

The Parties shall, upon written request by a Party, hold consultations to consider any modification or withdrawal of a specific commitment in the requesting Party's Schedule of specific commitments. The consultations shall be held within three months after the requesting Party made its request. In the consultations, the Parties shall aim to ensure that a general level of mutually advantageous commitments no less favourable to trade than that provided for in the Schedule of specific commitments prior to such consultations is maintained. Modifications of Schedules are subject to the procedures set out in Articles 55 and 58.

Article 43

Review

With the objective of further liberalising trade in services between them, in particular eliminating substantially all remaining discrimination within a period of ten years, the Parties shall review at least every other year, or more frequently if so agreed, their Schedules of specific commitments and their Lists of MFN Exemptions, taking into account in particular any autonomous liberalisation and on-going work under the auspices of the WTO. The first such review shall take place no later than three years after the entry into force of this Agreement.

Article 44

Annexes

The following Annexes form an integral part of this Chapter:

- Annex III (Schedules of Specific Commitments and Lists of MFN Exemptions);
- Annex IV (Financial Services); and
- Annex V (Telecommunications Services).

CHAPTER IV DISPUTE SETTLEMENT

Article 45

Scope and Coverage

1. The provisions of this Chapter shall apply with respect to the settlement of any disputes concerning the interpretation or application of this Agreement, except as otherwise provided in this Agreement.
2. Disputes regarding the same matter arising under both this Agreement and the WTO Agreement may be settled in either forum at the discretion of the complaining Party. The forum thus selected shall be used to the exclusion of the other.
3. For purposes of paragraph 2, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the WTO Dispute Settlement Understanding, whereas dispute settlement proceedings under this Agreement are deemed to be initiated upon a request for arbitration pursuant to paragraph 1 of Article 48.
4. Before a Party initiates dispute settlement proceedings under the WTO Agreement against another Party, that Party shall notify other Party of its intention.

Article 46

Good Offices, Conciliation or Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the Parties so agree. They may begin and be terminated at any time. They may continue while procedures of an arbitration panel established in accordance with this Chapter are in progress.
2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the Parties' rights in any other proceedings.

Article 47

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 cooperation and consultations to reach a mutually satisfactory resolution of any matter raised in accordance with this Article.
2. A Party may request in writing consultations with another Party if it considers that a measure or other matter is inconsistent with this Agreement. The Party requesting consultations shall at the same time notify the other Party in writing thereof. The Party to which the request is made shall reply to the request within 10 days after the

date of its receipt. Consultations shall take place in the Committee unless the Parties making and receiving the request for consultations agree otherwise.

3. Consultations shall commence within 30 days from the date of receipt of the request for consultations. Consultations on urgent matters, including those on perishable goods, shall commence within 15 days from the receipt of the request for consultations. If the Party to which the request is made does not reply within 10 days or does not enter into consultations within 30 days from the date of receipt of the request for consultations, or within 15 days for urgent matters, the Party making the request is entitled to request the establishment of an arbitration panel in accordance with Article 4.4 48.

4. The parties to the dispute shall provide sufficient information to enable a full examination of how the measure or other matter is inconsistent with this Agreement and treat any confidential or proprietary information exchanged in the course of consultations in the same manner as the Party providing the information.

5. The consultations shall be confidential and without prejudice to the rights of the Parties in any further proceedings.

Article 48 ***Establishment of Arbitration Panel***

1. If the consultations referred to in Article 47 fail to settle a dispute within 60 days, or 30 days in relation to urgent matters, including those on perishable goods, after the date of the receipt of the request for consultations by the Party complained against, it may be referred to an arbitration panel by means of a written request from the complaining Party to the Party complained against.

2. The request for arbitration shall identify the specific measure or other matter at issue and provide a brief summary of the legal basis of the complaint.

3. The arbitration panel shall comprise three members who shall be nominated in accordance with the “Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration”, effective 20 October 1992 (hereinafter referred to as “the Optional Rules”). The date of establishment of the arbitration panel shall be the date on which the Chairperson is appointed.

4. Unless the parties to the dispute otherwise agree within 20 days from the date of receipt of the request for the establishment of the arbitration panel, the terms of reference for the arbitration panel shall be:

“To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 48 and to make findings of law and fact together with the

reasons therefore, as well as recommendations, if any, for the resolution of the dispute and the implementation of the ruling.”

Article 49

Procedures of the Arbitration Panel

1. Unless otherwise specified in this Agreement or agreed between the parties to the dispute, the procedures of the arbitration panel shall be governed by the Optional Rules.

2. The arbitration panel shall examine the matter referred to it in the request for the establishment of an arbitration panel in the light of the relevant provisions of this Agreement interpreted in accordance with rules of interpretation of public international law.

3. Unless the parties to the dispute agree otherwise, the hearings of the arbitration panel shall take place in Geneva. The language of any proceeding shall be English. The hearings of the arbitration panel shall be open to the public unless the parties to the dispute agree otherwise.

4. There shall be no *ex parte* communications with the arbitration panel concerning matters under its consideration.

5. A Party's written submissions, written versions of oral statements and responses to questions put by an arbitration panel, shall, at the same time as it is submitted to the arbitration panel, be transmitted by that Party to the other party to the dispute.

6. The Parties shall treat as confidential the information submitted by other Party to the arbitration panel which that Party has designated as confidential.

7. Decisions of the arbitration panel shall be taken by a majority of its members. Any member may furnish separate opinions on matters not unanimously agreed. The arbitration panel may not disclose which members are associated with majority or minority opinions.

Article 50

Arbitration Panel Reports

1. The arbitration panel should, as a general rule, submit an initial report containing its findings and ruling to the parties to the dispute not later than 90 days from the date of establishment of the arbitration panel. In no case should it do so later than five months from this date. A party to the dispute may submit written comments to the arbitration panel on its initial report within 14 days of receipt of the report. The arbitration panel shall present to the parties to the dispute a final report within 30 days of their receipt of the initial report.

2. The final report, as well as any ruling under Articles 52 and 53, shall be communicated to the Parties. The reports shall be made public, unless the parties to the dispute decide otherwise.

3. Any ruling of the arbitration panel under any provision of this Chapter shall be final and binding upon the parties to the dispute.

Article 51

Suspension or Termination of Arbitration Panel Proceedings

1. Where the parties to the dispute agree, an arbitration panel may suspend its work at any time for a period not exceeding 12 months. If the work of an arbitration panel has been suspended for more than 12 months, the arbitration panel's authority for considering the dispute shall lapse unless the parties to the dispute agree otherwise.

2. 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.

3. The parties to the dispute may agree at any time to terminate the proceedings of an arbitration panel established under this Agreement by jointly notifying the Chairperson of that arbitration panel.

4. An arbitration panel may, at any stage of the proceedings prior to release of the final report, propose that the parties to the dispute seek to settle the dispute amicably.

Article 52

Implementation of Final Report

1. The Party concerned shall promptly comply with the ruling 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 issuance of the final report, either 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 should be given within 30 days from that request.

2. The party to the dispute concerned shall notify the other party to the dispute of the measure adopted in order to comply with the ruling of the arbitration panel, as well as provide a detailed description of how the measure ensures compliance sufficient to allow the other party to the dispute to assess the measure.

3. In case of disagreement as to the existence of a measure complying with the ruling of the arbitration panel or to the consistency of that measure with the ruling of the arbitration panel, such dispute shall be decided by the same arbitration panel before compensation can be sought or suspension of benefits can be applied in accordance with Article 53. The ruling of the arbitration panel shall normally be rendered within 90 days.

Article 53 ***Compensation and Suspension of Benefits***

1. If the Party concerned fails to properly comply with the ruling in the final report within a reasonable period of time as provided for in paragraph 1 of Article 52, that Party shall, if so requested by the complaining Party, enter into consultations with a view to agreeing 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 the application of benefits granted under this Agreement but only equivalent to those affected by the measure or matter that the arbitration panel has found to be inconsistent with this Agreement.

2. In considering what benefits to suspend, the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or matter that the arbitration panel has found to be inconsistent with this Agreement. The 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.

3. The complaining Party shall notify the other party to the dispute of the benefits which it intends to suspend, the grounds for such suspension and when suspension will commence, no later than 30 days before the date on which the suspension is due to take effect. Within 15 days from that notification, the Party complained against 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 be inconsistent with this Agreement, and whether the proposed suspension is in accordance with paragraphs 1 and 2. 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.

4. Compensation and suspension of benefits shall be temporary measures and shall only be applied by the complaining Party until the measure or matter found to be inconsistent with this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or until the parties to the dispute have resolved the dispute otherwise.

5. At the request of a party 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.

Article 54 ***Other Provisions***

1. Whenever possible, the arbitration panel referred to in Articles 52 and 53 shall comprise the same panelists who issued the final report. If a member of the original arbitration panel is unavailable, the appointment of a replacement panelist shall be conducted in accordance with the selection procedure for the original panelist.

2. Any time period mentioned in this Chapter may be modified by mutual agreement of the Parties involved.

CHAPTER V **INSTITUTIONAL PROVISIONS**

Article 55 ***Free Trade Committee***

1. The Parties hereby establish the Montenegrin - Ukrainian Free Trade Committee (here and after referred to as “the Committee”) in order to ensure full and effective implementation of the provisions of this Agreement.

2. The objectives of the Committee are:

(a) to supervise and review the implementation of this Agreement, *inter alia* by means of a comprehensive review of the application of the provisions of this Agreement, with due regard to any specific reviews contained in this Agreement;

(b) to keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning trade between the Parties;