability and sound judgment, and who shall have expertise or experience in law, international trade, other matters covered by this Treaty, or the settlement of disputes arising under international trade agreements, shall be maintained by the Chief Registrar.

5.2 Each Member State is entitled to nominate two persons to the list of panelists.

5.3 Other panelists may be added at the discretion of the Chief Justice.

5.4 A person may be listed as a panelist notwithstanding that the person is also at any time listed as a conciliator.

5.5 The term of a panelist nominated by a Member State under this paragraph, including that of any panelist nominated to fill a casual vacancy, shall be five years and may be renewed. The term of office of other panelists shall be decided by the Chief Justice at the time of appointment as a panelist and may also be renewed.

5.6 A panelist whose term expires shall continue to fulfil any function for which that panelist shall have been chosen under the following paragraphs.

5.7 Where the eligible parties to a dispute agree to resort to arbitration, they shall notify the Director-General, who shall subject to paragraph 5.12 bring the dispute before an Arbitral Tribunal constituted as follows—

- (a) each party shall appoint two members of the Tribunal from among the list of panelists;
- (b) the four panelists shall, within thirty days following the date of the last of their own appointments, appoint a fifth panelist chosen from the list, who shall be Chairman;
- (c) if the appointment of the Chairman or of any of the other members of the Arbitral Tribunal has not been made within the period prescribed above for such appointment, the appointment shall be made by the Director-General within thirty days following the expiry of that period. The appointment of the Chairman may be made by the Director-General either



from the list or from the membership of the List of Arbitrators under the Revised Treaty of Chaguaramas;

- (d) any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute; and
- (e) any vacancy shall be filled in the manner prescribed for the initial appointment.

5.8 The notification by the parties to a dispute under paragraph 5.7 of this Annex terminates the right of any such party to have recourse to adjudication of the dispute by the Eastern Caribbean Court of Appeal.

5.9 The Arbitral Tribunal shall decide its own procedure.

5.10 The Arbitral Tribunal shall report within six months of its constitution. Its report shall be deposited with the Director-General and transmitted to the parties to the dispute. The report of the Tribunal, including any conclusions stated therein regarding the facts or questions of law, shall be binding upon the parties.

5.11 The Director-General shall provide the Tribunal with such assistance and facilities as it may require. The expenses of the Tribunal shall be borne by the Organisation.

5.12 Where the Organisation is a party to the dispute under Article 18.5, the functions of the Director-General under this Annex shall be exercised by the Chief Justice through the Chief Registrar.

6. Where an eligible party to a dispute requests adjudication by the Eastern Caribbean Court of Appeal under paragraph 1(b) of this Annex, the application shall be made to the Chief Registrar.

6.1 The Court shall determine its own procedure, and to this end may make Rules of Court in the Treaty Jurisdiction of the Organisation of Eastern Caribbean States.

6.2 The Treaty Jurisdiction of the Organisation shall be additional to the other jurisdictions of the Eastern Caribbean Supreme Court and not in substitution for any other such jurisdiction.

6.3 A decision of the Eastern Caribbean Court of Appeal in the Treaty Jurisdiction of the Organisation is binding on the parties to the case, and is, without prejudice to paragraphs 6.4 to 6.9, not subject to appeal.

6.4 The Court shall, in the exercise of the Treaty Jurisdiction of the Organisation, be competent to revise its judgment on an application made in that behalf.

6.5 An application for the revision of a judgment of the Court in the exercise of the Treaty Jurisdiction of the Organisation 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.

6.6 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.

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

6.8 The application for a revision shall be made within six months of the discovery of the new fact.

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

7. The Eastern Caribbean Court of Appeal shall have as part of the Treaty Jurisdiction of the Organisation the jurisdiction to give an Advisory Opinion to the OECS Authority or any other Organ of the Organisation on any matter concerning the interpretation or application of this Treaty which that Organ may refer to it for advice. An Advisory Opinion shall not be binding on the Organ requesting the same or on any Member State.

8. The Eastern Caribbean Court of Appeal shall have as part of the Treaty Jurisdiction of the Organisation the jurisdiction to review or hear appeals from any internal body established to consider matters of dispute internal to any Organ of the Organisation.

9. The law to be applied to the settlement of disputes and in any jurisdiction of the Eastern Caribbean Court of Appeal under this Treaty is public international law, including the principles of public international law governing the application and interpretation of treaties.

10. An arbitral award or a judgment of the Eastern Caribbean Court of Appeal under this Annex may—

- (a) award monetary compensation to a complainant State;
- (b) order the party complained against to take measures to comply with that party's obligations under this Treaty;
- (c) declare the right of a complainant state to exercise any right of redress available under international law; and
- (d) in the case of a judgment of the Eastern Caribbean Court of Appeal under this Annex in a complaint against the Organisation, annul or declare void any wrongful or *ultra vires* act of an Organ of the Organisation.

## PROTOCOL OF EASTERN CARIBBEAN ECONOMIC UNION

THE GOVERNMENTS OF THE MEMBER STATES OF THE ORGANISATION OF EASTERN CARIBBEAN STATES:

DETERMINED to establish the foundation of a closer union among the peoples of the Eastern Caribbean;

RESOLVED to ensure by common action the economic and social development of their countries by eliminating the barriers which divide them;

AFFIRMING as the prerequisite to their efforts the human rights, living standards and working conditions of their people;

RECOGNISING the need for concerted action in order to guarantee steady expansion, balanced trade, fair competition and equitable distribution of gains;

CONVINCED that the establishment of an Economic Union among the Member States of the Organisation will contribute to the rapid growth of these States and to the ultimate creation of a viable economic community of Caribbean countries;

HAVE AGREED as follows:

### ARTICLE 1: ECONOMIC UNION

1.1 An Economic Union to be called the Eastern Caribbean Economic Union is hereby established.

1.2 The parties to this Protocol under Article 24 of the Treaty of Basseterre Establishing the Organisation of Eastern Caribbean States Economic Union (hereinafter referred to as “**the Principal Treaty**”) shall be the Members of the Economic Union (hereinafter referred to as “**Protocol Member States**”).

1.3 The Economic Union shall operate over the territorial jurisdictions of the Protocol Member States (which jurisdictions are hereinafter collectively referred to as “**the Economic Union Area**”).

1.4 The regime of this Protocol shall in the relations of the Protocol Member States among themselves supersede that of the Agreement Establishing the East Caribbean Common Market.

### ARTICLE 2: OBJECTIVES

2. The objectives of the Economic Union shall be closer economic relations among Protocol Member States to facilitate—

- (a) the creation of a single financial and economic space comprising Protocol Member States;

- (b) economic and social progress and cohesion which are balanced and sustainable;
- (c) harmonious development of economic activities through inter-sectoral linkages within and between Protocol Member States;
- (d) continuous economic growth and expansion through the optimal utilisation of domestic and Economic-Union-wide resources;
- (e) fair distribution of benefits throughout the Protocol Member States;
- (f) accelerated improvement in the standard of living and reduction of poverty;
- (g) increased levels of economic and social stability; and
- (h) economic growth, development and international competitiveness by the convergence and coordination of the economic policies of Protocol Member States.

### ARTICLE 3: PRINCIPLES

3. To achieve the objectives set out in Article 2, the activities of the Protocol Member States shall include under the conditions and timing set out in this Protocol—

- (a) the prohibition, as between Protocol Member States, of customs duties and of quantitative restrictions on the importation and exportation of goods, as well as of all other measures with equivalent effect;
- (b) subject to Article 32, the establishment of common customs tariffs and common commercial policies towards countries and territories not parties to this Protocol;
- (c) the abolition, as between Protocol Member States, of the obstacles to the free movement of persons, services and capital;
- (d) the progressive harmonisation of investment and development policies;
- (e) the co-ordination of monetary and financial policies;
- (f) the progressive harmonisation of taxation policies and incentive legislation;
- (g) a co-operative approach to infrastructural development especially in the fields of transport and communications, utilities, education, health, social protection, and public administration;
- (h) a common policy toward development in agriculture, manufacturing, tourism, information and communications technology, and other services;
- (i) the facilitation by the appropriate authorities, institutions and instruments of cross-border economic and financial activities between Protocol Member States;
- (j) joint negotiating stances and arrangements for negotiations between Protocol Member States and third countries or groups of countries;
- (k) a common social policy framework for national and regional development; and
- (l) a common competition policy.

#### ARTICLE 4: IMPORT DUTIES

4.1 The Economic Union shall constitute a customs union which shall cover all trade in goods eligible for Economic Union Tariff Treatment in accordance with Article 5 and which shall involve the prohibition between Protocol Member States of import duties, and the adoption of a common customs tariff in their relation with third countries.

4.2 For the purposes of this Article the term “import duties” means any tax or surtax of customs and any other charges of equivalent effect - whether fiscal, monetary or exchange - which are levied on imports, except duties notified under Article 7 and other charges which fall within that Article.

4.3 The provisions of this Article do not apply to fees and similar charges in respect of services rendered and nothing in paragraph 2 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any product neither the like of which, nor a competitive substitute for which, is produced in the importing Protocol Member State, or to extend such application to non-discriminatory internal charges on any such product.

4.4 For the purposes of paragraph 3 of this Article—

- (a) “**non-discriminatory**” means non-discriminatory as between goods eligible for Economic Union Area tariff treatment as aforesaid and goods not so eligible;
- (b) a charge shall not be deemed other than internal by reason only that it is collected at the time and place of importation.

#### ARTICLE 5: MARKET AREA ORIGIN FOR TARIFF PURPOSES

5.1 For the purposes of Article 4 goods shall be accepted as eligible for Economic Union Area tariff treatment if they are consigned from a Protocol Member State to a consignee in the importing Protocol Member State and if they meet the requirements of rules of origin under the Revised Treaty of Chaguaramas.

5.2 For the purposes of paragraph 1 of this Article the rules of origin under the Revised Treaty of Chaguaramas shall be applied *mutatis mutandis* as though under those rules the Economic Union were substituted for the Caribbean Community and the Economic Affairs Council were substituted for the Council for Trade and Economic Development.

5.3 Nothing in this Protocol shall prevent a Protocol Member State from accepting as eligible for Economic Union Area tariff treatment any imports consigned from another Protocol Member State, provided that the like imports consigned from any other Protocol Member State are accorded the same treatment.

## ARTICLE 6: THE COMMON CUSTOMS TARIFF

6. The Common Customs Tariff will be set by or under the authority of an Act of the Organisation under Article 14.1(a) of this Treaty, provided that for any period when this tariff is not set the Common External Tariff under the Revised Treaty of Chaguaramas shall be the Common Customs Tariff. Protocol Member States may not impose higher tariffs than the Common Customs Tariff.

## ARTICLE 7: REVENUE DUTIES AND INTERNAL TAXATION

7.1 Protocol Member States shall not—

- (a) apply directly or indirectly to imported goods any fiscal charges in excess of those applied directly or indirectly to like domestic goods, nor otherwise apply such charges so as to afford effective protection to like domestic goods; or
- (b) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to afford effective protection to the domestic production of goods of a different kind which are substitutable for the imported goods, which enter into direct competition with them and which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

7.2 A Protocol Member State shall notify the Economic Affairs Council of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition of collection of the charge, are not identical in relation to the imported goods, and to the like domestic goods, the Protocol Member State applying the charge considers that the charge is, or has been, consistent with sub-paragraph (a) of paragraph 1 of this Article. Each Protocol Member State shall, at the request of any other Protocol Member State, supply information about the application of paragraph 1 of this Article.

7.3 For the purposes of this Article—

“**fiscal charges**” means revenue duties, internal taxes and other internal charges on goods;

“**revenue duties**” means customs duties and other similar charges applied primarily for the purpose of raising revenue;

“**imported goods**” means goods which are accepted as being eligible for Economic Union Area tariff treatment in accordance with Article 5.

## ARTICLE 8: EXPORT DRAWBACK

8. Each Protocol Member State may refuse to accept as eligible for Economic Union Area tariff treatment goods which benefit from export drawback allowed by Protocol Member States in which the goods have undergone the processes of production which forms the basis of the claim to Economic Union Area origin. In applying this paragraph, each Protocol Member State shall accord the same treatment

to imports consigned from all other Protocol Member States.

For the purposes of this Article—

**“export drawback”** means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials:

Provided that the arrangement, expressly or in effect, allows refund or remission if certain goods or materials are exported, but not if they are retained for home use;

**“remission”** includes exemption for materials brought into free ports and other places which have similar customs privileges;

**“duties”** means—

- (a) all charges on or in connection with importation, except fiscal charges to which Article 7 applies; and
- (b) any protective element in such fiscal charges;

**“materials”** includes products, parts and components used in the production of the goods;

**“process of production”** includes the application of any operation or process, with the exception of any operation or process which consists solely of one or more of the following—

- (a) packing, wherever the packing materials may have been produced;
- (b) splitting up into lots;
- (c) sorting and grading;
- (d) marking; and
- (e) putting up into sets.

## **ARTICLE 9: DUMPED AND SUBSIDISED IMPORTS**

9.1 Nothing in this Protocol shall prevent any Protocol Member State from taking action against dumped or subsidised imports from outside the Economic Union Area consistent with any international obligations to which it is subject.

9.2 Any products which have been exported from one Protocol Member State to a consignee in another Protocol Member State and have not undergone any manufacturing process since exportation shall, when reimported into the first Protocol Member State, be admitted free of quantitative restrictions and measures with equivalent effect. They shall also be admitted free of customs duties and charges with equivalent effect, except that any allowance by way of drawback relief from duty or otherwise, given by reason of the exportation from the first Protocol Member State, may be recovered.

9.3 If any industry in any Protocol Member State is suffering or is threatened with material injury as the result of the importation of dumped or subsidised products into another Protocol Member State, the latter Protocol Member State shall, at the request of the former Protocol Member State, examine the possibility of taking, consistent with any international obligations to which it is subject, action to remedy the injury or

prevent the threatened injury.

9.4 The provisions of this Article do not affect any subsidies which a Protocol Member State would be entitled to maintain consistently with its other international obligations related to agriculture.

#### **ARTICLE 10: GOODS IN FREE CIRCULATION IN THE ECONOMIC UNION AREA**

10.1 Goods imported from outside the Economic Union Area which are in free circulation in that Area shall enjoy the privileges of goods produced within the Area under Articles 4 to 6 and 9 of this Protocol save to the extent that provision is otherwise made by Article 9.1.

10.2 Goods coming from a country outside the Economic Union Area shall be considered to be in free circulation in the Area if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in any Protocol Member State, and if those goods have not benefited from a total or partial drawback of such duties or charges.

#### **ARTICLE 11: EXCLUSION FROM THIS PROTOCOL**

11.1 The provisions of this Protocol shall subject to the following paragraphs not affect the rights and obligations under any agreements entered into by any Protocol Member State prior to the coming into force of this Protocol.

11.2 Protocol Member States shall take any steps at their disposal which are necessary to reconcile the provisions of any such agreements with the basic objectives of this Protocol.

11.3 In case of any non-observance of any provision of this Protocol by an exempted Protocol Member State, any other Protocol Member State which considers that it would enjoy any benefit under this Protocol but for such exemption only may, if no satisfactory settlement is reached between the Protocol Member States concerned, refer the matter to the Economic Affairs Council.

11.4 In the event of a reference under the preceding paragraph, the Economic Affairs Council may, by majority vote, authorise any Protocol Member State to suspend, as regards the exempted Protocol Member State, the application of such obligation under this Protocol as the Economic Affairs Council considers fit, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 31 to examine the matter, and paragraphs 2 and 5 of Article 30 shall apply *mutatis mutandis* in the case of any reference under the preceding paragraph as they apply in the case of a reference under paragraph 1 of Article 30.

11.5 All agreements under paragraph 1 of this Article shall be registered in such form as the Economic Affairs Council may, by majority vote, decide.

11.6 The Economic Affairs Council shall annually review the observance by



Protocol Member States of paragraph 2 of this Article and may from time to time, by majority vote, recommend to any of them the taking of any steps for the purpose of that paragraph.

11.7 For the purposes of this Article—

**“agreement”** means any agreement binding on any Protocol Member State in international law or under the law of the Protocol Member State;

**“exempted Protocol Member State”** means a Protocol Member State which is party to an agreement under paragraph 1 of this Article and which is relying on that agreement to justify non-observance under paragraph 3 of this Article.

### **ARTICLE 12: MOVEMENT OF PERSONS**

12.1 Freedom of movement for citizens of Protocol Member States shall be secured within the Economic Union Area.

12.2 Such freedom of movement shall entail the abolition of any discrimination based on nationality between citizens of the Protocol Member States as regards employment, remuneration and other conditions of work and employment.

12.3 Citizens of Protocol Member States shall enjoy in the Economic Union Area the rights contingent to the right of freedom of movement that are agreed by Protocol Member States.

12.4 The OECS Authority and the OECS Commission shall regularly monitor the implementation of this Article.

12.5 Notwithstanding any provisions of this Article, a Protocol Member State may, subject to the approval of the OECS Authority, regulate the movement of such citizens.

### **ARTICLE 13: DEVELOPMENT POLICIES**

13.1 Each Protocol Member State shall participate in the setting of both general and specific developmental objectives which arise from the OECS Development Strategy and OECS Development Charter.

13.2 The general objectives, which cover the five areas identified by the Authority of Heads of Government of the Member States of the Organisation of Eastern Caribbean States under the Treaty of Basseterre 1981 at that Authority’s Special Meeting of October 2002, comprising—

- (a) economic transformation;
- (b) growth;
- (c) employment;
- (d) poverty reduction; and
- (e) attainment of the appropriate levels measured by Human Development

Indices as set by the United Nations,

shall be pursued by Protocol Member States in relation to targets to be set by the OECS Authority on an annual basis.

13.3 This pursuit shall be linked to the harmonisation, consistent with the status of an Economic Union, of the following policy programme areas—

- (a) fiscal;
- (b) monetary;
- (c) trade;
- (d) international economic relations;
- (e) incomes;
- (f) structural;
- (g) social;
- (h) environmental; and
- (i) other programme areas as identified by the OECS Authority.

13.4 In further pursuit of these objectives, Protocol Member States agree to co-ordinate policies towards—

- (a) the harmonious and optimal development of the following sectors—
  - (i) agriculture;
  - (ii) manufacturing;
  - (iii) tourism;
  - (iv) services;
  - (v) construction;
  - (vi) information and communications technology;
  - (vii) education; and
  - (viii) health;
- (b) the mobilisation, development and efficient allocation of labour across the Economic Union through education and skill training arrangements, and the creation of an Economic Union wide labour market;
- (c) the development, creation and establishment of Research, Development and Management Centres within the Economic Union to facilitate the international competitiveness of industries and firms; and
- (d) the development, integration and regulation of money and capital markets within the Economic Union to optimise the mobilisation of savings and their most efficient allocation to the sectors, industries and firms which will facilitate the growth and development of the Economic Union.

**ARTICLE 14: MONETARY POLICY**

14. The monetary policy of the Economic Union shall be executed by the Monetary Council through the Eastern Caribbean Central Bank under the terms and conditions of the Eastern Caribbean Central Bank Agreement.

**ARTICLE 15: FISCAL POLICY**

15.1 Protocol Member States agree to the setting of fiscal and debt benchmarks, which shall be reported to, and published on an annual basis by, the Monetary Council.

15.2 Protocol Member States agree to the progressive harmonisation of their fiscal policies and fiscal incentives regimes.

**ARTICLE 16: INCOMES POLICY**

16. Protocol Member States agree to pursue employment income policies based on the principle of structured consultations between governments, the private sector, the trade unions and other interests. These consultations shall centre on the relationships between wages, prices, employment and productivity.

**ARTICLE 17: INTERNATIONAL ECONOMIC RELATIONS**

17. Protocol Member States agree to pursue their joint policies in the area of foreign investment and other aspects of international economic relations, generally and under the following articles, on terms and conditions which take account of the short, medium and long term advantage of the Economic Union.

**ARTICLE 18: TRADE**

18. Protocol Member States agree to establish, subject to the OECS Authority's function under Article 14.1(c) of the Principal Treaty, institutional arrangements at the Protocol Member State level to prosecute common trade policies with respect to third countries or groups of third countries in addition to such arrangements as the Economic Union Council shall establish to the same end.

**ARTICLE 19: TRANSPORT AND CIVIL AVIATION**

19.1 The objectives of this Protocol shall, subject to Article 14.1(e) of the Principal Treaty, be pursued by Protocol Member States within the framework of a common transport policy.

19.2 Within this context, each Protocol Member State shall work towards the progressive harmonisation of air and maritime transport policies, which encourage the orderly growth of the sector, particularly with respect to tourism and trade.

19.3 Common air administrative transport policies shall, wherever possible, facilitate the creation of conditions for implementing sustainable solutions, which balance the economic, social and environmental needs of Protocol Member States.

19.4 The overall objective of the air administrative transport policies shall be to ensure the provision of safe, secure, efficient and reliable air administrative transport services at reasonable cost.

19.5 The policy shall also encourage seamless inter-modal travel.

19.6 Protocol Member States agree to the implementation of uniform regulations, policies and procedures consistent with international standards and recommended practices.

19.7 Protocol Member States agree to the development of the required institutional, legal, technical, functional and administrative support for the balanced, sustainable development of the aviation sector.

19.8 The common regulation of civil aviation activities within the Economic Union will facilitate the concept of a progressively more integrated operating airspace within the context of a common air transport policy. To this end, Protocol Member States agree to the establishment of a single Economic Union Area air space based on the community of interest principle for the purpose of ensuring efficient and safe air traffic management.

19.9 For the purpose of this Article and within the framework of a single Economic Union Area air space, Protocol Member States agree to joint representation in negotiation and conclusion of air administrative services agreements with other countries.

## ARTICLE 20: AGRICULTURE

20.1 Protocol Member States recognize that agriculture in the OECS Member States has contributed and has the potential to further contribute to economic and social development. Member States agree to the development of an agriculture policy which takes into account regional and global agreements and conventions, including the St. George's Declaration and the first and eighth goals of the Millennium Development Summit and offers a strategic framework for prioritizing regional programmes that address cross border dimensions of agriculture.

20.2 Protocol Member States commit to the transformation of the agriculture sector through—

- (a) the modernization of the sector through the adoption of best practices and standards;
- (b) the setting of benchmarks for national strategies and proposed joint strategic frameworks to shape the development and integration of the sector;
- (c) the adoption of national policies which complement regional initiatives and are based on a participatory and people-oriented approach; and
- (d) the provision of a reliable mechanism for private/public sector partnerships and investments for a competitive agriculture sector.

**ARTICLE 21: TOURISM**

21.1 Each Protocol Member State shall work towards the progressive harmonisation of tourism policies. This shall involve, where advisable, the adoption of a common policy for tourism development.

21.2 The common policy on tourism development shall have as its ultimate objective the balanced growth and development of the tourism sector in the Economic Union Area.

21.3 To achieve these objectives, Protocol Member States agree to—

- (a) establish a mechanism for joint tourism marketing and promotion; and
- (b) establish modalities for greater community participation in the tourism product,

within a period of three years from the date of the entry into force of this Protocol.

**ARTICLE 22: EDUCATION**

22.1 Protocol Member States hereby commit themselves to the goal of creating fair and equitable access to inclusive education and training opportunities for all citizens. In achieving this goal Protocol Member States will endeavour to—

- (a) harmonise accreditation of educational and vocational programmes and courses, at all levels from early childhood education to tertiary level;
- (b) harmonise and standardize age-appropriate and relevant curriculum and assessments for the various learning and training institutions in order to ensure the development of essential skills and knowledge of students; and
- (c) establish a procurement service for essential, core school texts and supplies, with a view towards reducing the per unit cost.

22.2 Protocol Member States shall create an environment conducive to learning by developing, adopting and implementing education policies, standards and programmes which are based on human rights values such as universality, participation, non-discrimination, protection and equality.

22.3 Protocol Member States shall place emphasis on educational programmes which focus to the greatest extent possible on the rounded development of students, ensuring the building of essential skills and knowledge necessary for personal development, employment, responsible citizenship and equitable participation in the economic and social development of the Protocol Member States.

22.4 Protocol Member States shall adopt policies and programmes which are supportive of gender equity.

22.5 Protocol Member States shall adopt comprehensive policies and programmes which stimulate lifelong learning, creative and critical thinking, innovation, and skills building which facilitate the most effective and sustainable utilization of all the

Economic Union Area's resources for achieving equitable social and economic development.

### ARTICLE 23: HUMAN AND SOCIAL DEVELOPMENT

23.1 Each Protocol Member State shall promote sustainable social and cultural development that would ensure societies that are stable, safe and just and that are based on the promotion and protection of human rights, non-discrimination, respect for diversity, equality of opportunity, solidarity, security, and participation of all people.

To this end Protocol Member States agree to—

- (a) work towards the development and adoption of a harmonized, common policy framework for human and social development which addresses poverty reduction, gender equality, social protection, equal access to quality social services, human resource and capacity development, livelihood security and empowerment across the life cycle;
- (b) strive to achieve and surpass the international goals of eradicating extreme hunger and poverty, achieving universal primary education, promoting gender equality and empowering women, reducing child mortality, improving maternal health, combating diseases, ensuring environmental sustainability, and developing a global partnership for development;
- (c) facilitate the effective participation of all sectors of the society in the decision-making processes at community and national levels;
- (d) strengthen the capacity of Protocol Member States to monitor and assess social development policies and programmes to ensure efficiencies, effectiveness and impact of social development programmes;
- (e) conduct joint impact assessment of the various initiatives undertaken to address human and social development imperatives;
- (f) provide the enabling legislative, policy and administrative environment needed to support social relations and cohesion for children, youth, men and women in the Economic Union Area , with particular attention to the consequences and impact of the free movement of peoples on shared family responsibilities and economic stability;
- (g) pay priority attention to social integration, human security and social justice through the development of multi-disciplinary and holistic prevention and response policies to crime and violence;
- (h) promote respect for cultural expression, material and non-material, cultural rights and diversity and the significance of such for development; the rights of indigenous peoples and the cultivation of shared values to facilitate overall development and appreciation of regional integration mechanisms; and
- (i) ensure equality of access to opportunities available within the Economic Union to persons with differing abilities/living with disabilities and other vulnerable and socially excluded groups.

**ARTICLE 24: ENVIRONMENTAL SUSTAINABILITY**

24.1 Each Protocol Member State shall implement the St. George's Declaration of Principles for Environmental Sustainability in the OECS to minimize environmental vulnerability, improve environmental management and protect the region's natural (including historical and cultural) resource base for optimal social and economic benefits for Member States.

To meet those commitments, each Member State further agrees to work individually and jointly to implement shared goals for environmental management, specifically—

- (a) to build the capacity of Member States and regional institutions to guide and support processes of sustainable development;
- (b) to incorporate the objectives, perspectives, resources, knowledge and talents of all of society in environmental management;
- (c) to achieve the long-term protection and sustained productivity of the region's natural resource base and of the ecosystem services it provides; and
- (d) to ensure that natural resources contribute optimally and equitably to economic, social and cultural development.

24.2 The Member States agree to collaborate with national, regional and international institutions to assist the governments and their national partners to secure and maintain the technical, financial and human resources required to achieve the goals and targets of the Declaration.

**ARTICLE 25: TELECOMMUNICATIONS  
AND INFORMATION TECHNOLOGIES**

25.1 Each Protocol Member State shall implement policies to facilitate the promotion of competition in the telecommunications and information technologies sector through an open, transparent and harmonised regional approach.

25.2 Each Protocol Member State will promote the widest possible access to telecommunications at an affordable rate thereby ensuring that the people of the Economic Union Area share in the freedom to communicate over an efficient and modern telecommunications network.

25.3 Each Protocol Member State will implement policies to enhance capacity throughout the Economic Union Area in pursuit of the goals of economic diversification, growth and competitiveness in as balanced a manner as is possible.

**ARTICLE 26: SERVICES**

26.1 Each Protocol Member State shall work towards the progressive harmonisation of policies on the services sector. This shall involve where advisable the adoption of a common policy towards development and regulation of the services sector.

26.2 The common policy towards development and regulation of the services sector shall have as its ultimate objective the creation of a facilitative environment for

balanced growth and development of services in the Economic Union Area, as well as the establishment of appropriate regulatory frameworks to ensure optimal social outcomes in areas where monopolies or near-monopolies exist.

#### **ARTICLE 27: RIGHT OF ESTABLISHMENT AND FREEDOM OF TRADE IN SERVICES**

27.1 No Protocol Member State may impose or maintain restrictions on the freedom of establishment of nationals of a Protocol Member State in the territory of another Protocol Member State, and in particular, no restrictions other than restrictions which apply to the nationals of the Protocol Member State may be imposed or maintained on—

- (a) the establishment of agencies, branches or subsidiaries by nationals of another Protocol Member State;
- (b) the right to take up and pursue activities as self-employed persons; or
- (c) the right to set up and manage undertakings.

27.2 No Protocol Member State may impose or maintain restrictions on the provision of economic services by nationals of another Protocol Member State to persons in any other Protocol Member State which exceed restrictions on the provision of those services which apply to limit the provision of those services by the nationals of the Protocol Member State imposing the restrictions.

27.3 The Economic Affairs Council shall regularly monitor the implementation of this Article and draw attention, where appropriate, to restrictions in place in Protocol Member States which are prohibited by this Article and co-operate with those Protocol Member States in seeing to the removal of those restrictions.

#### **ARTICLE 28: THE ECONOMIC AFFAIRS COUNCIL**

28.1 The Economic Affairs Council shall be the principal organ of the Economic Union and shall be responsible for—

- (a) exercising such powers and functions as are conferred upon it by this Protocol;
- (b) supervising the application of this Protocol and keeping its operation under review; and
- (c) considering whether further action should be taken by Protocol Member States in order to promote the attainment of the objectives of the Economic Union and facilitating the establishment of closer links with other countries, groups of countries or international organizations.

28.2 The powers of implementation of the Economic Union shall be vested in the Economic Affairs Council, acting on the direction of the OECS Authority, and the Economic Affairs Council may subject to the same direction delegate to the OECS Commission such powers as it thinks fit.



28.3 In exercising its responsibility under paragraph 2 of this Article, the Economic Affairs Council may with the approval of the OECS Authority take decisions which shall be binding on all Protocol Member States and may make recommendations to Protocol Member States.

28.4 Decisions and recommendations of the Economic Affairs Council shall be made by unanimous vote of the Protocol Member States, except in so far as this Protocol provides otherwise. Decisions or recommendations of the Economic Affairs Council shall be regarded as unanimous unless any Protocol Member State casts a negative vote. A decision or recommendation of the Economic Affairs Council pursuant to any such provision as aforesaid requires the affirmative votes of not less than two-thirds of all Protocol Member States who are full Member States, and reference in any such provision to a majority shall, in relation to the Economic Affairs Council, be construed accordingly.

28.5 The OECS Authority may—

- (a) prescribe the Rules of Procedure of the Economic Affairs Council and of any bodies of the Economic Union, which may include provision that procedural questions may be decided by majority vote; and
- (b) establish the financial arrangements necessary for the administrative expenses of the Economic Union and the procedure for establishing an annual budget.

28.6 The expenses of administering the Economic Union shall, unless the OECS Authority decides otherwise under the preceding paragraph, be borne by Protocol Member States in equal shares.

#### **ARTICLE 29: THE OECS COMMISSION**

29.1 The OECS Commission shall be the principal administrative organ of the Economic Union and the Economic Affairs Council may, subject to the direction of the OECS Authority entrust it, and may set up other organs, committees and bodies and entrust them, with such functions as the Economic Affairs Council considers necessary to assist it in accomplishing its tasks. Decisions of the Economic Affairs Council pursuant to this paragraph shall be made by majority vote.

29.2 Subject to the preceding paragraph, the functions of the OECS Commission under this Protocol shall be as follows—

- (a) servicing all meetings of the Economic Affairs Council;
- (b) collection, collation, analysis and distribution of all information pertinent to the workings of the Economic Union;
- (c) co-ordinating the work of committees and other bodies established by the Economic Affairs Council and servicing their meetings; supervising the workings of this Protocol and reporting to the Economic Affairs Council all breaches of this Protocol;
- (d) reporting to the Economic Affairs Council all difficulties as they arise in

the administration of this Protocol; and

- (e) undertaking such other functions for the furtherance of this Protocol as may be assigned to it by the Economic Affairs Council from time to time.

### **ARTICLE 30: GENERAL CONSULTATIONS AND COMPLAINTS PROCEDURE**

30.1 If any Protocol Member State considers that any benefit conferred upon it by this Protocol or any objective of the Economic Union is being or may be frustrated, and if no satisfactory settlement is reached between the Protocol Member States concerned, any of those Protocol Member States may refer the matter to the Economic Affairs Council.

30.2 The Economic Affairs Council shall promptly, by majority vote, make arrangements for examining the matter. Such arrangements may include a reference to an examining committee constituted in accordance with Article 31. Before taking action under paragraph 3 of this Article, the Economic Affairs Council shall so refer the matter at the request of the Protocol Member State concerned. Protocol Member States shall furnish all information which they can make available and shall lend their assistance to establish the facts.

30.3 When considering the matter the Economic Affairs Council shall have regard to whether it has been established that an obligation under this Protocol has not been fulfilled and whether and to what extent any benefit conferred by this agreement or any objective of the Economic Union is being or may be frustrated. In the light of this consideration and of the report of any examining committee which may have been appointed, the Economic Affairs Council may, by majority vote, make to any Protocol Member State such recommendations as it considers appropriate.

30.4 If a Protocol Member State does not or is unable to comply with a recommendation made in accordance with paragraph 3 of this Article and the Council of Ministers finds, by majority vote, that an obligation under this Protocol has not been fulfilled, the Economic Affairs Council may, by majority vote, authorise any Protocol Member State to suspend as regards the Protocol Member State which has not complied with the recommendations the application of such obligations under this Protocol as the Economic Affairs Council by majority vote considers appropriate.

30.5 Any Protocol Member State may, at any time while the matter is under consideration, request the Economic Affairs Council to authorise, as a matter of urgency, interim measures to safeguard its position. If it is found by majority vote of the Economic Affairs Council that the circumstances are sufficiently serious to justify interim action, and without prejudice to any action which it may subsequently take in accordance with the preceding paragraphs of this Article, the Economic Affairs Council may, by majority vote, authorise a Protocol Member State to suspend its obligations under this Protocol to such an extent and for such a period as the Economic Affairs Council by majority vote considers appropriate.

30.6 Any party aggrieved by a decision of the Economic Affairs Council under this Article may invoke the Treaty Jurisdiction of the Eastern Caribbean Court of Appeal

under paragraph 1(b) of the Dispute Settlement Annex, without reference to the waiting period in Article 18.2 of the Principal Treaty, by bringing a complaint against the OECS Organisation and the other parties to the dispute. The authority of the Court in such proceeding shall be as extensive as if the dispute had been referred to it immediately after the waiting period without the intervention of the proceedings of the Economic Affairs Council. Neither conciliation nor arbitration under the Dispute Settlement Annex may be used to challenge the decision of the Economic Affairs Council.

### **ARTICLE 31: EXAMINING COMMITTEE**

31. The examining committee referred to in Article 30 shall consist of persons selected for their competence and integrity, who in the performance of their duties shall neither seek nor receive instructions from any State or territory or from any authority or organization other than the Economic Union. They shall be appointed, on such terms and conditions as may be decided, by majority vote of the Economic Affairs Council.

### **ARTICLE 32: DIFFICULTIES IN PARTICULAR SECTORS**

32.1 If, in a Protocol Member State—

- (a) an appreciable rise in unemployment in a particular sector of industry or region is caused by a substantial decrease in internal demand for a domestic product; and
- (b) this decrease in demand is due to an increase in imports consigned from other Protocol Member States as a result of the progressive reduction or the elimination of duties, charges and quantitative restrictions,

that Protocol Member State may, notwithstanding any other provisions of this Protocol—

- (i) limit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of twelve months which ended within twelve months of the date on which the restrictions come into force; the restrictions shall not be continued for a period longer than eighteen months, unless the Economic Affairs Council by majority vote authorises their continuance for such further period and on such conditions as the Economic Affairs Council, by majority vote, considers appropriate; and
- (ii) take such measures, either instead of or in addition to restriction of imports in accordance with sub-paragraph (i) of this paragraph, as the Economic Affairs Council may, by majority vote, authorise.

32.2 In applying measures in accordance with paragraph 1 of this Article, a Protocol Member State shall give like treatment to imports consigned from all Protocol Member States.

32.3 A Protocol Member State applying restrictions in accordance with sub-paragraph (i) of paragraph 1 of this Article shall notify them to the Economic Affairs

Council if possible before they come into force. The Economic Affairs Council may at any time consider those restrictions and may, by majority vote, make recommendations designed to moderate any damaging effect of those restrictions or to assist the Protocol Member State concerned to overcome its difficulties.

32.4 This Article shall only have effect after 30 April 1973 to any extent that the Council of Ministers of the former East Caribbean Common Market may before that date have extended the provisions of the preceding paragraphs of the Article.

### **ARTICLE 33: RELATIONS WITH INTERNATIONAL ORGANISATIONS**

33. The relationships of the Economic Union with other international organizations shall be governed by Article 20 of the Principal Treaty.

### **ARTICLE 34: WITHDRAWAL**

34.1 Any Protocol Member State other than a full Member State of the Organisation may withdraw from participation in this Protocol provided that the Government thereof gives twelve months notice in writing to the OECS Commission which shall notify the other Protocol Member States.

34.2 A full Member State of the Organisation may withdraw from participation in this Protocol only by withdrawing from the Principal Treaty under Article 28 thereof.

### **ARTICLE 35: AMENDMENT**

35. Amendment of this Protocol shall be governed by Article 29 of the Principal Treaty.

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