# TREATY

# ESTABLISHING THE EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY (ECTEL)

Commonwealth of Dominica

Grenada

St. Kitts and Nevis

St. Lucia

St. Vincent and the Grenadines

***ST. GEORGE'S***

***GRENADA***
***MAY 4th 2000***

# TREATY

# ESTABLISHING

# THE

# EASTERN CARIBBEAN TELECOMMUNICATIONS AUTHORITY

## PREAMBLE

The Governments of the Contracting States,

DESIROUS of creating a competitive environment for telecommunications in the Contracting States:

CONSCIOUS that the benefits of universal telecommunications services should be realised by the people of the Contracting States:

DETERMINED to provide affordable, modern, efficient, competitive, and universally available telecommunications services to the people of the Contracting States:

CONVINCED that a liberalised and competitive telecommunications sector is essential for the future economic and social development of the Contracting States:

RECOGNISING that a harmonised and co-ordinated approach by the Contracting States is required to achieve a liberalised and competitive telecommunications sector:

HAVE AGREED AS FOLLOWS:

*ARTICLE 1*

## Definitions

1. For the purposes of this Treaty,

"application" means application for a licence or frequency authorisation including a variation or renewal of a licence;

"Board" means the Board of Directors referred to in Article 8 of this Treaty;

"broadcaster" means a provider of broadcasting services;

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"broadcasting" means the transmission of radio or video programming to the public on a free, pay, subscription, or other basis, whether by cable television, terrestrial, or satellite means, or by other electronic delivery of such programming;

"Chairman" means the Chairman of ECTEL;

"class licence" means a licence issued on the same terms to each applicant of a category of users in respect of the operation of a specified type of telecommunications network or a specified type of telecommunications services or both;

"Contracting States" means the Commonwealth of Dominica, Grenada, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and The Grenadines, and any State which becomes a party to this Treaty by virtue of Article 22;

"Council" means the Council of Ministers referred to in Article 7;

"Director-General" means the Director-General of the Organisation of Eastern Caribbean States;

"directive" means a policy directive given by the Council to the Board pursuant to Article 7;

"ECTEL" means the Eastern Caribbean Telecommunications Authority established by this Treaty;

"ECTEL Fund" means the Fund established by Article 10;

"frequency authorisation" means an authorisation granted by the Minister to use radio frequencies in connection with the operation of a network or the provision of services under an individual license or class license or otherwise;

"individual licence" means a telecommunications licence issued to a particular person on terms specific to that person;

"Managing Director" means the person appointed under Article 9 to the post of managing director of ECTEL;

"Minister" means the Minister responsible for telecommunications in each Contracting State, respectively;

"Organisation" means the Organisation of the Eastern Caribbean States established by the Treaty of Basseterre, of 18th June 1981;

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"person" includes any corporation, either aggregate or sole, any partnership or association, and any undertaking, club, society, or other body of one or more persons, and any individual;

"radio-communications" means the transmission, emission or reception of signs, signals, text, images and sounds, or other intelligence of any nature by radio;

"radio equipment" means any equipment designed or used for radio-communications;

"relevant bank" means the bank approved by the Council for the conduct of ECTEL's business

"telecommunications" means any form of transmission emission, or reception of signs, signals, text images and sounds, or other intelligence of any nature by wire, radio, optical or other electromagnetic system;

"telecommunications licence" means a licence issued to a telecommunications provider for the operation of a telecommunications network or the provision of telecommunications services;

"telecommunications provider" means a person who is licensed to operate a telecommunications network or to provide telecommunications services;

"telecommunications services" means services provided by a telecommunications provider;

"tender fees" means the fees payable by an applicant for an individual licence in order to participate in an open tender procedure;

"terminal equipment" means equipment intended to be connected directly or indirectly to the network termination point of a telecommunications network in order to emit, transmit, or receive telecommunications services;

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"universal service" includes:

(a) public voice telephony to the population of a Contracting State;

(b) Internet access to the population of a Contracting State;

(c) telecommunications services to schools, hospitals and similar institutions and to the disabled and physically challenged;

(d) the promotion of telecommunications services so as to ensure that as wide a range of people as possible share in the freedom to communicate by having access to efficient and modern telecommunications at an affordable cost;

"Universal Service Fund" means the Fund established by Contracting States under Article 12.

*ARTICLE 2*

**Establishment of the Eastern Caribbean Telecommunications Authority**

By this Treaty the Contracting States establish for and among themselves the Eastern Caribbean Telecommunications Authority (hereinafter called ECTEL).

*ARTICLE 3*

**General Obligations**

1. The Contracting States undertake to put in place all appropriate measures, including the enactment of an appropriate legal and regulatory framework to promote the purposes of this Treaty, the performance of their obligations under this Treaty, the implementation of the decisions of the Council and other matters for the efficient and effective operations of ECTEL.

2. The Contracting States undertake to put in place in their respective jurisdictions a Telecommunications regulatory body to be known as the National Telecommunications Regulatory Commission which shall co-ordinate and liaise with ECTEL.

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*ARTICLE 4*

**Purposes of ECTEL**

1. The major purposes of ECTEL shall be to promote-:

(a) open entry, market liberalisation and competition in telecommunications of the Contracting States;

(b) harmonised policies on a regional level for telecommunications of the Contracting States;

(c) a universal service, so as to ensure the widest possible access to telecommunications at an affordable rate by the people of the Contracting States and to enable the people of the Contracting States to share in the freedom to communicate over an efficient and modern telecommunications network;

(d) an objective and harmonised regulatory regime in telecommunications of the Contracting States;

(e) fair pricing and the use of cost-based pricing methods by telecommunications providers in the Contracting States;

(f) fair competition practices by discouraging anti-competitive practices by telecommunications providers in the Contracting States;

(g) the introduction of advanced telecommunications technologies and an increased range of services in the Contracting States;

(h) increased penetration of telecommunications in the Contracting States;

(i) the overall development of telecommunications in the Contracting States;

(j) national consultations in the development of telecommunications.

2. To advance the purposes of ECTEL the Contracting States undertake to -:

(a) collaborate and co-ordinate with each other and with ECTEL;

(b) take all appropriate measures for ensuring implementation of the policy and recommendations of ECTEL;

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(c) meet the financial and other commitments under this Treaty to ensure the efficient operations of ECTEL.

*ARTICLE 5*

**Functions and Powers of ECTEL**

1. ECTEL's functions are to —

(a) co-ordinate with, and advise, the Contracting States on the conduct and regulation of telecommunications and ancillary matters for ensuring the purposes of this Treaty;

(b) prepare and maintain a harmonised regional radio spectrum plan;

(c) recommend a regional policy for the conduct of telecommunications, in particular in relation to universal service, interconnection, numbering and pricing, and to monitor its implementation in the Contracting States;

(d) recommend to the Contracting States the type of telecommunications networks or services which should be subject to an individual licence and class licence, respectively, and exemptions, if any;

(e) recommend to the Contracting States the type of communications networks, services and radio equipment which should be subject to frequency authorisation, and exemption, if any;

(f) prepare and recommend to the Contracting States forms, other instruments and regulations for the adoption by the Contracting States for the purpose of harmonisation of telecommunications, including application forms and other forms in respect of licences, frequency authorisations and tender documents;

(g) design and operate open tender procedures for individual licences as requested by Contracting States;

(h) review applications for individual licences submitted by a Contracting State, and to recommend applicants who satisfy the relevant technical and financial requirements for individual licences;

(i) recommend to the Contracting States terms and conditions to be included in a licence, particularly with respect to the provision of universal service;

recommend to the Contracting States matters relating to the management of frequency authorisations, including the sale, if any, by auction;

(k) monitor, in collaboration with the Contracting State, the effectiveness of the licence for the purpose of this Treaty and make the appropriate recommendation to the Contracting State including recommending suspension or revocation of the licence.

(l) recommend to the Contracting States an appropriate fee structure for licences or other matters for or in relation to the conduct or regulation of telecommunications;

(m) recommend a regional cost-based pricing regime for implementation by each Contracting State;

(n) recommend the technical standards and procedures for the approval of equipment, including radio equipment for use in the operation of telecommunications in each Contracting State;

(o) co-ordinate activities with relevant international organisations, States or other bodies or persons for the promotion and implementation of this Treaty;

(p) advise Contracting States on the management of the Universal Service Fund and make recommendations on applications for disbursements from these Funds;

(q) prepare annual reports for submission to the Council on the execution of its functions;

(r) perform such other functions as are assigned to it by resolution of the Council.

2. ECTEL shall have the power to enter into appropriate contractual and administrative arrangements as may be required for the execution of its functions.

*ARTICLE 6*

**Structure of ECTEL**

1. ECTEL shall comprise a Council of Ministers responsible for the formulation of policy for the management of telecommunications in the Contracting States to whom a Board of Directors is answerable, together with such staff as ECTEL requires for the performance of its functions under the supervision and control of a Managing Director.

2. These persons or bodies shall perform the functions and act within the limits of powers conferred upon them by or under this Treaty.

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*ARTICLE 7*

## Composition and Functions of the Council

1. The Council of Ministers shall consist of the Ministers of the Contracting States responsible for telecommunications, and the Director-General or his representative as ex-offico member.

2. The functions of the Council are to -:

   (a) promote the effective implementation of this Treaty;

   (b) promote the purposes of ECTEL;

   (c) give directives to the Board on matters arising out of this Treaty, including the generation and disbursement of revenue;

   (d) ensure that the Board is responsive to the needs of the Contracting States in the conduct of the telecommunications policy;

   (e) approve ECTEL's annual operating budget;

   (f) approve forms and procedures for the application for an individual licence;

   (g) determine, from time to time, the internal organisational structure of ECTEL;

   (h) determine the fees payable to ECTEL for the performance of its functions;

3. The Council shall meet at least once a year -:

   (a) to receive reports from the Board on the activities of the Board;

   (b) to receive reports on developments in telecommunications in the region; and,

   (c) to give directives to the Board relating to the management of telecommunications in the Contracting States and other matters in relation to the promotion of this Treaty;

The Council shall initially elect one of the Ministers to be Chairman for a period of one year and subsequently the Chairmanship shall rotate among the Ministers of Contracting States.

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5. The Council shall determine its own procedures subject to the procedures specified in Annex 1.

6. The Council may, in addition to its regular meetings, hold such other meetings as it may decide or upon a request of two of its members.

7. A quorum of the Council shall be a majority of the total number of the members of the Council and decisions shall be taken by majority vote of members present and voting. In the event of a tie, the Chairman shall have a casting vote.

8. Decisions of the Council shall be communicated in writing to the Board and shall be binding on the Board while they remain in effect.

9. Expenses for the attendance of Ministers at Council meetings shall be paid by ECTEL.

*ARTICLE 8*

**Composition and Functions of Board of Directors**

1. The Board shall consist of one member from each Contracting State to be appointed by the Minister or an alternate designated by the Minister for a term of one year.

2. The Managing Director shall be an *ex officio* member of the Board.

3. The functions of the Board are to -:

   (a) ensure effective implementation of this Treaty and policies in accordance with the directives from the Council;

   (b) make recommendations to the Council on any matter relating to telecommunications;

   (c) report to the Council on the activities of the Board and Managing Director;

   (d) devise the forms and process for the application and recommendation for an individual licence, and to ensure the transparency of the process;

   (e) recommend to the Council the internal organisational structure of ECTEL;

   (f) authorise the tender procedures and fees payable to ECTEL for applications;

   (g) determine the fees payable for the open tender process for individual licences where relevant,;

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(h) recommend directions to licensees and frequency authorisation holders in relation to non-compliance with relevant telecommunications legislation, licences, frequency authorisations and regulations;

(i) advise Contracting States on the management of the Universal Service Fund

(j) establish rules and procedures consistent with this Treaty for the management and operation of ECTEL.

(k) establish procedures for the operation of the ECTEL Fund, including receipt of revenues from the applications process and disbursements for the operations of ECTEL;

(l) ensure prompt consideration of an application for an individual licence;

(m) monitor, in conjunction with the respective National Telecommunications Regulatory Commissions, compliance with relevant telecommunications legislation, licences or frequency authorisations, and recommendations made by ECTEL by licencees and frequency authorisation holders;

(n) advise the Contracting States of any breach of telecommunications legislation, licence or frequency authorisation or recommendation of ECTEL for appropriate action.

4. The Council shall appoint the Chairman of the Board for a term of one year after which the office of Chairman may rotate annually among the Contracting States.

5. A Chairman may be appointed to serve for more than one term.

6. The Board shall meet as often as the business of ECTEL may require, and may convene special meetings at the request of a member made to the Chairman in writing.

7. The Chairman of the Board shall preside at any meeting of the Board, and in his absence or inability to act, the members present shall elect one of their number to preside over the meeting.

8. A member of the Board who is unable to attend any meeting of the Board may designate the alternate member to attend or act in his place.

The quorum of the Board at any meeting shall be a majority of the total number of members of the Board and the decisions of the Board shall be by majority vote of the members present and voting. In the event of a tie, the Chairman or the presiding member shall have the casting vote.

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10. The Managing Director shall attend all meetings of the Board, but shall not vote on any matter before the Board.

11. The Board may co-opt any other person to attend and take part in its meetings, but that person shall not vote on any matter before the Board.

12. Whenever, in the opinion of the Chairman, there arises a situation where any action requires approval of the Board, and such action cannot be postponed until the next meeting of the Board, or the action cannot await the calling of a special meeting of the Board, the Chairman shall request members to vote on the matter without a meeting such vote to be ratified at the next regular meeting of the Board.

13. Where a member of the Board has any interest, directly or indirectly, in any matter in which his private capacity conflicts with his duties as a member of the Board and which is a subject of consideration by the Board, the member shall, as soon as practicable after becoming aware of the interest in the matter, disclose his interest to the Board, and the member shall not take part in the consideration of the matter, or vote on the matter.

14. The Council may recommend to the Minister who appointed a member of the Board that the member be removed or the member's term not be renewed, in case of one or more of the following:
    (a) he is declared bankrupt;
    (b) he becomes unable, due to illness, mental or physical incapacity, to discharge the functions of his office;
    (c) he does anything that is contrary to paragraph 13 of this Article;
    (d) he is convicted of a serious criminal offence

15 The Board shall determine its own procedures subject to the procedures specified in Annex 2.

16. Expenses for the attendance of a Board member at a Board meeting, and an honorarium to be set by the Council, shall be paid by ECTEL.

*ARTICLE 9*

**Directorate**

1. The Directorate shall be responsible for the general administration of this Treaty and for the day to day management of ECTEL.

2. The Directorate shall comprise a Managing Director and such other staff as ECTEL requires.

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3. The Managing Director shall be appointed by the Council on the advice of the Board for a term of three years, subject to renewal, and on such other terms and conditions as may be specified in his instrument of appointment, except that the Board may appoint a Managing Director to act in case of a temporary vacancy.

4. The Managing Director shall be responsible for the day to day management of ECTEL, and without limiting the generality of the foregoing is responsible for -:

   (a) the efficient use and management of the resources of ECTEL;

   (b) the implementation of the directives of the Council;

   (c) the preparation for consideration and adoption by the Board, of recommendations to be made to the Council pursuant to Article 8;

   (d) recommendations for and in relation to the issue of licences and frequency authorisations;

   (e) the proper management of the ECTEL Fund;

   (f) preparing the annual operating budget of ECTEL;

   (g) entering into contracts and signing recommendations, directions, opinion and other instruments and documents on behalf of ECTEL;

   (h) carrying out such other duties as may be assigned by the Board.

5. The Managing Director may, in the discharge of his functions, delegate such of his powers as are necessary to the staff of ECTEL.

6. The Managing Director shall devote the whole of his professional time to the affairs of ECTEL, and shall not, while holding office, have any interest, directly or indirectly, in any telecommunications provider, broadcaster, telecommunications equipment manufacturer, or supplier in the jurisdiction of any Contracting State nor shall he engage in any other business, profession or employment without the prior approval of the Council.

7. The Managing Director shall be removed from office by the Council on the advice of the Board before the expiry of his term of three years if -:

   (a) he is declared bankrupt;

   (b) he becomes unable, through illness, mental or physical incapacity, to discharge the functions of his office;

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(c) he does anything that is contrary to paragraph 4 of this Article;

(d) he is convicted of a serious criminal offence;

(e) he commits serious or repeated breaches of his obligation to attend Board meetings set out in Article 8; or

(f) he fails to effectively perform his functions as Managing Director.

*ARTICLE 10*

**Budget and Financial Management of ECTEL**

1. There shall be established with a relevant bank a Fund to be known as the Eastern Caribbean Telecommunications Authority Fund (the ECTEL Fund) to be used to fund the operations of ECTEL.

2. The Managing Director shall prepare for each year the general budget and any special budgets for approval by the Board which shall then be submitted to the Council for consideration and adoption.

3. All expenses of ECTEL shall be approved in respect of each financial year by the Council and shall be chargeable to the general budget or to a special budget.

4. Revenues of ECTEL shall comprise payments made in accordance with this Treaty, including royalties received with respect to the management of the spectrum and such other revenues as the Council shall authorise.

5. To the extent that, in any year, the revenues are insufficient to meet the budget of ECTEL for that year, the deficit shall be made up by contributions by each of the Contracting States and from such other sources as may be determined by the Council.

6. Each Contracting State undertakes to pay any contribution to the budget of ECTEL, which it is required to make pursuant to in the previous paragraph of this article within sixty days of receiving a written request from ECTEL.

7. To the extent that, in any year, the revenues exceed the budget of ECTEL, the excess shall be returned to the Contracting States as directed by the Council.

8. The Council shall appoint an External Auditor to submit to it an annual audit report which includes a financial and management audit of ECTEL and the ECTEL Fund.

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*ARTICLE 11*

**Licences and Frequency Authorisations**

1. The Contracting States agree that -:

   (a) each application made in a Contracting State for an individual licence shall be submitted to ECTEL for its review and recommendation in order to ensure compliance with ECTEL's technical and financial requirements and this Treaty;

   (b) an application for a class licence in a Contracting State shall be submitted to the relevant licensing authority in the Contracting State;

   (c) an application for a licence solely for the purposes of telecommunications services in a Contracting State shall be submitted to the relevant licensing authority in the Contracting State;

   (d) an application for a frequency authorisation in a Contracting State shall be submitted to ECTEL;

   (e) ECTEL shall manage the spectrum on behalf of the Contracting States.

2. The Contracting States undertake to ensure that the following matters are taken into account in the granting of a licence:

   (a) the promotion of the objective of universal service so that the largest possible number of persons may share in the freedom to communicate over an efficient and modern telecommunications network at affordable prices;

   (b) the protection of the interests of subscribers, purchasers and other users of telecommunications services, particularly with respect to privacy;

   (c) the promotion of competition among providers of telecommunications services;

   (d) the promotion of research, development and introduction of new telecommunications services and telecommunications technology;

   (e) the encouragement of local investment in telecommunications;

   (f) the safeguarding of the public interest and national security;

   (g) the development of human resources through training and transfer of technology.

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*ARTICLE 12*

**Universal Service Fund**

1. Each Contracting State agrees to establish a Fund, within its jurisdiction , to be known as the Universal Service Fund for the purpose of promoting the widest possible access to telecommunications at an affordable cost to the people of the Contracting States.

2. The revenues of the Fund shall consist of payments made by individual licencees direct to the Fund in accordance with conditions of their licences requiring contributions to promote universal service.

3. Contracting States shall manage the Universal Service Fund taking into account the recommendations of ECTEL.

*ARTICLE 13*

**Settlement of Disputes between Licencees**

1. In the event of a dispute between licencees, a Contracting State may-

   (a) refer the matter to ECTEL for an opinion; or

   (b) with the consent of the licencees, refer the matter to ECTEL for mediation.

2. Upon receipt of a reference for an opinion from a Contracting State, ECTEL shall review the facts and the questions of law presented and, within thirty days of receipt of the reference, provide an opinion and a recommendation for the resolution of the dispute.

3. Where further information is required to provide an opinion or recommendation ECTEL shall within ten days of the receipt of the reference, request the Contracting State to supply the further information required by a date specified by ECTEL.

4. ECTEL shall, within thirty days of receiving the further information or documentation required, provide the opinion and recommendation accordingly to the Contracting State or where the information is not provided ECTEL shall provide the opinion within thirty days of the specified date.

5. Upon request of a reference for mediation ECTEL shall, in consultation with the licencees, ensure early commencement of the mediation and on conclusion provide the Contracting State and licencees with a report.

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*ARTICLE 14*

**Settlement of Disputes between Contracting States**

1. Any dispute, which may arise between Contracting States concerning the interpretation or application of this Treaty shall upon the request of one to the other be amicably, resolved by direct agreement.

2. If the parties concerned cannot reach agreement they may jointly seek the good offices of, or request mediation by, a third party including ECTEL.

3 If the dispute is not resolved within three months of the date on which the request is made under paragraphs 1 or 2, any party to the dispute may submit it to the arbitration procedure provided in Annex 3.

4. In the event of a resolution of a dispute by any of the means referred to in this Article other than in accordance with Annex 3 the costs shall be borne by the respective parties.

5. Any decision made in accordance with this article in resolution of a dispute shall be final and binding on the parties.

*ARTICLE 15*

**Relations with other International Organisations and other Countries**

1. ECTEL shall seek to establish such relations with other international organisations
and other countries as may facilitate the fulfilment of its purposes and functions.

2. ECTEL may conclude formal agreements or establish effective working relationships with such international organisations and governments of other countries.

*ARTICLE 16*

**Participation in other Arrangements**

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

2. The rights and obligations arising from agreements concluded before the entry into force of this Treaty between Contracting States or between Contracting States

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and other countries or international organisations shall not be affected by the provisions of this Treaty.

3. To the extent that such agreements are not compatible with this Treaty, each Contracting State shall take all appropriate steps to eliminate the incompatibilities established and to this end shall be assisted by other Contracting States.

*ARTICLE 17*

**Commencement of Operations of ECTEL**

1. At its first meeting after the entry into force of this Treaty the Council shall, *inter-alia-:*

   (a) ensure that members of the Board are duly appointed under Article 8;

   (b) appoint an interim Managing Director pending the appointment of a the Managing Director under Article 9;

   (c) determine the organisational structure of ECTEL in accordance with this Treaty;

   (d) make appropriate financial arrangements for meeting initial expenses for the operations of ECTEL;

   (f) issue such directives to the Board as are necessary for the expeditious and effective implementation of the provisions of this Treaty.

2. Upon the entry into force of this Treaty the Contracting States shall make counterpart payments due and owing to ECTEL in connection with the OECS Telecommunications Reform Project.

*ARTICLE 18*

**Privileges and Immunities**

1. ECTEL as an international organisation, shall enjoy legal personality.

2. ECTEL shall have in the territory of each Contracting State:

   (a) the legal capacity required for the performance of its functions under the Treaty; and

   (b) power to acquire, hold or dispose of movable or immovable property.

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3. In the exercise of its legal personality under this article, ECTEL shall be represented by the Managing Director.

4. The privileges and immunities to be granted to senior officials of ECTEL at its Headquarters and in the Contracting States shall be the same as accorded to the members of a diplomatic mission accredited at the Headquarters of ECTEL and in the Contracting States under the provisions of the Vienna Convention on Diplomatic Relations of 18th April 1961.

5. The privileges and immunities granted to ECTEL at the headquarters of ECTEL shall be the same as granted to diplomatic missions at the headquarters of ECTEL and in the Contracting States under the Vienna Convention on Diplomatic Relations of 18th April 1961. Other privileges and immunities to be recognised and granted by the Contracting States in the connection with ECTEL shall be determined by the Council.

*ARTICLE 19*

**Headquarters of ECTEL**

1. The Contracting States shall agree to the location of the Headquarters of ECTEL.

2. The Contracting States agree that the Host Government shall provide and maintain suitable accommodation for ECTEL.

*ARTICLE 20*

**Signature and Ratification**

1. This Treaty and any amendment to this Treaty shall be open for signature to the Contracting States and the countries referred to in Article 22;

2. This Treaty is subject to ratification by the signatories in accordance with their respective constitutional process.

3. Instruments of ratification of accession shall be deposited with the Secretariat of the Organisation and the Director-General of the Organisation shall notify all signatories of each such deposit.

4. The original text of this Treaty shall be deposited with the Secretariat of the Organisation , which shall transmit certified copies to all the signatories.

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*ARTICLE 21*

**Entry into force**

This Treaty shall enter into force on the deposit with the Organisation of three instruments of ratification

*ARTICLE 22*

**Admission to Membership, Accession and Adherence**

1. Any Member State or Associate Member State of the Organisation, may at any time, notify the Director-General of its intention to become a party to this Treaty.

2. The Director-General shall, on receipt of the notification, transmit a copy of it to all parties to this Treaty.

3. The date specified in the notification by the Member State or Associate State of the Organisation for its membership in ECTEL, shall be the date of its membership.

4. Any state or territory in the Caribbean region which is not a member of the Organisation may apply to become a party to this Treaty and shall be so admitted by a unanimous decision of the Contracting States. The Contracting States shall determine the nature and extent of the rights and obligations of such State or territory.

5. The Contracting States shall determine the date of membership of a State or territory, which is not a member of the Organisation.

*ARTICLE 23*

**Amendment of this Treaty**

This Treaty may be amended at any time, and the amendment shall only take effect after it is accepted by all the Contracting States, and the instruments of acceptance shall be deposited with the Secretariat of the Organisation.

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*ARTICLE 24*

**Compliance**

Contracting States which are in arrears of their contributions under this Treaty in excess of one annual payment shall, after a decision of the Council by majority vote, have their voting rights suspended for such period as the Council may determine.

*ARTICLE 25*

**Withdrawal**

1. A Contracting State may withdraw from this Treaty by giving written notice of the intended withdrawal to the Council through the Director-General, and the withdrawal shall take effect twelve months after the notice is received by the Director-General.
2. A Contracting State, which withdraws from this Treaty, shall discharge all its financial obligations arising under the treaty and shall respect any financial commitment undertaken before the effective date of withdrawal.
3. Any Contracting State which withdraws from this Treaty during the period of its operation shall have no claim to any part of the proceeds until the liquidation of the assets of ECTEL on the termination of this Treaty at which time it shall be entitled to the value of its assets at the date of withdrawal.

*ARTICLE 26*

**Termination**

1. The Heads of Government of the Contracting States may, by resolution adopted by two-thirds majority of their number, terminate the operations of ECTEL.
2. ECTEL shall, after its operations are terminated in accordance with this Article, cease all activities, except that incidental to the orderly realisation, conservation, and preservation of its assets and settlement of its obligations.
3. No distribution of the assets and properties of ECTEL shall be made to the Contracting States until all liabilities to creditors have been discharged or provided for and until the Council, by resolution adopted by two-thirds majority of its members, decide to make the distribution.
4. The net assets and properties of ECTEL, which shall remain after the settlement referred to in paragraph 3 of this Article, shall be distributed to the Contracting States in accordance with the imputed equity interest formula to be determined by the Council.

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IN WITNESS WHEREOF the undersigned have signed this Treaty on behalf of their respective Governments , at St. Georges, Grenada, this 4th day of May , 2000.

For the Government of:

Commonwealth of Dominica: .....

Grenada .....

Saint. Christopher and Nevis .....

Saint Lucia .....

Saint Vincent and The Grenadines .....

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## ANNEX 1

## PROCEDURES OF THE COUNCIL

Article 7

1. The Council shall meet at such times and at such places as the Council considers necessary or expedient for the transaction of its business.

2. The Chairman may at any time call a special meeting of the Council, and shall call a special meeting of the Council within fourteen days of receipt of a request for that purpose addressed to him in writing and signed by any two Ministers.

3.(1) The quorum of the Council at any meeting shall be a majority of the Ministers.

(2) The decisions of the Council that require unanimous consent shall not take effect until each Minister has registered his consent.

4. In the absence of the Chairman, the Members present shall elect from their number a Minister to preside at the meeting of the Council.

5. Except where applicable law or this Treaty requires otherwise, decisions of the Council shall be by majority votes of members present and voting.

6. Minutes of each meeting of the Council shall be recorded and kept by the Secretary to the Council.

7. The Council may invite any person to attend any meeting of the Council where the Council considers it necessary to do so, but that person shall not vote on a matter before the Council.

8. Subject to this Schedule, the Council may regulate its own procedure, and may delegate to any Minister power and authority to carry out on behalf of the Council such duties as the Council may determine.

9. Where a Minister has an interest, directly or indirectly, in any matter before the Council in which his private capacity conflicts with his duties as a Council member and which matter is a subject of consideration by the Council, the Minister shall, as soon as practicable after becoming aware of the interest in the matter, disclose his interest to the Chairman.

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## ANNEX 2

## PROCEDURES OF THE BOARD

Article 8

1. The Board shall meet at such times and at such places as the Board considers necessary or expedient for the transaction of its business.

2. The Chairman may at any time call a special meeting of the Board, and shall call a special meeting of the Board within fourteen days of receipt of a request for that purpose addressed to him in writing and signed by any two Ministers.

3. The quorum of the Board at any meeting shall be a majority of the Board Members.

4. In the absence of the Chairman, the Members present shall elect from their number a Board Member to preside at the meeting of the Board

5. Decisions of the Board shall be by majority votes of members present and voting.

6.(1) Minutes of each meeting of the Board shall be recorded and kept by the Secretary to the Board.

(2) A certified copy of minutes of each confirmed by the Board shall be forwarded to the members of the Council of Ministers within fourteen days after the meeting at which they were confirmed.

7. The Board may invite any person to attend any meeting of the Board where the Board considers it necessary to do so, but that person shall not vote on a matter before the Board.

8. Subject to this Schedule, the Board may regulate its own procedure, and may delegate to any Board Member power and authority to carry out on behalf of the Board such duties as the Board may determine.

9.(1) Except as provided in sub-paragraph (2) of this section, every portion of every meeting of the Board, except Special Meetings conducted telephonically, shall be open to public observation. Observation does not include participation or disruptive conduct by observers, and persons engaging in such conduct may be removed from the meeting.

(2) The Board, by majority vote, may direct that a meeting be closed to the public and information pertaining to such meeting that would otherwise

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would be publicly disclosed be withheld because the matter to be discussed involves information that —

(a) should be kept secret in the interest of national defence or foreign policy;

(b) relates solely to the internal personnel rules and practices of ECTEL;

(c) constitutes trade secrets, proprietary commercial or financial information, or other privileged or confidential information;

(d) concerns allegations against or a formal censure of any individual;

(e) constitutes information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) constitutes investigation records compiled for law enforcement purposes, or information which, if written, would be contained in such records;

(g) the premature disclosure of which would be likely to significantly frustrate implementation of ECTEL orders, recommendations, or directions; or

(h) specifically concerns ECTEL participating in an enforcement action, judicial proceeding or arbitration.

10. Notices of meetings open to the public shall be published at least one week prior to the meeting; such notices shall state the time, place and subject matter of the meeting, that the meting is open to the public.

11. ECTEL shall have an official seal, which shall be affixed to any document or instrument in accordance with a resolution of the Board, and the Managing Director or some other duly authorised person shall keep it in the safe custody at the Principal Office of ECTEL.

## ANNEX 3

## ARBITRATION PROCESS Article 14

1. A list of arbitrators consisting of qualified jurists shall be drawn up and maintained by the Managing Director of ECTEL. To this end, every Contracting State shall be invited to nominate two arbitrators, and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a casual vacancy, shall be five years and may be renewed. An arbitrator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. (a) When a request has been made to the Managing Director under Article 14, the Managing Director shall bring the dispute before an Arbitration Commission constituted as follows:

   The Contracting State or Contracting States constituting one of the parties to the dispute shall appoint:

   (i) one arbitrator who is a citizen of that Contracting State or of one of those Contracting States and who may or may not be chosen from the list referred to in paragraph 1; and
   (ii) one arbitrator who is not a citizen of that Contracting State or of any of those Contracting States and who shall be chosen from the list.

   (b) The Contracting State or Contracting States constituting the other party to the dispute shall appoint two arbitrators in the same way. The four arbitrators chosen by the parties shall be appointed within thirty days following the date on which the Managing Director received the request.

   (c) The four arbitrators shall, within thirty days following the date of the last of their own appointments, appoint a fifth arbitrator chosen from the list, who shall be chairman.

   (b) If the appointment of the Chairman or of any of the other arbitrators has not been made within the period prescribed above for such appointment, the Managing Director shall make it within thirty days following the expiry of that period. The Managing Director may make the appointment of the Chairman 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.

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(c) Any vacancy shall be filled in the manner prescribed for the initial appointment.

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

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

5. 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.

6. The Commission shall report within six months of its constitution. Its report shall be deposited with the Managing Director 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 be binding upon the parties.

7. The Managing Director shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by ECTEL.

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