

- (d) supervise the work of all sub-committees and working groups established under this Agreement;
- (e) discuss, upon request by a Party, measures with respect to cultural industries maintained or adopted under Annex J;
- (f) discuss, upon request by a Party, the application of an emergency action taken under Article 25;
- (g) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and
- (h) consider any other matter that may affect the operation of this Agreement.

3. The Joint Committee may decide to set up such sub-committees and working groups as it considers necessary to assist it in accomplishing its tasks. Except where specifically provided for in this Agreement, the sub-committees and working groups shall work under a mandate established by the Joint Committee.

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 and make recommendations 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 Canada and one of the EFTA States. 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.

VIII DISPUTE SETTLEMENT

ARTICLE 27

Choice of forum

1. Subject to paragraph 2 and except as otherwise provided elsewhere in this Agreement, any dispute regarding any matter arising under both this Agreement and the WTO Agreement may be settled in either forum at the discretion of the complaining Party.

2. Before Canada initiates against an EFTA State or an EFTA State initiates against Canada a dispute settlement proceeding in the WTO on grounds that are substantially equivalent to those available to that Party under this Agreement, that Party shall notify the other Parties of its intention. If an EFTA State initiates a dispute settlement proceeding against Canada and another EFTA State wishes also to have recourse to dispute settlement procedures against Canada 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 agreeing 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 29 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 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 WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

5. The provisions of this Chapter do not apply to any matters falling within the scope of any one of the following provisions: Article 6; paragraphs 1 and 2 of Article 7; any provision of Chapter IV (Competition Law and Policy); paragraph 1 of Article 17; paragraph 1 of Article 18; Article 19; paragraph 1 of Article 20; or paragraph 11 of Article 25.

ARTICLE 28

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. Canada may request in writing consultations with any EFTA State, and any EFTA State may request in writing consultations with Canada, 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. Where an EFTA State has requested consultations with Canada, any other EFTA State may join in such a request as a co-complainant.

3. If any other Party so requests within ten days from the receipt of the notification referred to in paragraph 2, such Party shall be entitled to participate in the consultations.

4. The consultations shall commence within 30 days from the date of receipt of the request for consultations.
5. The Parties shall inform the Joint Committee of any discussions and decisions arrived at.

ARTICLE 29

Arbitration

1. Any dispute arising between Parties under this Agreement which has not been settled through consultations within 90 days from the date of the receipt of the request for consultation, 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. Where more than one Party requests the submission to an arbitral tribunal of a dispute with the same Party relating to the same question, a single arbitral tribunal should be established to consider such disputes whenever feasible.
2. The establishment and functioning of the arbitral tribunal are governed by Annex K.
3. Unless the Parties otherwise agree within 30 days from the date of the receipt of the notification referring the dispute to arbitration, the terms of reference shall be:

“To examine, in the light of the relevant provisions of this Agreement, the matter referred to arbitration (as described in the notification referred to in paragraph 1) and to make such findings, determinations and recommendations as provided in paragraph 6 of Article 29 of this Agreement.”
4. If the complaining Party alleges that any benefit it could reasonably have expected to accrue to it directly or indirectly under Articles 4, 5, 8, 10 or 11, is being nullified or impaired as a result of the application of any measure that is not inconsistent with this Agreement, the terms of reference shall so indicate.
5. The arbitral tribunal shall interpret this Agreement in accordance with customary rules of interpretation of public international law.
6. The arbitral tribunal, in its award, shall set out:
 - (a) its findings of law and fact, together with the reasons therefor;
 - (b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment of benefits within the meaning of paragraph 4, or any other determination requested in the terms of reference; and

- (c) its recommendations, if any, for the resolution of the dispute and the implementation of the arbitral award.

7. The parts of the award of the arbitral tribunal referred to in sub-paragraphs (a) and (b) of paragraph 6 shall be final and binding upon the Parties to the dispute.

ARTICLE 30

Implementation of the arbitral award

1. On receipt of the arbitral award, the disputing Parties shall seek to agree on the implementation of the arbitral award, which, unless they decide otherwise by common accord, shall conform with the determinations and any recommendations of the arbitral tribunal. The disputing Parties shall notify the other Parties of any agreed resolution of the dispute.

2. Wherever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment of benefits within the meaning of paragraph 4 of Article 29 or, failing such a resolution, compensation.

ARTICLE 31

Non-implementation - suspension of benefits

1. In case of disagreement as to the existence or consistency of a measure implementing the arbitral award with the determinations and any recommendations of the arbitral tribunal, such dispute shall be decided by the same arbitral tribunal before compensation can be sought or suspension of benefits can be applied in accordance with paragraphs 3 through 5. If one or more members of the original arbitral tribunal are not available, a new arbitral tribunal shall be established in accordance with Annex K, to make this determination.

2. The complaining Party may not initiate arbitration under the preceding paragraph before a period of 12 months has expired following the rendering of the award pursuant to paragraph 6 of Article 29. The award of the tribunal referred to in the preceding paragraph shall normally be rendered within three months of the request for arbitration.

3. If the arbitral tribunal, in accordance with paragraph 1 has determined that an implementing measure is inconsistent with the determinations and any recommendations of the original arbitral tribunal, or that no implementing measures have been taken, and the Party complained against has not reached agreement with a complaining Party on a mutually satisfactory resolution within 30 days of receiving this award, the complaining Party may, until such time as the disputing Parties have reached agreement on a resolution of the dispute:

- (a) seek compensation through an agreement with the Party complained against; or
- (b) suspend the application to the Party complained against of benefits of equivalent effect.

4. Upon written request of any disputing Party delivered to the other Party or Parties, the same arbitral tribunal shall be reconvened to determine whether the level of benefits suspended by a Party pursuant to paragraph 3 is of equivalent effect. If one or more members of the original arbitral tribunal are not available, a new arbitral tribunal shall be established in accordance with Annex K, to make this determination.

5. The proceedings of the arbitral tribunal reconvened or established under paragraph 4 shall be conducted in accordance with paragraph 3 of Annex K. The arbitral tribunal shall present its determination within 60 days after the date of the request referred to in paragraph 4, or such other period as the disputing Parties may agree.

IX FINAL CLAUSES

ARTICLE 32

Evolutionary clause

Without prejudice to the obligation to review specific Articles of this Agreement, the Parties undertake to review this Agreement in the light of further developments in international economic relations, including in the framework of the WTO, and to examine in this context and in the light of any relevant factors, the possibility of further developing and deepening the co-operation under this Agreement and to extend it to areas not covered therein. The Parties may examine this possibility through the Joint Committee and, where appropriate, open negotiations.

ARTICLE 33

Trade and economic relations governed by this Agreement

The provisions of this Agreement apply to the trade and economic relations between, on the one side, Canada and, on the other side, the individual EFTA States, but not to the trade relations between individual EFTA States, unless otherwise provided in this Agreement.