

TITLE VI

Dispute Settlement

CHAPTER I

Scope and Coverage

Article 41

Scope and coverage

1. The provisions of this Title shall apply with respect to any matter arising from this Decision or from Articles 2, 3, 4, and 5 of the Interim Agreement (hereinafter the "covered legal instruments").
2. By way of exception, the arbitration procedure laid down in Chapter III shall not be applicable in the case of disputes concerning Articles 14, 19(2), 20(1), 21, 23, and 40 of this Decision.

CHAPTER II

Consultation

Article 42

Consultation

1. The Parties shall at all times endeavour to agree on the interpretation and application of the covered legal instruments and shall make every attempt through cooperation and consultations to arrive to a mutually satisfactory resolution of any matter that might affect their operation.
2. Each Party may request consultations within the Joint Committee with respect to any matter relating to the application or interpretation of the covered legal instruments or any other matter that it considers might affect their operation.
3. The Joint Committee shall convene within 30 days of delivery of the request and shall endeavour to resolve the dispute promptly by means of a decision. That decision shall specify the implementing measures to be taken by the Party concerned, and the period of time to do so.

CHAPTER III

Arbitration Procedure

Article 34

Establishment of an arbitration panel

1. In case a Party considers that a measure applied by the other Party violates the covered legal instruments and such matter has not been resolved within 15 days after the Joint Committee has convened pursuant to Article 42(3) or 45 days after the delivery of the request for a Joint Committee meeting, either Party may request in writing the establishment of an arbitration panel.

2. The requesting Party shall state in the request the measure and indicate the provisions of the covered legal instruments that it considers relevant, and shall deliver the request to the other Party and to the Joint Committee.

Article 44

Appointment of arbitrators

1. The requesting Party shall notify the other Party of the appointment of an arbitrator, and propose up to 3 candidates to serve as a chair. The other Party must then appoint a second arbitrator within 15 days, and propose up to 3 candidates to serve as a chair.

2. Both Parties shall endeavour to agree on the chair within 15 days after the second arbitrator has been appointed.

3. The date of establishment of the arbitration panel shall be the date on which the chair is appointed.

4. If a Party fails to appoint its arbitrator pursuant to paragraph 1, such arbitrator shall be selected by lot from the candidates proposed. If the Parties are unable to agree on the chair within the time period referred to in paragraph 2, it shall be selected by lot within one week from the candidates proposed.

5. If an arbitrator dies, withdraws or is removed, a replacement shall be selected within 15 days in accordance with the selection procedure followed to select him or her. In such a case, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date the arbitrator dies, withdraws or is removed and ending on the date the replacement is selected.

Article 45

Panel reports

1. The arbitration panel should, as a general rule, submit an initial report containing its findings and conclusions to the Parties not later than three months from the date of establishment of the arbitration panel. In no case should it do so later than five months from this date. Any Party may submit written comments to the arbitration panel on its initial report within 15 days of presentation of the report.

2. The arbitration panel shall present to the Parties a final report within 30 days of presentation of the initial report.

3. In cases of urgency, including those involving perishable goods, the arbitration panel shall make every effort to issue its final report to the Parties within three months from the date of establishment of the arbitration panel. In no case should it do so later than four months. The arbitration panel may give a preliminary ruling on whether a case is urgent.

4. All decisions of the arbitration panel, including the adoption of the final report and of any preliminary ruling, shall be taken by majority vote, each arbitrator having one vote.

5. The complaining Party may withdraw its complaint at any time before the final report has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

*Article 46*Implementation of panel reports

1. Each Party shall be bound to take the measures involved in carrying out the final report referred to in Article 45 (2).
2. The Party concerned shall inform the other Party within 30 days after the final report has been issued of its intentions in respect of its implementation.
3. The Parties shall endeavour to agree on the specific measures that are required for implementing the final report.
4. The Party concerned shall promptly comply with the final report. If it is impracticable to comply immediately, the Parties shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement, either Party may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel shall be given within 15 days from that request.
5. The Party concerned shall notify to the other Party the measures adopted in order to implement the final report before the expiry of the reasonable period of time determined in accordance with paragraph 4. Upon that notification, any of the Parties may request the original arbitration panel to rule on the conformity of those measures with the final report. The ruling of the arbitration panel shall be given within 60 days from that request.
6. If the Party concerned fails to notify the implementing measures before the expiry of the reasonable period of time determined in accordance with paragraph 4, or if the arbitration panel rules that the implementing measures notified by the Party concerned are inconsistent with the final report, such Party shall, if so requested by the complaining Party, enter into consultations with a view to agree on a mutually acceptable compensation. If no such agreement has been reached within 20 days from the request, the complaining Party shall be entitled to suspend only the application of benefits granted under the covered legal instruments equivalent to those affected by the measure found to violate the covered legal instruments.
7. In considering what benefits to suspend, a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the panel has found to violate the covered legal instruments. A complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.
8. The complaining Party shall notify the other Party of the benefits which it intends to suspend no later than 60 days before the date on which the suspension is due to take effect. Within 15 days from that notification, any of the Parties may request the original arbitration panel to rule on whether the benefits which the complaining Party intends to suspend are equivalent to those affected by the measure found to violate the covered legal instruments, and whether the proposed suspension is in accordance with paragraphs 6 and 7. The ruling of the arbitration panel shall be given within 45 days from that request. Benefits shall not be suspended until the arbitration Panel has issued its ruling.
9. The suspension of benefits shall be temporary and shall only be applied by the complaining Party until the measure found to violate the covered legal instruments has been withdrawn or amended so as to bring it into conformity with the covered legal instruments, or the Parties have reached agreement on a resolution of the dispute.

10. At the request of any of the Parties, the original arbitration panel shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel shall be given within 30 days from the date of that request.

11. The rulings provided for in paragraphs 4, 5, 8 and 10 shall be binding.

Article 47

General provisions

1. Any time period mentioned in this Title may be extended by mutual agreement of the Parties.
2. Unless the Parties otherwise agree, the arbitration panel proceedings shall be conducted in accordance with the Model Rules of Procedure set out in Annex XVI. The Joint Committee may amend the Model Rules of Procedure.
3. Arbitration proceedings established under this Title will not consider issues relating to each Party's rights and obligations under the Agreement establishing the World Trade Organisation (WTO).
4. Recourse to the dispute settlement provisions of this Title shall be without prejudice to any possible action in the WTO framework, including dispute settlement action. However, where a Party has, with regard to a particular matter, instituted a dispute settlement proceeding under either Article 43(1) of this Title or the WTO Agreement, it shall not institute a dispute settlement proceeding regarding the same matter under the other forum until such time as 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's request for a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

TITLE VII

Specific Duties of the Joint Committee with Respect to Trade and Other Related Matters

Article 48

1. The Joint Committee shall:
 - (a) supervise the implementation and proper operation of this Decision, as well as of any other decision concerning trade and other trade related matters;
 - (b) oversee the further elaboration of the provisions of this Decision;
 - (c) undertake consultations pursuant to Article 42 (2) and (3), to Articles 15, 16 and 23, and to the Joint Declarations to this Decision;
 - (d) carry out any functions assigned to it under this Decision or under any other decision concerning trade or trade related matters;
 - (e) assist the Joint Council in the performance of its functions regarding trade and other trade related matters;
 - (f) supervise the work of all the special committees established under this Decision; and