

Appendix

CODE OF CONDUCT FOR ARBITRATORS AND MEDIATORS

Article 1 **Definitions**

In this Code of Conduct:

- (a) 'member' or 'arbitrator' means a member of an arbitration panel established under Article 207 of the Agreement;
- (b) 'mediator' means a person who conducts a mediation in accordance with Article 205 of the Agreement;
- (c) 'candidate' means an individual whose name is on the list of arbitrators referred to in Article 221 of the Agreement and who is under consideration for selection as a member of an arbitration panel under Article 207 of the Agreement;
- (d) 'assistant' means a person who, under the terms of appointment of a member, conducts research or provides assistance to the member;
- (e) 'proceeding', unless otherwise specified, means an arbitration panel proceeding under the Agreement;
- (f) 'staff', in respect of a member, means persons under the direction and control of the member, other than assistants.

Article 2 **Responsibilities to the process**

Every candidate and member shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former members shall comply with the obligations established in Articles 6 and 7 of this Code of Conduct.

Article 3 **Disclosure obligations**

- 1. Prior to confirmation of her or his selection as a member of the arbitration panel under the Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect her or his independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters. These disclosure requirements shall not extend to the identification of matters whose relevance to the issues to be considered in the proceedings would be insignificant. They shall take into account the need to respect the personal privacy of those to whom this Code applies and shall not be so administratively burdensome as to make it impracticable for otherwise qualified persons to serve on panels.
- 2. A candidate or member shall only communicate matters concerning actual or potential violations of this Code of Conduct to the CARIFORUM-UK Trade and Development Committee for consideration by the Parties.
- 3. Once selected, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 1 and shall disclose them. The disclosure obligation is a continuing duty which requires a member to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. The member shall disclose such interests, relationships or matters by informing the CARIFORUM-UK Trade and Development Committee, in writing, for consideration by the Parties.

Article 4 **Duties of members**

- 1. Upon selection, a member shall perform her or his duties thoroughly and expeditiously throughout the course of the proceeding, and shall do so with fairness and diligence.
- 2. A member shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to any other person.
- 3. A member shall take all appropriate steps to ensure that her or his assistant and staff are aware of, and comply with, Articles 2, 3 and 7 of this Code of Conduct.
- 4. A member shall not engage in *ex parte* contacts concerning the proceeding.

Article 5

Independence and impartiality of members

1. A member shall be independent and impartial and avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
2. A member shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of her or his duties.
3. A member shall not use her or his position on the arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence her or him.
4. A member shall not allow financial, business, professional, family or social relationships or responsibilities to influence her or his conduct or judgment.
5. A member shall avoid entering into any relationship or acquiring any financial interest that is likely to affect her or his impartiality or that might reasonably create an appearance of impropriety or bias.

Article 6

Obligations of former members

All former members shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision or ruling of the arbitration panel.

Article 7

Confidentiality

1. No member or former member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.
2. A member shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with the Agreement.
3. A member or former member shall not at any time disclose the deliberations of an arbitration panel, or any member's view.

Article 8

Expenses

Each member shall keep a record and render a final account of the time devoted to the procedure and the expenses incurred.

Article 9

Mediators

The disciplines described in this Code of Conduct as applying to members or former members shall apply, *mutatis mutandis*, to mediators.