

4. The Joint Committee may take decisions as provided in this Agreement. On other matters the Joint Committee may make recommendations.

5. The Joint Committee shall take decisions by consensus.

6. The Joint Committee shall normally convene once a year in a regular meeting. The regular meetings of the Joint Committee shall be chaired jointly by one of the EFTA Parties and Mexico. The Joint Committee shall establish its rules of procedure.

7. Each Party may request at any time, through a notice in writing to the other Parties, that a special meeting of the Joint Committee be held. Such a meeting shall take place within 30 days of receipt of the request, unless the Parties agree otherwise.

8. The Joint Committee may decide to amend the Annexes and the Appendices to this Agreement. Subject to paragraph 9, it may set a date for the entry into force of such decisions.

9. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force on the date that the last Party notifies that its internal requirements have been fulfilled, unless the decision itself specifies a later date. The Joint Committee may decide that the decision shall enter into force for those Parties that have fulfilled their internal requirements, provided that Mexico is one of those Parties. A Party may apply a decision of the Joint Committee provisionally until such decision enters into force, subject to its constitutional requirements.

VIII DISPUTE SETTLEMENT

ARTICLE 71

Scope

1. The provisions of this Chapter shall apply to any matter arising from this Agreement, unless otherwise specified in this Agreement.

2. The provisions on arbitration shall not apply to Articles 9 to 13, 16, 26, 48, 50, 51 to 55 and 69.

ARTICLE 72

Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

2. Mexico may request in writing consultations with any other Party, and any EFTA State may request in writing consultations with Mexico, 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. If any of the Parties so requests within 10 days from the receipt of the notification referred to in paragraph 2, the consultations shall take place in the Joint Committee, with a view to finding an acceptable solution.

4. Consultations shall commence within 30 days from the date of receipt of the request for consultations.

ARTICLE 73

Establishment of an arbitration panel

1. In case a Party considers that a measure applied by another Party violates the Agreement and the matter has not been resolved within 45 days after consultations have been held pursuant to Article 72, such matter may be referred to arbitration by one or more Parties to the dispute by means of a written notification addressed to the Party complained against. A copy of this notification shall be communicated to all Parties to this Agreement so that each may determine whether it has a substantial interest in the matter. Where more than one Party requests the submission to an arbitration panel of a dispute with the same Party relating to the same question a single arbitration panel should be established to consider such disputes whenever feasible.

2. A Party to this Agreement which is not a Party to the dispute, on delivery of a written notice to the disputing Parties, shall be entitled to make written submissions to the arbitration panel, receive written submissions of the disputing Parties, attend all hearings and make oral submissions.

ARTICLE 74

Appointment of arbitrators

1. The arbitration panel shall comprise three members, unless the Parties to the dispute decide otherwise.

2. In the written notification pursuant to Article 73 of this Agreement, the Party or the Parties referring the dispute to arbitration shall designate one member of the arbitration panel, who may be a national of such Party or Parties.

3. Within 15 days from the receipt of the notification referred to in paragraph 2, the Party or the Parties to which it was addressed shall, in turn, designate one member, who may be a national of such Party or Parties.

4. Within 30 days from the receipt of the notification referred to in paragraph 2, the Parties to the dispute shall agree on the designation of the third member. The third member shall not be a national of any Party, nor permanently reside in the territory of any Party. The member thus appointed shall be the President of the arbitration panel.

5. If all three members have not been designated or appointed within 30 days from the receipt of the notification referred to in paragraph 2, the necessary designations shall be made, at request of any Party to the dispute, by the Director-General of the WTO within a further 30 days.

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

ARTICLE 75

Panel reports

1. The arbitration panel should, as a general rule, submit an initial report containing its findings and conclusions to the Parties to the dispute 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 to the dispute 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 to the dispute a final report within 30 days of presentation of the initial report. A copy of the final report shall be communicated to the Parties to this Agreement.

3. In cases of urgency, including those involving perishable goods, the arbitration panel shall make every effort to issue its final report 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. A 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 76

Implementation of panel reports

1. The final report shall be final and binding on the Parties to the dispute. Each Party to the dispute shall be bound to take the measures involved in carrying out the final report referred to in Article 75.

2. The Party or Parties concerned shall inform the other Party or Parties to the dispute within 30 days after the final report has been issued of its intentions in respect of its implementation.
3. The Parties to the dispute shall endeavour to agree on the specific measures that are required for implementing the final report.
4. The Party or Parties concerned shall promptly comply with the final report. 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, any Party to the dispute 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 or Parties concerned shall notify to the other Party or Parties to the dispute 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 Party to the dispute 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 or Parties 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 or Parties concerned are inconsistent with the final report, such Party or Parties shall, if so requested by the complaining Party or Parties, 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 or Parties shall be entitled to suspend only the application of benefits granted under this Agreement equivalent to those affected by the measure found to violate this Agreement.
7. In considering what benefits to suspend, the complaining Party or Parties 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 this Agreement. The complaining Party or Parties that consider 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 or Parties shall notify the other Party or Parties 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 to the dispute may request the original arbitration panel to rule on whether the benefits which the complaining Party or Parties intend to suspend are equivalent to those affected by the measure found to violate this Agreement, 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 or Parties until the measure found to violate this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or the Parties to the dispute have reached agreement on a resolution of the dispute.

10. At the request of any of the Parties to the dispute, 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 77

Choice of forum

1. Subject to paragraph 2, any dispute regarding any matter arising under both this Agreement and the WTO Agreement, any agreement negotiated thereunder, or any successor agreement, may be settled in either forum at the discretion of the complaining Party.

2. Before an EFTA State initiates a dispute settlement proceeding against Mexico or Mexico initiates a dispute settlement proceeding against any EFTA State in the WTO on grounds that are substantially equivalent to those available to the Party concerned under this Agreement, that Party shall notify the other Parties of its intention. If another Party wishes also to have recourse to dispute settlement procedures as a complainant under this Agreement regarding the same matter, it shall inform promptly the notifying Party and those Parties shall consult with a view to agreement on a single forum. If those Parties cannot agree, the dispute shall be settled under this Agreement.

3. Once dispute settlement procedures have been initiated under this Agreement pursuant to Article 73 or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall be used to the exclusion of the other.

4. For the purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel, such as under Article 6 of the Dispute Settlement Understanding.

ARTICLE 78

General provisions

1. Any time period mentioned in this Chapter may be extended by mutual agreement of the Parties to the dispute.

2. Unless the Parties to the dispute otherwise agree, the arbitration panel proceedings shall be conducted in accordance with the Model Rules of Procedure which shall be adopted at the first meeting of the Joint Committee.

IX FINAL CLAUSES

ARTICLE 79

Transparency

1. The Parties shall publish their laws, or otherwise make publicly available their laws, regulations, procedures and administrative rulings and judicial decisions of general application as well as the international agreements which may affect the operation of the Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

ARTICLE 80

Annexes

The Annexes and Appendices thereto constitute an integral part of this Agreement.

ARTICLE 81

Amendments

1. Amendments to this Agreement shall after approval by the Joint Committee be submitted to the Parties for ratification, acceptance or approval, subject to each Parties constitutional requirements.

2. Unless the Joint Committee decides otherwise, the amendments shall enter into force on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval.

3. The text of the amendments as well as the instruments of ratification, acceptance or approval shall be deposited with the Depositary.