

In making such recommendations, the Association Council shall take account of past experience of implementation of the reciprocal most-favoured-nation treatment and of the obligations of each Party under the General Agreement on Trade in Services, hereinafter referred to as the 'GATS', particularly those in Article V of the latter.

3. The Association Council shall make a first assessment of the achievement of this objective no later than three years after the Agreement enters into force.

Article 30

1. At the outset, each of the Parties reaffirms its obligations under the GATS, particularly the obligation to grant reciprocal

most-favoured-nation treatment in the services sectors covered by that obligation.

2. In accordance with the GATS, this treatment shall not apply to:

(a) advantages accorded by either Party under the terms of an agreement of the type defined in Article V of the GATS nor to measures taken on the basis of such an agreement;

(b) other advantages granted in accordance with the list of most-favoured-nation exemptions annexed by either Party to the GATS.

TITLE IV

CAPITAL MOVEMENTS, PAYMENTS, PUBLIC PROCUREMENT, COMPETITION AND INTELLECTUAL PROPERTY

CHAPTER 1

CAPITAL MOVEMENTS AND PAYMENTS

Article 31

Within the framework of the provisions of this Agreement, and subject to the provisions of Articles 33 and 34, there shall be no restrictions between the Community of the one part, and Israel of the other part, on the movement of capital and no discrimination based on the nationality or on the place of residence of their nationals or on the place where such capital is invested.

Article 32

Current payments connected with the movement of goods, persons, services or capital within the framework of this Agreement shall be free of all restrictions.

Article 33

Subject to other provisions in this Agreement and other international obligations of the Community and Israel, the provisions of Articles 31 and 32 shall be without prejudice to the application of any restriction which exists between them on the date of entry into force of this Agreement, in respect of the movement of capital between them involving direct investment, including in real estate, establishment, the provision of financial services or the admission of securities to capital markets.

However, the transfer abroad of investments made in Israel by Community residents or in the Community by Israeli residents and of any profit stemming therefrom shall not be affected.

Article 34

Where, in exceptional circumstances, movements of capital between the Community and Israel cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Israel, the Community or Israel respectively may, in conformity within the conditions laid down within the framework of the GATS and with Articles VIII and XIV of the Articles of Agreement of the International Monetary Fund, take safeguard measures with regard to movements of capital between the Community and Israel for a period not exceeding six months if such measures are strictly necessary.

CHAPTER 2

PUBLIC PROCUREMENT

Article 35

The Parties shall take measures with a view to a mutual opening of their respective government procurement markets and the procurement markets of undertakings operating in the utilities sectors for purchase of goods, works and services beyond the scope of what has been mutually and reciprocally covered under the Government Procurement Agreement concluded in the framework of the WTO.

CHAPTER 3

COMPETITION*Article 36*

1. The following are incompatible with the proper functioning of the Agreement, in so far as they may affect trade between the Community and Israel:

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or Israel as a whole or in a substantial part thereof;
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. The Association Council shall, within three years of the entry into force of the Agreement, adopt by decision the necessary rules for the implementation of paragraph 1.

Until these rules are adopted, the provisions of the Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT shall be applied as the rules for the implementation of paragraph 1(iii).

3. Each Party shall ensure transparency in the area of public aid, *inter alia*, by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

4. With regard to agricultural products referred to in Title II, Chapter 3, paragraph 1(iii) does not apply.

5. If the Community or Israel considers that a particular practice is incompatible with the terms of paragraph 1 and:

- is not adequately dealt with under the implementing rules referred to in paragraph 2, or
- in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party or material injury to its domestic industry, including its services industry,

it may take appropriate measures after consultation within the Association Committee or after 30 working days following referral for such consultation.

With reference to practices incompatible with paragraph 1(iii), such appropriate measures, when the GATT is applicable to them, may only be adopted in accordance with the procedures and under the conditions laid down by the GATT or by any other relevant instrument negotiated under its auspices and applicable to the Parties.

6. Notwithstanding any provisions to the contrary adopted in accordance with paragraph 2, the Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

Article 37

1. The Member States and Israel shall progressively adjust any State monopolies of a commercial character, so as to ensure that, by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Israel.

2. The Association Committee shall be informed about the measures adopted to implement this objective.

Article 38

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, the Association Council shall ensure that as from the fifth year following the date of entry into force of this Agreement there is neither enacted nor maintained any measure distorting trade between the Community and Israel to an extent contrary to the Parties' interests. This provision should not obstruct the performance in law or in fact of the particular tasks assigned to those undertakings.

CHAPTER 4

INTELLECTUAL, INDUSTRIAL AND COMMERCIAL PROPERTY*Article 39*

1. Pursuant to the provisions of this Article and of Annex VII, the Parties shall grant and ensure adequate and effective protection of intellectual, industrial and commercial property rights in accordance with the highest international standards, including effective means of enforcing such rights.

2. The implementation of this Article and of Annex VII shall be regularly reviewed by the Parties. If problems in the area of intellectual, industrial and commercial property affecting trading conditions were to occur, urgent consultation within the Association Committee shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.