

of any of the Parties, and shall comply with the Code of Conduct annexed to the Rules of Procedures.

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

#### *Article 222*

##### **Relation with WTO obligations**

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

2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, where a Party or Signatory CARIFORUM State has, with regard to a particular measure, instituted a dispute settlement proceeding, either under Article 206(1) of this Part

or under the WTO Agreement, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. For purposes of this paragraph, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party or Signatory CARIFORUM State's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

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

#### *Article 223*

##### **Time limits**

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

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

### PART IV

#### **GENERAL EXCEPTIONS**

#### *Article 224*

##### **General exception clause**

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

- (a) are necessary to protect public security and public morals<sup>(1)</sup> or to maintain public order;
- (b) are necessary to protect human, animal or plant life or health;
- (c) are necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
  - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;
  - (ii) the protection of the privacy of individuals in

relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

- (iii) safety;
- (iv) customs enforcement; or
- (v) protection of intellectual property rights;
- (d) relate to the importation or exportation of gold or silver;
- (e) are necessary to the protection of national treasures of artistic, historic or archaeological value;
- (f) relate to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption of goods, domestic supply or consumption of services and on domestic investors;
- (g) relate to the products of prison labour; or

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

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

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

#### *Article 225*

#### **Security exceptions**

1. Nothing in this Agreement shall be construed:
  - (a) to require the United Kingdom or a Signatory CARIFORUM State to furnish any information the disclosure of which it considers contrary to its essential security interests;
  - (b) to prevent the United Kingdom or a Signatory CARIFORUM State from taking any action which it considers necessary for the protection of its essential security interests:
    - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
    - (ii) relating to economic activities carried out directly or indirectly for the purpose of supplying or provisioning a military establishment;
    - (iii) connected with the production of or trade in arms, munitions and war materials;
    - (iv) relating to government procurement indispensable for national security or for national defence purposes; or
    - (v) taken in time of war or other emergency in international relations; or
  - (c) to prevent the United Kingdom or a Signatory CARIFORUM State from taking any action in order to carry out obligations it has accepted for the purpose of maintaining international peace and security.

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

#### *Article 226*

#### **Taxation**

1. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the United Kingdom or a Signatory CARIFORUM State from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
2. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.
3. Nothing in this Agreement shall affect the rights and obligations of the United Kingdom or a Signatory CARIFORUM State under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

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