

CHAPTER XI

DISPUTE SETTLEMENT

Article 1 - Objective and Parties to a Dispute

1. The objective of this Chapter is to settle disputes between the Parties or between Israel and one or more Signatory Parties with a view to reaching mutually acceptable solutions.
2. The Parties to a dispute - hereinafter in this Chapter the "parties"- may be either the Parties or Israel and one or more of the other Signatory Parties.

Article 2 – Scope

Disputes arising from the interpretation, application, fulfillment or non fulfillment of the provisions contained in the Free Trade Agreement signed between MERCOSUR and the State of Israel, hereinafter the "Agreement", and from Joint Committee decisions taken pursuant to this Agreement shall be ruled by the disputes settlement procedure established under this Chapter, except as otherwise provided in the Agreement.

Article 3 - Direct Negotiations

1. Whenever a dispute is between Israel and one or more Signatory Parties of MERCOSUR, the parties involved shall attempt to settle the disputes referred to in Article 2 of this Chapter through direct negotiations aimed at a mutually satisfactory solution.

If the dispute is between Israel and one Signatory Party of MERCOSUR, negotiations shall be carried out by the National Coordinator of the Common Market Group of that Signatory Party. If the dispute is among Israel and more than one Signatory Parties of MERCOSUR, negotiations shall be carried out by the National Co-ordinator of the Common Market Group appointed by those Signatory Parties.

In the case of Israel, direct negotiations shall be carried out by the Ministry of Industry, Trade and Labor.

2. In order to initiate the procedure any of the parties shall make a written request to the other party for direct negotiations to be held and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

3. The party receiving the request for direct negotiations shall reply within ten (10) days of receiving it.

4. The parties shall exchange the information needed to facilitate direct negotiations and shall treat such information as confidential.

5. These negotiations shall not extend for more than thirty (30) days, as from the date of receipt of the written request to start them, unless the parties agree to extend that period.

6. The direct negotiations shall be confidential and without prejudice to the rights of the parties in the consultations held within the Joint Committee in accordance with Article 4 of this Chapter and the proceedings of the Arbitration Tribunal conducted in accordance with this Chapter.

Article 4 - Consultations within the Joint Committee

1. Whenever a dispute is between Israel and MERCOSUR as a Contracting Party, consultations shall be carried out within the Joint Committee, by means of a written request of any party to the other party.

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2. In the case of disputes between Israel and Signatory Parties of MERCOSUR which have not reached a mutually satisfactory solution within the term established in the fifth paragraph of Article 3 of this Chapter or if the dispute has been settled only partially, the party that initiated a procedure of Direct Negotiations under the second paragraph of Article 3 of this Chapter may request consultations to be held within the Joint Committee, by means of a written request to the other party.

3. In the case of MERCOSUR, if the dispute is between Israel and MERCOSUR as a Contracting Party, consultations shall be carried out by the National Coordinator of the Common Market Group who is acting as Pro Tempore President at that moment.

If the dispute is between Israel and a Signatory Party of MERCOSUR, consultations shall be carried out by the National Co-ordinator of the Common Market Group of that Signatory Party. If the dispute is among Israel and more than one Signatory States Party of MERCOSUR, consultations shall be carried out by the National Coordinator of the Common Market Group appointed by those Signatory Parties.

In the case of Israel, consultations shall be carried out by the Ministry of Industry, Trade and Labor.

4. This written request shall include the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

5. Consultations shall be held within the Joint Committee within thirty (30) days of submission of the request to all Signatory Parties and take place, unless the parties agree otherwise, on the territory of the party complained against. The consultations shall be deemed concluded within thirty (30) days of the date of the consultation request, unless both parties agree to continue consultations.

Consultations on matters of urgency, including those regarding perishable goods and seasonal goods shall commence within fifteen (15) days of the date of submission of the request.

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6. The Joint Committee, by consensus, may deal jointly with two or more procedures related to the cases it hears, only when due to their nature or possible thematic link, it considers their joint examination convenient.

7. The Joint Committee shall evaluate the dispute and allow the parties an opportunity to inform it of their position and, if necessary, to give additional information in order to reach a mutually satisfactory solution.

The Joint Committee shall make any recommendations it deems fit within thirty (30) days as from the date of the first meeting.

8. The Joint Committee may seek the opinion of experts if it deems necessary to make its recommendations.

9. If consultations are not held within the timeframe laid down in paragraph 5, or no agreement has been reached on a mutually acceptable solution, the stage provided for in this Article shall immediately be considered ended and the complaining party may then directly request the establishment of an Arbitration Tribunal in accordance with Article 7 of this Chapter.

10. The consultations shall be confidential and without prejudice to the rights of the parties in the proceedings of the Arbitration Tribunal conducted in accordance with this Chapter.

Article 5 - Mediation

1. If consultations fail to produce a mutually acceptable solution, the parties may, by mutual agreement, seek recourse to the services of a mediator appointed by the Joint Committee. Any request for mediation must be made in writing and state the measure which has been the subject of consultations, in addition to the mutually agreed terms of reference for the mediation.



2. The Chairperson of the Joint Committee shall appoint within ten (10) days of receipt of the request a mediator selected by lot from the persons included in the list referred to in Article 8 of this Chapter who is not a national of either of the parties. The mediator will convene a meeting with the parties no later than thirty (30) days after being appointed. The mediator shall receive the submissions of both parties no later than fifteen (15) days before the meeting and issue an opinion no later than forty-five (45) days after having been appointed. The mediator's opinion may include a recommendation on steps to resolve the dispute that is consistent with the Agreement. The mediator's opinion will be non-binding.
3. Deliberations and all information including documents submitted to the mediator shall be kept confidential and shall not be brought for the Arbitration Tribunal proceedings conducted in accordance with this chapter, unless the parties agree otherwise.
4. The time limits referred to in paragraph 2 may be amended, should circumstances so demand, with the agreement of both parties. Any amendment must be notified in writing to the mediator.
5. In the event that mediation produces a mutually acceptable solution to the dispute, both parties must submit a notification in writing to the mediator.

Article 6 - Choice of Forum

1. Notwithstanding the provisions of Article 2 of this Chapter, any disputes arising from the provisions in this Agreement, on issues regulated by the Marrakech Agreement establishing the World Trade Organization (hereinafter "WTO Agreement"), or the agreements negotiated in accordance with it, may be settled in either forum, at the complaining party's choice.
2. Once a dispute settlement procedure has started in accordance with this Agreement, or in accordance with the WTO Agreement, the forum chosen shall exclude the other forum.



3. For the purposes of this Article:

- (a) dispute settlement procedures shall be considered to have been initiated in accordance with the WTO Agreement when the complaining party requests the establishment of a panel under Article 6 of the WTO Understanding on Rules and Procedures governing the Settlement of Disputes,
- (b) whenever a dispute is between Israel and MERCOSUR as a Contracting Party, the initiation of dispute settlement proceedings under this Agreement shall follow consultations within the Joint Committee under Article 4 thereof,
- (c) whenever a dispute is between Israel and one or more Signatory Parties of MERCOSUR, dispute settlement proceedings under this Agreement are deemed to be initiated once a party has requested the establishment of a Tribunal under Article 7 (1) of this Chapter following direct negotiations held under Article 3 of this Chapter and following consultations, if held, within the Joint Committee under Article 4 of this Chapter.

Article 7 - Arbitration Procedure

1. If the dispute cannot be settled by the procedures provided for in Articles 3 and 4 of this Chapter or where the parties have had recourse to mediation as provided for in Article 5 of this Chapter and no mutually acceptable solution has been notified within fifteen (15) days of the mediator issuing his or her opinion, or if a party fails to comply with the mutually agreed solution, the complaining party may submit a request in writing to the other party for the establishment of an Arbitration Tribunal.
2. The complaining party shall state in its request for the establishment of an Arbitration Tribunal the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint. The request to establish the Arbitration Tribunal, the initial submission and counter submission shall form the terms of reference of the Arbitration Tribunal, unless otherwise agreed by the parties.

3. The parties acknowledge as binding, *ipso facto* and with no need for a special agreement, the jurisdiction of the Arbitration Tribunal set up in each case to hear and solve the disputes referred to in this Chapter.

Article 8 - Appointment of Arbitrators

1. Within thirty (30) days as of the entry into force of the Agreement, each Contracting Party shall prepare a list of national arbitrators and a list of non-national arbitrators. Both Contracting Parties should agree with the list of appointed non-national arbitrators.

Each of the States parties to MERCOSUR will appoint five (5) possible arbitrators for the list of national arbitrators, and two (2) for the list of non national arbitrators.

Israel will appoint a cumulative and proportionate number of possible national and non-national arbitrators to the lists as appointed by the States parties to MERCOSUR.

2. The list of arbitrators and its successive modifications shall be informed to all Signatory Parties and to the Joint Committee.

3. The arbitrators in the list referred to in the previous paragraph shall have specialized knowledge or experience of law and/or international trade. The chairperson shall be a jurist with knowledge and experience of law and/or international trade.

4. As of the notification of a party of its intention to resort to the Arbitration Tribunal as provided for in Article 6 of this Chapter, it may not modify the lists referred to in the first paragraph of this Article.

Article 9 - Composition of the Arbitration Tribunal

1. The Arbitration Tribunal, to which the proceedings shall be submitted, shall be formed by three (3) arbitrators as follows:

- (a) Within fifteen (15) days following notification to the other party as referred to in Article 7 of this Chapter, each party shall appoint an arbitrator chosen among the



persons that such party has proposed for the list of national arbitrators mentioned in Article 8 of this Chapter.

- (b) Within the same term, the parties shall mutually appoint a third arbitrator from the list of non national arbitrators referred to in Article 8 of this Chapter, who shall chair the Arbitration Tribunal.
 - (c) If the appointments referred to in paragraph a) are not made within the term provided for, they shall be made by means of a draw held by the Chairperson of the Joint Committee in the presence of representatives of the parties, at the request of any of the parties, among the arbitrators appointed by the parties and included in the list referred to in Article 8 of this Chapter. This procedure shall take no more than five (5) days.
 - (d) If the appointment referred to in paragraph b) is not made within the term provided for, it shall be made by means of a draw held by the Chairperson of the Joint Committee in the presence of representatives of the parties, at the request of any of the parties, among the non-national arbitrators appointed by the Signatory Parties and included in the list referred to in Article 8 of this Chapter. This procedure shall take no more than five (5) days.
2. If in any case during the proceedings covered by this Chapter, an arbitrator or the chairperson is unable to participate, withdraws or is replaced pursuant to paragraph 4, an alternate shall be selected within five (5) days in accordance with the selection procedures followed to appoint the original arbitrator as specified in paragraph 1(a) or chairperson as specified in paragraph 1(b). All time periods regarding the Arbitration Tribunal's proceedings shall be suspended for the period taken to carry out this procedure.
3. The appointments provided for in paragraphs 1 and 2 must be notified to the parties.
- (a) Where a party considers that an arbitrator does not comply with the requirements of Annex I (Code of Conduct) and Article 10 of this Chapter, it shall send a written notice to the other party providing a proper explanation for its objection, based on



clear evidence that the arbitrator is in violation of Annex I (Code of Conduct) and Article 10 of this Chapter. The parties shall consult and come to a conclusion within seven (7) days.

(b) If the parties agree that there exists evident proof of such a violation they shall replace the arbitrator or chairperson and select a replacement in accordance with paragraph 1 above.

(c) If the parties fail to agree on the need to replace an arbitrator or chairperson, a replacement shall be selected by draw from the lists referred to in Article 8 of this Chapter. In the case of disputes between Israel and Signatory Parties of MERCOSUR, the draw shall apply only to the lists of national arbitrators of the Signatory Parties involved in the disputes. The selection of the new arbitrator shall be done by the Chairperson of the Joint Committee in the presence of representatives of the parties, unless otherwise agreed between the parties. This procedure shall apply and take no more than seven (7) days.

4. In the event that an arbitrator is unable to continue participating in any of the proceedings pursuant to this Chapter an alternate that was selected according to paragraph 2 shall take his place and continue in his stead. In this event, time periods shall remain unchanged, unless otherwise agreed by the parties.

Article 10- Independence of the Arbitrators

The members of the Arbitration Tribunal shall be independent and impartial, shall maintain confidentiality of the proceedings, serve in their individual capacities, neither be affiliated with, nor take instructions from, any trade organization or Government. The parties shall refrain from giving them instructions and exercising any influence on them regarding the issues submitted to the Arbitration Tribunal.



After accepting their appointment and before beginning their work, the arbitrators shall sign an undertaking (attached to Annex I of this Chapter) to be submitted to the Joint Committee upon their acceptance of their appointment.

Article 11- Rules of Procedure

1. The Arbitration Tribunal shall for each case establish its seat in the territory of party complained against, unless the parties agree otherwise.
2. Arbitration Tribunals shall apply the Rules of Procedure which include the rights to hearings and the exchange of written submissions as well as deadlines and time tables for ensuring expediency, as set out in Annex II to this Chapter for conducting the Arbitration Tribunal proceedings. The Rules of Procedure shall be modified or amended subject to the agreement of the parties hereto.
3. The deliberation of the Arbitration Tribunals and all information including documents submitted to it shall be kept confidential.

Article 12 - Information and Technical Advice

1. Only under special circumstances may the Arbitration Tribunal seek the opinion of experts or information from any relevant source. Before the Arbitration Tribunal seeks such information or advice it shall inform the parties and provide them with duly justified reasons for doing so. Any information obtained in this manner must be disclosed to both parties. The expert's opinion shall be non-binding.
2. The Arbitration Tribunal shall set a reasonable time limit for the submission of the report of the expert, no longer than sixty (60) days, unless extended by mutual agreement of the parties.



3. When a request is made for a written report of an expert, any time-limit applicable to the Arbitration Tribunal proceedings shall be suspended for a period beginning on the date of the report being requested by the Arbitration Tribunal and ending on the date the report is delivered to it.

Article 13- Information to the Tribunal

The parties shall inform the Arbitration Tribunal of the steps taken prior to the arbitration procedure and shall submit the factual and legal grounds on which their respective positions are based. Other discussions including proposals shall remain strictly confidential, unless agreed otherwise by the parties.

Article 14 - Applicable Law

The Arbitration Tribunal shall apply the provisions of the Agreement and Joint Committee decisions taken pursuant to this Agreement in accordance with the applicable principles of international law.

Article 15 - Interpretation

The provisions of the Agreement and Joint Committee decisions taken pursuant to this Agreement shall be interpreted in accordance with customary rules of interpretation of public international law.

Article 16 - Arbitration Award

1. The Arbitration Tribunal shall base its decisions and award on the written submissions of the parties, expert reports, information obtained under Article 12.1 of this Chapter and hearings held, including evidence and information received from the parties.

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2. The Arbitration Tribunal shall render its written award within ninety (90) days as from the date of its establishment, which shall be official fifteen (15) days after the acceptance by the last arbitrator. Where it considers that this deadline cannot be met, the chairperson of the Arbitration Tribunal shall notify in writing stating the reasons for the delay. Under no circumstances should the award be issued later than one hundred and twenty (120) days following the establishment of the Arbitration Tribunal.

3. It is desirable that the Arbitration Tribunal takes its decisions by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by a majority vote. In such case the Arbitration Tribunal shall not include in its report the dissenting opinion and shall keep such opinion and the votes confidential.

4. In cases of urgency, including those involving perishable goods, the Arbitration Tribunal shall make every effort to issue its award within thirty (30) days of the establishment of the Arbitration Tribunal. Under no circumstance should it take longer than sixty (60) days from the establishment of the Arbitration Tribunal. The Arbitration Tribunal shall give a preliminary ruling within ten (10) days of its establishment on whether it deems the case to be urgent.

5. The Arbitration award is unappealable, final and binding on the parties as from receipt of the respective notification. Decisions of the Arbitration Tribunal are unappealable and binding on the parties.

Article 17 - Suspension of Proceedings

The Arbitration Tribunal may, at the request of both parties, suspend its work at any time for a period not exceeding twelve (12) months. Once the period of twelve (12) months has been exceeded, the authority for the establishment of the Arbitration Tribunal will lapse, without prejudice to the right of the complaining party to request at a later stage the establishment of an Arbitration Tribunal on the same measure.

Article 18- Request for Clarification

Any of the parties may request, within fifteen (15) days as from the notification date of the award, its clarification of the award. The Arbitration Tribunal shall resolve on the request for clarification within fifteen (15) days as from its filing.

Clarifications shall be given by the Arbitration Tribunal rendering the award.

Should the Arbitration Tribunal consider that circumstances so require, it may postpone the enforcement of the award until it resolves the request submitted.

Article 19- Compliance with the Award

1. The party complained against shall take the measures necessary to comply with the award of the Arbitration Tribunal. In the case the Arbitral award does not have a term for compliance it must be understood that the term is for one hundred eighty (180) days.

2. The award of the Arbitration Tribunal shall include the period of time for compliance of the award. That period of time shall be final unless one of the parties justifies in written the need for a different period of time. The Arbitration Tribunal shall render its decision within a period of 15 days from the date of the written request.

In case it is essential, the Arbitration Tribunal shall decide on the basis of written submissions of the parties. The Arbitration Tribunal shall convene for this purpose only under special circumstances.

3. Before the end of the period of the time established in the award for the implementation of the award, the party complained against shall notify the other party of the implementing measures in compliance with the award that it has adopted or intends to adopt in order to comply with the award of the Arbitration Tribunal.



4. In the event that there is disagreement between the parties concerning the compatibility of the measure adopted in compliance with the award, the complaining party may seek recourse to the original Arbitration Tribunal to rule on the matter, by submitting a written request to the other party explaining why the measure is incompatible with the award. The Arbitration Tribunal will issue its decision within forty-five (45) days of the date of its re-establishment.
5. In the event of the original Arbitration Tribunal, or some of its members, being unable to reconvene, the procedures laid down in Article 9 of this Chapter shall apply; however, the period for issuing the ruling remains forty-five (45) days from the date of establishment of the Arbitration Tribunal.
6. If the Arbitration Tribunal decides under paragraph 4 that the implementing measures adopted are not in compliance with the Arbitration award, the complaining party shall be entitled, upon notification to suspend the application of benefits granted under this Agreement at a level equivalent to the adverse economic impact caused by the measure found to violate this Agreement.
7. The suspension of benefits shall be temporary and shall be applied only until the measure found to be in violation of this Agreement is withdrawn or amended so as to bring it into conformity with this Agreement, or until the parties have agreed to settle the dispute.
8. If the party complained against considers that the level of suspension is not equivalent to the adverse economic impact caused by the measure found to violate this Agreement, it may make a written request within thirty (30) days from the date of suspension for the reconvening of the original Arbitration Tribunal. The Joint Committee and the parties shall be informed of the Arbitration Tribunal's decision on the level of the suspension of benefits within thirty (30) days of the date of the request for its establishment.



9. The party complained against shall submit a notification of the implementing measures it has adopted to comply with the decision of the Arbitration Tribunal and of its request to end the suspension of benefits applied by the complaining party.

The party complained against shall reply to any request from the complaining party for consultations on the implementing measures notified within ten (10) days of receipt of the request.

If the parties do not reach an agreement on the compatibility of the notified implementing measures with this Agreement within thirty (30) days of receipt of the request for consultations, the complaining party may request that the original Arbitration Tribunal decide on the matter within sixty (60) days of the notification of the implementing measures. The decision shall be issued within forty-five (45) days of the written request for its re-establishment. If the Arbitration Tribunal decides that the implementing measure is not in conformity with this Agreement, it will determine whether the complaining party can resume the suspension of benefits at the same or a different level.

Article 20 - Expenses

1. The expenses of the Arbitration Tribunal shall be borne in equal parts by the parties to the dispute.
2. The expenses of the Arbitration Tribunal include:
 - i) the fees of the Chair and the other arbitrators, as well as the costs of tickets, transport and allowances, whose reference values will be established by the Joint Committee,
 - ii) travel and other expenses of the experts required by the Arbitration Tribunal pursuant to Article 12 of this Chapter whose reference values will be established by the Joint Committee,
 - iii) notifications and other expenses customarily incurred by the routine functioning of the Arbitration Tribunal.



3. All other expenses incurred by a party shall be borne by that party.

Article 21- Notifications

Notwithstanding the provisions stipulated in this Chapter, all documents, notifications and requests of all types referred to throughout this Chapter shall be sent to the parties, and simultaneously transmitted to the Joint Committee and copied to the Ministry of Foreign Affairs of Israel, and to the Pro Tempore Presidency of MERCOSUR, and to the National Coordinators of the Common Market Group. All aforesaid documents shall also be submitted to each of the arbitrators from the time of the establishment of the Arbitration Tribunal.

Article 22 - Time-limits

Any time limit referred to in this Chapter may be extended by mutual agreement of the parties.

Article 23- Confidentiality

All documentation, decisions and proceedings linked to the procedure established in this Chapter, as well as the sessions of the Arbitration Tribunal, shall be confidential, except for the awards of the Arbitration Tribunal. Nevertheless, the award will not include any confidential information submitted by the parties to the Arbitration Tribunal which any of them deem confidential.

Article 24 - Withdrawal

At any time before the Arbitration award is transmitted to the parties, the complaining party may withdraw its complaint by written notification to the other party or the parties may reach a settlement.

In both cases the dispute shall be terminated.

Such notification shall be copied to the Joint Committee and Arbitration Tribunal, as appropriate.

Article 25 - Language

1. In the case of Israel, all its notifications, written and oral submissions, may be made in English or in Hebrew with their translations into English.
2. In the case of MERCOSUR, all its notifications, written and oral submissions, may be made in Spanish or Portuguese with their respective translations into English.
3. Awards, decisions and notifications of the Arbitration Tribunal shall be in English.
4. Each party shall arrange and bear the costs of translation of its oral submissions into English.



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ANNEX I

CODE OF CONDUCT FOR ARBITRATORS OF ARBITRATION TRIBUNAL

Definitions

1. In this Code of Conduct:

- (a) arbitrator means a member of an Arbitration Tribunal effectively established under Article 7 of this Chapter;
- (b) assistant means a person who, under the terms of appointment of an arbitrator, conducts, researches or provides assistance to the arbitrator;
- (c) proceeding, means an arbitration panel proceeding under Chapter XI of this Agreement;
- (d) staff, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants;
- (e) Chapter means Chapter XI of the Agreement titled Dispute Settlement.

Commitment to the Process

- 2. The arbitrators shall abide by the terms of the Chapter, the rules set out in this Code of Conduct and the rules of procedure.
- 3. The arbitrators shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of the proceedings established in the Chapter, so as to preserve the integrity and impartiality of the dispute settlement mechanism.

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Disclosure Obligations

4. To ensure the observance of this Code each arbitrator, prior to the acceptance of his/her selection, shall disclose the existence of any interest, relationship or matter that he/she could reasonably be expected to know and that is likely to affect or could raise justifiable doubt as to the arbitrator's independence or impartiality, including public statements of personal opinion on issues relevant to the dispute and any professional relationship with any person or organization with interest in the case.
5. The disclosure obligation is a continuing duty which requires an arbitrator to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. The arbitrator shall disclose such interests, relationships or matters by informing the Joint Committee, in writing, for consideration by the parties.

Duties of Arbitrators

6. Upon selection an arbitrator shall perform his/her duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.
7. An arbitrator shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to any other person.
8. An arbitrator shall take all appropriate steps to ensure that his or her assistant and staff are aware of, and comply with, paragraphs 18 and 19 of this Code of Conduct.
9. A arbitrator shall not engage in "*ex parte*" contacts concerning the proceeding.

Independence and Impartiality of Arbitrators

10. As stated in Article 10 of the Chapter the arbitrator shall exercise his/her position without accepting or seeking instructions from any international, governmental or non-governmental organization or any private source, and shall not have intervened in any previous stage of the dispute assigned to him/her.



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11. An arbitrator must be independent and impartial and shall not be influenced by self-interest, political considerations or public opinion.

12. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere with, or which could give rise to justifiable doubts as to, the proper performance of his/her duties.

13. An arbitrator may not use his/ her position on the Arbitration Tribunal to advance any personal or private interests.

14. An arbitrator may not allow financial, business, professional, family or social relationships or responsibilities to influence his or her conduct or judgment.

15. An arbitrator must avoid entering into any relationship or acquiring any financial interest that is likely to affect his or her impartiality.

Obligations of Former Arbitrators

16. All former arbitrators must avoid any kind of derived advantage from the decision or award of the Arbitration Tribunal.

Confidentiality

17. No arbitrator or former arbitrator shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

18. An arbitrator shall not disclose an arbitration award prior to its publication in accordance with Article 16 of the Chapter.



19. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitration panel, or any arbitrator's view.

Undertaking

20. In accordance with Article 10 of the Chapter, the Chairperson of the Joint Committee will contact the arbitrators immediately after their designation, presenting the following undertaking which shall be signed and submitted to the Joint Committee upon their acceptance of their appointment:

UNDERTAKING

By the means of this Undertaking I accept the appointment to hereby act as a arbitrator/assistant in accordance with Article 10 of Chapter XI and the Code of Conduct of the Chapter on Dispute Settlement of the Free Trade Agreement between MERCOSUR and the State of Israel. I declare not to have any interest in the dispute or any other reason that could be an impediment to my continuing duty to serve on the Arbitration Tribunal established with the purpose of solving this dispute between the parties.

I undertake to act independently, impartially and with integrity and, to avoid direct and indirect conflicts of interests and to not accept suggestions or impositions of third parties, as well as not to receive remuneration related to this performance except that comprised in the Chapter of Dispute Settlement of this Agreement.

I undertake to disclose herewith and in the future any information likely to affect my independence and impartiality, or which could give rise to justifiable doubts as to the integrity and impartiality of this dispute settlement mechanism.

I undertake to respect my obligations regarding the confidentiality of the dispute settlement proceedings, as well as the content of my vote.



Moreover, I accept the possibility of being required to serve after the rendering of the Award, in accordance with Articles 18 and 19 of the Chapter of Dispute Settlement of this Agreement.



ANNEX II

**RULES OF PROCEDURE
FOR ARBITRATION TRIBUNAL PROCEEDINGS**

Definitions

I. In these rules:

- (a) adviser means a person retained by a party to advise or assist that party in connection with the Arbitration Tribunal proceeding;
- (b) complaining party means any party, as defined in Article 1 of the Chapter, that requests the establishment of an Arbitration Tribunal under Article 7 of the Chapter;
- (c) Chapter means Chapter XI of the Agreement titled Dispute Settlement;
- (d) party complained against means the party against whom a dispute is brought arising from the alleged non fulfillment of the provisions of the Agreement or the Joint Committee decisions taken pursuant to the Agreement;
- (e) Arbitration Tribunal means a Tribunal established under Article 7 of the Chapter;
- (f) representative of a party means an employee or any person appointed by a government department or agency or any other public entity of a party;
- (g) day means a calendar day.



Notifications

2. Notwithstanding the provisions of Article 21 of the Chapter:

- (a) The parties and the Arbitration Tribunal shall transmit any request, notice, written submission or other document by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof. A copy of the documents shall also be provided in electronic format.
- (b) The documents submitted by the parties shall be signed by the duly authorized representatives of the party in order to be considered officially submitted to the Arbitration Tribunal.
- (c) Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceeding may be corrected by delivery of a new document clearly indicating the changes.

3. Notifications, documents and requests of all types shall be deemed to be received, on the date upon which the electronic version of them is received.

- (a) In the case of MERCOSUR, if the dispute is between Israel and MERCOSUR as a Contracting Party, notifications, documents and requests of all types shall be sent to the National Coordinator of the Common Market Group who is acting as a Pro Tempore President at that moment.
- (b) If the dispute is among Israel and more than one Signatory Parties of MERCOSUR, notifications, documents and requests of all types shall be sent to the National Coordinator of the Common Market Group appointed by those Signatory Parties.

4. The terms referred to in the Chapter are stated in calendar days and shall be counted as from the day after the act or fact to which it refers to. When the term begins or is due on a Friday, a Saturday or Sunday, it shall begin or become due on the following Monday.



5. If the last day for delivery of a document falls on an official holiday of the Parties the document may be delivered on the next business day. The Parties shall exchange a list of dates of their official holidays on the first Monday of every December, for the following year. No documents, notifications and requests of all types shall be sent or deemed received on official holidays.

Record of the Meetings of the Tribunal

6. The Arbitration Tribunal shall record minutes of the meetings held during each proceeding, which shall be kept in the files of the dispute.

Commencing the Arbitration

7. Unless the parties agree otherwise, the Arbitration Tribunal within seven (7) days of its establishment shall contact the parties in order to determine such matters that the parties or the Arbitration Tribunal deem appropriate.

Initial Submissions

8. The complaining party shall deliver its initial written submission to the other party and to each of the arbitrators, no later than fifteen (15) days after the date of establishment of the Arbitration Tribunal.

This submission shall:

- (a) designate a duly authorized representative;
- (b) inform the service address, telephone numbers and e-mail addresses to which communications arising in the course of the proceeding shall be sent;
- (c) a summary of the relevant facts and circumstances;
- (d) indicate the relevant provisions of the Agreement and the legal basis of the complaint;



- (e) state clearly the party's claim; including identification of the measures at issue and an indication of the legal basis for the complaint; a request for an award addressing the issue of fulfillment /non-fulfillment of the provisions of the Agreement or Joint Committee decisions taken pursuant to the Agreement;
 - (f) include supporting evidence, including expert or technical opinion, and specify any other evidence which cannot be produced at the time of the submission, but will be presented to the Arbitration Tribunal before or during the first hearing;
 - (g) be dated and signed.
9. The party complained against shall deliver its written counter-submission to the other party and to each of the arbitrators, no later than twenty (20) days after the date of delivery of the initial written submission.

This submission shall:

- (a) designate a duly authorized representative;
- (b) inform the service address, telephone numbers and e-mail addresses to which communications arising in the course of the proceeding shall be sent;
- (c) state the facts and arguments upon which its defense is based;
- (d) include supporting evidence and specify any other evidence, including expert or technical opinion, which cannot be produced at the time of the submission, but will be presented to the Arbitration Tribunal during or before the first hearing.
- (e) be dated and signed.



Work of Arbitration Tribunal

10. The chairperson of the Arbitration Tribunal shall preside at all its meetings.

11. Unless provided otherwise in these rules, the Arbitration Tribunal may conduct its activities by any means, including telephone, facsimile transmissions, computer links or video-conference.

12. Only arbitrators may take part in the deliberations of the Arbitration Tribunal but the Arbitration Tribunal may permit their assistants to be present at its deliberations.

13. The drafting of the award or any decision shall remain the exclusive responsibility of the Arbitration Tribunal.

14. If a procedural question arises that is not covered by these rules, the Arbitration Tribunal, after consulting the parties, may adopt the appropriate procedure.

15. Notwithstanding Article 11.2 of the Chapter, when the Arbitration Tribunal considers, after consulting the parties, that there is a need for modifying any time-limit or any other procedure, it shall propose a new procedure or timeframe to the parties by means of a written notification. Any modification of procedure or of time-limits shall be mutually agreed between the parties.

Hearings

16. The party complained against shall be in charge of the logistical administration of the hearings, particularly the venue, the assistance of interpreters and other staff necessary, unless otherwise agreed.

17. The chairperson shall fix the date and time of the hearing in consultation with the parties and the other members of the Arbitration Tribunal, and confirm this in writing to the parties, no later than fifteen (15) days prior to the hearing.



18. Unless the parties agree otherwise, the hearing shall be held in a place to be decided upon by the party complained against.

19. The Arbitration Tribunal may convene additional hearings if the parties so agree.

20. All arbitrators shall be present at hearings.

21. The following persons may attend the hearing:

- (a) representatives of the parties;
- (b) advisers to the parties;
- (c) administrative staff, interpreters and translators;
- (d) arbitrators' assistants.

Only the representatives and advisers of the parties may address the Arbitration Tribunal.

22. No later than five (5) days before the date of a hearing, each party shall deliver a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that party and of other representatives or advisers who will be attending the hearing.

23. The Arbitration Tribunal shall conduct the hearing in the following manner, ensuring that the complaining party and the party complained against are afforded equal time:

Argument

- a) argument of the complaining party
- b) argument of the party complained against

Rebuttal Argument

- a) rebuttal argument of the complaining party
- b) rebuttal argument of the party complained against

24. The Arbitration Tribunal may direct questions to either party at any time during the hearing.

25. The Arbitration Tribunal shall arrange for a transcript of each hearing to be prepared and delivered as soon as possible to the parties.

26. Each party may deliver a supplementary written submission concerning any matter that arose during the hearing within ten (10) days of the date of the hearing.

Evidence

27. Parties shall submit all evidence to the Tribunal no later than during the course of the first hearing provided for in paragraph 17 other than evidence necessary for purposes of rebuttals and answers to questions. Exceptions to this procedure will be granted upon a showing of good cause. In such cases, the other party shall be accorded a period of time for comment on the newly submitted evidence, as the Tribunal deems appropriate.

28. All the evidence submitted by the parties shall be kept in the files of the dispute.

29. In case the parties so request, the Arbitration Tribunal shall hear witnesses or experts, in the presence of the parties, during the hearings.

Questions in Writing

30. The Arbitration Tribunal may at any time during the proceedings address questions in writing to the parties involved in the dispute and set a time-limit for submission of the responses. The parties shall receive a copy of any question put by the Tribunal.

31. A party shall also provide a copy of its written response to the Arbitration Tribunal's questions to the other parties. Each party shall be given the opportunity to provide written comments on the other party's reply within seven (7) days of the date of receipt.



32. Whenever a party fails to submit in due time its initial written submission, is absent from a scheduled hearing or in any other way breaches the procedures without good and sufficient cause, the Tribunal shall, upon assessment of the aforesaid circumstances decide on its effect on the future course of the proceedings.

Arbitration Decisions and Award

33. The Arbitration decision and award must contain the following details, in addition to any other elements which the Arbitration Tribunal may consider appropriate:

- (a) The parties to the dispute;
- (b) The name and nationality of each of the members of the Arbitration Tribunal and the date of its establishment;
- (c) The names of the representatives of the parties;
- (d) The measures subject of the dispute;
- (e) A report on the development of the arbitration procedure, including a summary of the arguments of each of the parties;
- (f) The decision reached concerning the dispute indicating its factual and legal grounds;
- (g) The period of time for compliance with the award, when appropriate;
- (h) The share of the expenses in accordance with Article 21 of the Chapter;



- (i) The date and place of the issue;
- (j) The signature of all the members of the Arbitration Tribunal.

“Ex parte” Contacts

34. The Arbitration Tribunal shall not meet or contact a party in the absence of the other parties.

35. No arbitrator may discuss any aspect of the subject matter of the proceedings with one party or other parties in the absence of the other arbitrators.

Urgent Cases

36. In cases of urgency referred to in Article 16.4 of the Chapter, the Arbitration Tribunal shall, after consulting the parties, modify the time-limits referred to in these rules as appropriate and shall notify the parties of any such adjustments.

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CHAPTER XII

EXCEPTIONS

Article 1 -General Exceptions

Nothing in this Agreement shall prevent any Signatory Party from taking actions and adopting measures consistent with Articles XX and XXI of the GATT 1994 including measures affecting re-exports to non-parties or re-imports from non-parties.

Article 2- Taxation

1. Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.
2. Notwithstanding Paragraph 1, the obligation of national treatment as defined in Article 1 of Chapter II (General Provisions) shall apply to internal taxation measures to the same extent as does Article III of the General Agreement on Tariffs and Trade 1994.
3. Nothing in this Agreement shall affect the rights and obligations of any Party or Signatory Party under any tax convention to which they are a party. In the event of any inconsistency between this Agreement and that convention, that convention shall prevail to the extent of the inconsistency.

Article 3- Limitations on Imports

The limitation on the importation of non- kosher meat in Israel shall not be considered as a measure in violation of this Agreement.

