

Article 157
Sub-Committees for Each Field of Cooperation

For the purposes of the effective implementation and operation of this Chapter, Sub-Committee(s) and Special Sub-Committee(s) as a subsidiary body to the Sub-Committee(s) may be established for each field of cooperation specified in Article 153 pursuant to Article 13. The establishment, function, composition and other details of the Sub-Committee(s) and the Special Sub-Committee(s) shall be set forth in the Implementing Agreement. Each Sub-Committee shall commence its work and meet as soon as possible, in any case no later than 9 months after the date of entry into force of this Agreement.

Article 158
Non-Application of Chapter 14

The dispute settlement procedure provided for in Chapter 14 shall not apply to this Chapter. The Parties shall consult on any issues arising from the implementation and operation of this Chapter.

Chapter 14
Dispute Settlement

Article 159
Scope and Coverage

1. Unless otherwise provided for in this Agreement, this Chapter shall apply with respect to the settlement of disputes between the Parties concerning the interpretation or application of this Agreement.
2. Nothing in this Chapter shall prejudice any rights of the Parties to have recourse to dispute settlement procedures available under any other international agreement to which both Parties are parties.
3. Notwithstanding paragraph 2 above, once a dispute settlement procedure has been initiated under this Chapter or under any other international agreement to which both Parties are parties with respect to a particular dispute, that procedure shall be used to the exclusion of any other procedure for that particular dispute. However, this shall not apply if substantially separate and distinct rights or obligations under different international agreements are in dispute.

4. Paragraph 3 above shall not apply where the Parties expressly agree to the use of more than one dispute settlement procedure in respect of a particular dispute.

Article 160 Consultations

1. Each Party may request in writing consultations with the other Party with regard to any matter on the interpretation or application of this Agreement.

2. When a Party requests consultations pursuant to paragraph 1 above, the other Party shall reply promptly to the request and enter into consultations in good faith within 30 days after the date of receipt of the request, with a view to a prompt and satisfactory resolution of the matter.

Article 161 Good Offices, Conciliation or Mediation

1. Good offices, conciliation or mediation may be requested at any time by either Party. They may begin at any time if the Parties agree and, at the request of either Party, be terminated at any time.

2. If the Parties agree, good offices, conciliation or mediation may continue while procedures of the arbitral tribunal provided for in this Chapter are in progress.

Article 162 Establishment of Arbitral Tribunals

1. The complaining Party that requested consultations under Article 160 may request in writing the establishment of an arbitral tribunal to the Party complained against:

- (a) if the Party complained against does not enter into such consultations within 30 days after the date of receipt of the request for consultations under that Article; or
- (b) if the Parties fail to resolve the dispute through such consultations under that Article within 60 days after the date of receipt of the request for such consultations,

provided that the complaining Party considers that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired as a result of the failure of the Party complained against to carry out its obligations, or as a result of the application by the Party complained against of measures which are in conflict with the obligations of that Party, under this Agreement.

2. Any request for the establishment of an arbitral tribunal pursuant to this Article shall identify:

- (a) the specific measures at issue; and
- (b) the legal basis of the complaint including the provisions of this Agreement alleged to have been breached and any other relevant provisions.

3. Each Party shall within 30 days after the date of receipt of the request for the establishment of an arbitral tribunal, appoint one arbitrator who may be its national and propose up to 3 candidates to serve as the third arbitrator who shall be the chair of the arbitral tribunal. The third arbitrator shall not be a national of either Party, nor have his or her usual place of residence in either Party, nor be employed by either Party.

4. The Parties shall agree on and appoint the third arbitrator within 45 days after the date of receipt of the request for the establishment of an arbitral tribunal, taking into account the candidates proposed pursuant to paragraph 3 above.

5. If a Party has not appointed one arbitrator pursuant to paragraph 3 above, or if the Parties fail to agree on and appoint the third arbitrator pursuant to paragraph 4 above, such arbitrator or such third arbitrator shall be chosen by lot within a further period of 7 days from the candidates proposed pursuant to paragraph 3 above.

6. The arbitral tribunal should be composed of arbitrators with relevant technical or legal expertise.

Article 163 Functions of Arbitral Tribunals

1. The arbitral tribunal established pursuant to Article 162:

- (a) should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory resolution;

- (b) shall make its award in accordance with this Agreement and applicable rules of international law;
- (c) shall set out, in its award, its findings of law and fact, together with the reasons therefor; and
- (d) may, apart from giving its findings, include in its award suggested implementation options for the Parties to consider in conjunction with Article 166.

2. The arbitral tribunal may seek, from the Parties, such relevant information as it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by an arbitral tribunal for such information.

3. The arbitral tribunal may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to factual issues concerning a scientific or other technical matter raised by a Party, the arbitral tribunal may request advisory reports in writing from an expert or experts. The arbitral tribunal may, at the request of a Party or on its own initiative, select, in consultation with the Parties, no fewer than 2 scientific or technical experts who shall assist the arbitral tribunal throughout its proceedings, but who shall not have the right to vote in respect of any decision to be made by the arbitral tribunal, including its award.

4. The award of the arbitral tribunal shall be drafted without the presence of the Parties, and in the light of the information provided and the statements made.

5. The arbitral tribunal shall, within 90 days after the date of its establishment, submit to the Parties its draft award, including both descriptive part and its findings and conclusions, for the purpose of enabling the Parties to review precise aspects of the draft award. When the arbitral tribunal considers that it cannot submit to the Parties its draft award within the afore-mentioned 90 days period, it may extend that period with the consent of the Parties. However, in no case should the period from the establishment of the arbitral tribunal to the submission of the draft award to the Parties exceed 150 days. A Party may submit comments in writing to the arbitral tribunal on the draft award within 15 days after the date of submission of the draft award.

6. The arbitral tribunal shall issue its award, within 30 days after the date of submission of the draft award.

7. The arbitral tribunal shall attempt to make its decisions, including its award, by consensus but may also make such decisions, including its award, by majority vote.

8. The award of the arbitral tribunal shall be final and binding on the Parties.

Article 164 Proceedings of Arbitral Tribunals

1. The arbitral tribunal shall meet in closed session.

2. The deliberations of the arbitral tribunal, the documents submitted to it and the draft award referred to in paragraph 5 of Article 163 shall be kept confidential.

3. Notwithstanding paragraph 2 above, either Party may make public statements as to its views regarding the dispute, but shall treat as confidential, information and written submissions submitted by the other Party to the arbitral tribunal which that other Party has designated as confidential. Where a Party has provided information or written submissions designated to be confidential, the other Party may request a non-confidential summary of the information or written submissions which may be disclosed publicly. The Party to whom such a request is made may agree to such a request and submit such a summary, or deny the request without providing any reasons or justification.

4. The Parties shall be given the opportunity to attend any of the presentations, statements or rebuttals in the proceeding. Any information or written submissions submitted by a Party to the arbitral tribunal, including any comments on the descriptive part of the draft award and responses to questions put by the arbitral tribunal, shall be made available to the other Party.

Article 165 Termination of Proceedings

The Parties may agree to terminate the proceedings of the arbitral tribunal at any time by jointly so notifying the chair of the arbitral tribunal.

Article 166 Implementation of Award

1. The Party complained against shall promptly comply with the award issued pursuant to Article 163.

2. The Party complained against shall, within 20 days after the date of issuance of the award, notify the complaining Party of the period of time for implementing the award. If the complaining Party considers the period of time notified to be unacceptable, it may refer the matter to an arbitral tribunal.

3. If the Party complained against considers it impracticable to comply with the award within the implementation period as specified pursuant to paragraph 2 above, the Party complained against shall, no later than the expiry of that implementation period, enter into consultations with the complaining Party, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within 20 days after the date of expiry of that implementation period, the complaining Party may notify the Party complained against that it intends to suspend the application of concessions or other obligations under this Agreement.

4. If the complaining Party considers that the Party complained against has failed to comply with the award within the implementation period as specified pursuant to paragraph 2 above, it may refer the matter to an arbitral tribunal. If the arbitral tribunal confirms that the Party complained against has failed to comply with the award within the implementation period as specified pursuant to paragraph 2 above, the complaining Party may, within 30 days after the date of such confirmation by the arbitral tribunal, notify the Party complained against that it intends to suspend the application of concessions or other obligations under this Agreement.

5. Suspension of the application of concessions or other obligations under paragraphs 3 and 4 above may only be implemented at least 30 days after the date of notification in accordance with those paragraphs. Such suspension shall:

- (a) not be effected if, in respect of the dispute to which the suspension relates, consultations, or proceedings before an arbitral tribunal are in progress;
- (b) be temporary, and be discontinued when the Parties reach a mutually satisfactory resolution or where compliance with the original award is effected;
- (c) be restricted to the same level of nullification or impairment that is attributable to the failure to comply with the original award; and

- (d) be restricted to the same sector or sectors to which the nullification or impairment relates, unless it is not practicable or effective to suspend the application of concessions or other obligations in such sector or sectors.

6. If the Party complained against considers that the requirements for the suspension of the application of concessions or other obligations under this Agreement by the complaining Party set out in paragraph 3, 4, or 5 above have not been met, it may request consultations with the complaining Party. The complaining Party shall enter into consultations within 10 days after the date of receipt of the request. If the Parties fail to resolve the matters within 30 days after the date of receipt of the request for consultations pursuant to this paragraph, the Party complained against may refer the matter to an arbitral tribunal.

7. The arbitral tribunal under this Article shall, wherever possible, be composed of the arbitrators of the original arbitral tribunal. If any of the arbitrators is not available, then that arbitrator shall be replaced by an arbitrator appointed pursuant to paragraphs 3 through 5 of Article 162. Unless the Parties agree to a different period, the arbitral tribunal under this Article shall issue its award within 60 days after the date when the matter is referred to it. The award of the arbitral tribunal under this Article shall be final and binding on the Parties.

Article 167 Expenses

Unless the Parties agree otherwise, the expenses of the arbitral tribunal, including the remuneration of the arbitrators, shall be borne by the Parties in equal shares.

Chapter 15 Final Provisions

Article 168 Table of Contents and Headings

The table of contents and headings of the Chapters and the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.