

CHAPTER 8 DISPUTE SETTLEMENT

ARTICLE 42

Consultations

1. In case of any divergence with respect to the interpretation, implementation and application of this Agreement, the Parties shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory solution.
2. Any Party may request in writing consultations with any other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement. The Party requesting consultations shall at the same time notify the other Parties in writing thereof and supply all relevant information.
3. The consultations shall take place in the Joint Committee if any of the Parties so requests within 20 days from the receipt of the notification referred to in paragraph 2, with a view to finding a commonly acceptable solution. If the Party to which a request in accordance with paragraph 2 or this paragraph is made does not reply within ten days or does not enter into consultations within 20 days after receipt of the request, the Party making the request is entitled to request the establishment of an arbitration panel in accordance with Article 43.⁶

ARTICLE 43

Arbitration

1. Disputes between the Parties relating to the interpretation of rights and obligations under this Agreement, which have not been settled through direct consultations or in the Joint Committee within 60 days from the date of the receipt of the request for consultations, may be referred to arbitration by the complaining Party by means of a written notification addressed to the Party complained against. A copy of this notification shall be communicated to all other Parties so that each of those Parties may determine whether to participate in the dispute.
2. Where more than one Party requests the establishment of an arbitration panel relating to the same matter, a single arbitration panel may, whenever feasible, be established to consider such disputes.⁷

⁶ As amended by the *Protocol amending the Free Trade Agreement between the Republic of Albania and the EFTA States*, signed on 18 September 2015 and entered into force on 1 June 2017

⁷ For the purpose of this Chapter, the terms "Party" and "party to the dispute" are used regardless of whether two or more Parties are involved in a dispute.

3. A Party that is not a party to the dispute shall be entitled, on delivery of a written request to the parties to the dispute, to make written submissions to the arbitration panel, receive written submissions, including annexes, from the parties to the dispute, attend hearings and make oral statements.

4. The arbitration panel shall comprise three members. In its written notification pursuant to paragraph 1 of this Article the Party referring the dispute to arbitration shall designate one member, who may be its national or resident. Within 30 days from the receipt of the notification referred to in paragraph 1 of this Article, the Party to which it was addressed shall, in turn, designate one member, who may be its national or resident.

5. Within 60 days from the receipt of the notification referred to in paragraph 1 of this Article, the two members already designated shall agree on the designation of a third member. The third member shall not be a national of either party to the dispute, nor permanently reside on the territory of either party to the dispute. The member thus appointed shall be the President of the arbitration panel.

6. If all three members have not been designated or appointed within 60 days from the receipt of the notification referred to in paragraph 1, either party to the dispute may request the Secretary-General of the Permanent Court of Arbitration at the Hague to designate an appointing authority.

7. The arbitration panel shall examine the matter referred to it in the request for the establishment of an arbitration panel in light of the provisions of this Agreement applied and interpreted in accordance with the rules of interpretation of public international law. The award of the arbitration panel shall be final and binding upon the parties to the dispute.

8. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration (PCA), effective 20 October 1992, shall apply.

ARTICLE 44

Implementation of the Award

1. The Party concerned shall promptly comply with the award of the arbitration panel. If it is impracticable to comply immediately, the parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement within 30 days from the date of the award, either party to the dispute may, within 10 days from the expiration of such period, request the original arbitration panel to determine the length of the reasonable period of time.

2. The Party concerned shall notify the other party to the dispute of the measure adopted in order to implement the award.

3. If the Party concerned fails to comply with the award within a reasonable period of time and the parties to the dispute have not agreed on any compensation, the other party to the dispute may, until the award has been properly implemented or the dispute has been otherwise resolved, and subject to a prior notification of 30 days, suspend the application of benefits granted under this Agreement, but only equivalent to those affected by the measure that the arbitration panel has found to violate this Agreement.

4. Any dispute regarding the implementation of the award or the notified suspension shall be decided by the arbitration panel upon request of either party to the dispute before compensation can be sought or suspension of benefits can be applied. The arbitration panel may also rule on the conformity with the award of any implementing measures adopted after the suspension of benefits and whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel under this paragraph shall normally be given within 45 days from the date of receipt of the request.