

- (e) intellectual property;
- (f) public procurement;
- (g) sustainable development;
- (h) the protection of personal data.

The Parties shall adopt all appropriate measures with a view to encouraging the conclusion of a global EPA between the EC Party and West Africa before the end of 2008.

TITLE V

PREVENTION AND SETTLEMENT OF DISPUTES

CHAPTER 1

OBJECTIVE AND SCOPE

ARTICLE 45

Objective

The objective of this Title is to prevent and settle disputes which could occur between the Parties in order to reach, as far as possible, a mutually satisfactory solution.

ARTICLE 46

Scope

1. This Title shall apply to all disputes concerning the interpretation or application of this Agreement, with the exception of the provisions of Title II of the Agreement and except where specifically provided otherwise.
2. Notwithstanding paragraph 1, the procedure set out in Article 98 of the Cotonou Agreement shall apply in the event of disputes concerning the financing of cooperation on development, as specified in the Cotonou Agreement.

CHAPTER 2

CONSULTATION AND MEDIATION

ARTICLE 47

Consultations

1. The Parties shall endeavour to settle disputes covered by Article 46 by entering into consultations in good faith in order to reach a mutually satisfactory solution.
2. A Party wishing to enter into consultations does so by presenting a request in writing to the other Party with a copy to the EPA Committee, specifying the measure in question and the provisions of the Agreement with which, in its opinion, the measure fails to comply.

3. The consultations shall be initiated within 40 days of the date on which the request was submitted. They shall be considered closed within 60 days of the date on which the request was submitted unless the Parties agree to pursue them. The information exchanged during the consultations shall remain confidential.
4. In urgent situations, in particular those involving perishable or seasonal foodstuffs, the consultations shall be initiated within 15 days of the date on which the request was submitted and considered closed within 30 days of the date on which the request was submitted.
5. If the consultations are not initiated within the time-limits specified in paragraph 3 or paragraph 4, or if the consultations are closed without an agreement on a mutually satisfactory solution, the complaining Party shall have the option of requesting the creation of a special arbitration group in accordance with Article 49.

ARTICLE 48

Mediation

1. If the consultations do not lead to a mutually satisfactory solution, the Parties may, by amicable agreement, resort to a mediator. Unless the Parties decide otherwise, the terms of reference of the mediation shall be those set out in the consultation request.

2. Unless the Parties to the dispute agree on a mediator within ten days of the mediation request being submitted, the Chairperson of the EPA Committee or his/her delegate, shall choose by lot a mediator from among the individuals on the list referred to in Article 64 and who are not citizens of the Parties. The selection shall be made within 20 days of the mediation request being submitted, in the presence of a representative from each of the Parties. The mediator shall convene a meeting of the Parties at the latest 30 days after being appointed. The mediator shall receive submissions from each Party at the latest 15 days before the meeting and shall announce his/her opinion at the latest 45 days after being appointed.
3. In his/her opinion, the mediator may make recommendations on how the dispute should be settled, in accordance with the provisions in Article 53. The mediator's opinion shall not be binding.
4. The Parties may agree to modify the time-limits referred to in paragraph 2. The mediator may also decide to modify these time-limits on the request of either Party or on his/her own initiative, depending on the particular difficulties affecting the Party concerned and the complexity of the case.
5. The mediation procedures and in particular the information exchanged and the positions adopted during these procedures shall remain confidential.

CHAPTER 3

PROCEDURES FOR AND SETTLEMENT OF DISPUTES

SECTION I

Arbitration procedure

ARTICLE 49

Initiating the arbitration procedure

1. Where the Parties do not settle the dispute after having recourse to the consultations provided for in Article 47 or after engaging in the mediation referred to in Article 48, the complaining Party may request the establishment of an arbitration panel.
2. The request to establish an arbitration panel shall be addressed in writing to the Party complained against and to the EPA Committee. In its request, the complaining Party shall specify the measures in question and explain why these measures infringe the provisions of the Agreement.

ARTICLE 50

Creation of an arbitration panel

1. An arbitration panel shall be composed of three arbitrators.

2. Within ten days of the request for the establishment of an arbitration panel being submitted to the EPA Committee, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. In the event that the Parties are unable to agree on the composition of the panel within the time frame laid down in paragraph 2, either Party may request the Chairperson of the EPA Committee, or her/his delegate, to select all three members by lot from the list established under Article 64: one from among the individuals proposed by the complaining Party, one from among the individuals proposed by the Party complained against and the third from among those selected by both Parties to act as Chairperson. If the Parties have agreed on the selection of one or more of the members of the arbitration panel, the remaining member(s) shall be selected according to the same procedure.
4. The Chairperson of the EPA Committee or his/her delegate shall select the arbitrators within five days of the request referred to in paragraph 3 from either of the Parties and in the presence of a representative from each Party.
5. The date on which the arbitration panel is established shall be the date on which the three arbitrators have been selected.

ARTICLE 51

Interim report by the arbitration panel

The arbitration panel shall submit to the Parties an interim report containing both the descriptive sections and its observations and conclusions, generally within 120 days at the latest from the date on which the panel was established. In the two weeks following the presentation of the interim report by the arbitration panel, each Party shall submit to the arbitration panel remarks in writing concerning specific aspects of the report.

ARTICLE 52

Arbitration panel ruling

1. The arbitration panel shall transmit its ruling to the Parties and the EPA Committee at the latest 150 days following its establishment. If it considers that this time-limit cannot be respected, the Chairperson of the panel shall inform the Parties and the EPA Committee in writing, giving reasons for the delay and stating the date on which the Committee plans to conclude its work. The arbitration ruling should under no circumstances be delivered any later than 180 days from the date on which the arbitration panel was established.
2. In urgent situations, including those involving perishable and seasonal foodstuffs, the panel shall endeavour to deliver its ruling within 75 days of being established. Under no circumstances should it deliver its ruling any later than 90 days after being established. Within ten days of being established, the panel may deliver a preliminary ruling on whether it deems the case to be urgent.

3. Each Party may ask the arbitration panel to recommend ways in which the Party complained against could achieve compliance.

SECTION II

Achieving compliance

ARTICLE 53

Compliance with the arbitration panel ruling

Each Party shall take all necessary measures to implement the arbitration panel ruling. The Parties shall endeavour to agree on a time-limit for compliance with the ruling.

ARTICLE 54

Reasonable time-limit for compliance

1. At the latest 30 days after the Parties have been informed of the arbitration panel ruling, the Party complained against shall inform the complaining Party and the EPA Committee in writing of the time it will need to achieve compliance (hereinafter "reasonable time-limit").

2. In the event of a disagreement between the Parties regarding what constitutes a reasonable time-limit within which to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of notification by the Party complained against, send a written request to the arbitration panel asking it to determine a reasonable time-limit. This request shall be communicated simultaneously to the other Party and to the EPA Committee. The arbitration panel shall announce its decision to the Parties and to the EPA Committee within 30 days of submitting the request.
- 3 In order to determine the reasonable time-limit, the arbitration panel shall take account of the time which the Party complained against would normally need to adopt legislative or administrative measures comparable to those which the Party complained against deems necessary in order to ensure compliance. The arbitration panel may also take account of restrictions which might affect the adoption of the necessary measures by the Party complained against.
4. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for delivering a ruling shall be 45 days from the date on which the request referred to in paragraph 2 was submitted.
5. The reasonable time-limit may be extended by mutual agreement between the Parties.

ARTICLE 55

Re-examination of the measures taken to achieve compliance with the arbitration panel ruling

1. The Party complained against shall notify the other Party and the EPA Committee before the end of the reasonable time period of any measures it has taken to comply with the arbitration ruling.

2. In the event of a disagreement between the Parties concerning the compatibility of the measures notified under paragraph 1 with the provisions of this Agreement, the complaining Party may make a written request for an arbitration panel ruling on the matter. The request shall indicate the specific measures in question and explain why they are incompatible with the provisions of this Agreement. The arbitration panel shall communicate its ruling within 90 days from the date on which the request was submitted. In urgent situations, including cases in which perishable and seasonal foodstuffs are in question, the panel shall deliver its ruling within 45 days of the request being submitted.

3. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for notifying a ruling shall be 105 days from the date on which the request referred to in paragraph 2 was submitted.

ARTICLE 56

Temporary remedies in the event of non-compliance

1. If the Party complained against fails to notify measures it has taken to comply with the arbitration panel ruling before the expiry of the reasonable time-limit, or if the arbitration panel rules that the measures notified under Article 55(1) are not compatible with that Party's obligations under the provisions of Article 53, the Party complained against shall, if so requested by the complaining Party, present an offer for temporary compensation.

2. If the Parties do not agree on compensation within 30 days of the end of the reasonable time-limit or of the ruling by the arbitration panel referred to in Article 55, according to which the compliance measures which were taken are not compatible with the provisions referred to in Article 53, the complaining Party shall be authorised, after notifying the other Party, to adopt appropriate measures. By adopting such measures, the complaining Party shall endeavour to choose measures which have the least possible impact on the achievement of the objectives of this Agreement, and shall take into consideration their impact on the economy of the Party complained against.

In any case, the appropriate measures adopted pursuant to this paragraph shall not affect the provision of development assistance for Côte d'Ivoire.

3. The EC Party shall show moderation in its requests for compensation or when adopting the appropriate measures in accordance with paragraphs 1 and 2 and shall take account of the fact that the Ivorian Party is a developing country.

4. Appropriate measures or compensation are temporary and shall be applied only until the measure recognised to be in infringement of the provisions of Article 53 has been revoked or amended to bring it into line with the aforementioned provisions, or until the Parties have agreed to settle their dispute.

ARTICLE 57

Examination of the compliance measures following on from the adoption of appropriate measures

1. The Party complained against shall notify the other Party and the EPA Committee of the measures which it has taken to achieve compliance with the arbitration panel ruling, and in the notification shall ask the complaining Party to discontinue the application of the appropriate measures.

2. If the Parties do not reach an agreement on the compatibility of the notified measures with the provisions of this Agreement within 30 days of the notification being submitted, the complaining Party shall make a request in writing for the arbitration panel to rule on the matter. The request shall be notified to the other Party and to the EPA Committee. The arbitration panel shall announce its decision to the Parties and to the EPA Committee within 45 days of the request being submitted. If the arbitration group rules that any measures taken to achieve conformity do not comply with the provisions of this Agreement, it shall decide whether the complaining Party may continue to apply the appropriate measures. If the arbitration panel rules that measures taken to achieve conformity comply with the provisions of this Agreement, the appropriate measures shall be discontinued.

3. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for notifying a ruling shall be 60 days from the date on which the request referred to in paragraph 2 was submitted.

SECTION III

Common provisions

ARTICLE 58

Mutually satisfactory solution

Under this Title, the Parties may at any time agree on a mutually satisfactory solution to a dispute. They shall notify the EPA Committee of any such solution. The arbitration proceedings must be complete when a mutually satisfactory solution is adopted.

ARTICLE 59

Rules of procedure

1. The dispute settlement procedures set out in Chapter 3 shall be subject to the rules of procedure adopted by the EPA Committee three months after its establishment.
2. The meetings of the arbitration panel shall be open to the public in accordance with the rules of procedure, unless the arbitration panel decides otherwise on its own initiative or at the request of the Parties.

ARTICLE 60

General and technical information

At the request of a Party or on its own initiative, the arbitration panel may obtain information from any source, including the Parties concerned by the dispute, if it deems this to be appropriate for the arbitration proceedings. The arbitration panel shall also be authorised to obtain the opinion of experts where deemed appropriate. The Parties concerned shall have the option of submitting briefs on an *amicus curiae* basis to the arbitration group in accordance with the procedural rules. All information thus obtained must be disclosed to both Parties and subject to their comments.

ARTICLE 61

Language of submissions

Oral and written submissions shall be in one of the official languages of the Parties. However, the Parties shall endeavour, wherever possible, to use an official language shared by the two Parties as their common language, and shall take account of the fact that the Ivorian Party is a developing country, particularly in relation to translation difficulties.

ARTICLE 62

Rules of interpretation

The arbitration panel shall interpret the provisions of this Agreement in accordance with the customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties. The decisions of the arbitration panel shall neither add to nor diminish the rights and obligations set out in this Agreement.

ARTICLE 63

Arbitration panel rulings

1. The arbitration panel shall endeavour to make consensus-based decisions. However, if it is impossible to reach a decision by consensus, the dispute shall be settled by a majority vote, but the diverging opinions of the arbitrators shall under no circumstances be published.
2. The decision shall expound the substantive findings, the applicability of the relevant provisions of this Agreement, and the reasoning underpinning the findings and conclusions reached by the arbitration panel. The EPA Committee shall make the arbitration ruling known to the public, unless it decides otherwise.

CHAPTER 4

GENERAL PROVISIONS

ARTICLE 64

List of arbitrators

1. Three months at the latest following the application of this Agreement, the EPA Committee shall draw up a list of 15 people willing and able to act as arbitrators. Each Party shall select five people capable of being arbitrators. The two Parties shall also agree on the choice of five individuals who are not nationals of either Party and could be called upon to chair the arbitration panel. The EPA Committee shall ensure that this list is always complete.
2. The arbitrators shall possess specialist knowledge or experience of law and international trade. They shall be independent, act individually and not under the instructions of an organisation or government, shall not be affiliated to the administration of either Party, and shall observe the code of conduct annexed to the Rules of Procedure.
3. The EPA Committee may draw up an additional list of 15 people with specialist sectoral knowledge of relevance to the specific matters covered by this Agreement. Where there is recourse to the selection procedure of Article 50(2), the Chairperson of the EPA Committee may use such a sectoral list, subject to the agreement of both Parties.

ARTICLE 65

Links with the WTO obligations

1. The arbitration authorities set up under this Agreement shall not deal with disputes relating to the rights and obligations of each Party pursuant to the Agreement establishing the WTO.
2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any possible action in the WTO framework, including a dispute settlement action. However, when a Party has initiated a dispute-settlement procedure with regard to a given measure, either under Article 49(1) or under the Agreement establishing the WTO, it may not initiate a dispute-settlement procedure for the same measure with the other forum before concluding the first procedure. For the purposes of this paragraph, a Party is considered to have initiated a dispute-settlement procedure under the Agreement establishing the WTO once it has requested the establishment of a panel pursuant to Article 6 of the WTO Dispute Settlement Understanding.
3. This Agreement cannot prevent a Party from applying the suspension of obligations authorised by the WTO Dispute Settlement Body.

ARTICLE 66

Time-limits

1. The time-limits set out in this Title, including time-limits for the notification of decisions by the arbitration panels, shall be counted in calendar days from the day following the act or event to which they relate.
2. All time-limits in this Title may be extended by mutual agreement between the Parties.

ARTICLE 67

Amendment of Title V

The EPA Committee and each of the Parties shall be entitled to request the amendment of Title V. Amendment requests shall be examined by the EPA Committee. Amendments shall take effect only after approval by the Parties.