

Særskilt vedlegg til St prp. nr 10

(2001-2002)

**Revidert Konvensjon om opprettelse av Det europeiske frihandelsforbund
(EFTA) av 21. juni 2001**

Konsolidert versjon

VEDLEGG 21

Annex T. Arbitration (Art. 48)

Article 1

Establishment and functioning of the arbitral tribunal and the implementation of arbitral awards

The arbitral tribunal shall comprise three members.

In its written notification pursuant to Article 48 of this Convention, the Member State(s) referring the dispute to arbitration shall designate one member of the arbitral tribunal.

Within 15 days from the receipt of the notification referred to in paragraph 2, the Member State(s) to which it was addressed shall, in turn, designate one member.

Within 30 days from the receipt of the notification referred to in paragraph 2, the Member States concerned shall agree on the designation of a third member. The third member shall not be a national of the parties to the dispute, nor permanently reside in the territory of either Member State. The member thus appointed shall be the President of the arbitral tribunal.

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 either party to the dispute, by the President of the International Court of Justice applying the criteria of paragraphs 3 and 4. If the President is unable to act under this paragraph or is a national of a party to the dispute, the designations shall be effected by the next senior member of the Court who is neither unable to act nor a national of a Member State.

Unless otherwise agreed between the parties to the dispute, and subject to Article 48 of the Convention and this Annex, the Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration (PCA), effective 20 October 1992, shall apply.

The arbitral tribunal shall take its decisions by majority vote. Minority opinions shall not be disclosed.

A Member State 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 arbitral tribunal, to

receive written submissions of the disputing parties, attend all hearings and make oral submissions.

The arbitral award shall be rendered within six months of the date at which the President of the arbitral tribunal was appointed. This period can be extended by a maximum of three additional months, if the parties to the dispute so agree.

The expenses of the arbitral tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. Fees and expenses payable to members of an arbitral tribunal established under these Articles will be subject to schedules established by the Council and in force at the time of the establishment of the arbitral tribunal.

Article 2

Implementation of the arbitral award

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

Wherever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Convention or, failing such a resolution, compensation.

In case of disagreement as to the existence or consistency of a measure implementing the arbitral award with the 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 Article 3 below.

The complaining Member State 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 3 of Article 48. The award of the tribunal referred to in the preceding paragraph shall normally be rendered within three months of the request for arbitration.

Article 3

Non-implementation - suspension of benefits

If the arbitral tribunal, in accordance with paragraph 3 of Article 48, has determined that a measure is inconsistent with the obligations of this Convention, and the Member State complained against has not reached agreement with any complaining Member State on a mutually satisfactory resolution within 30 days of receiving the arbitral award, or if no implementing measures have been taken, such complaining Member State or Member States may:

seek compensation through an agreement with the Member State complained against; or

suspend the application to the Member State complained against of benefits of equivalent effect until such time as the disputing Member States have reached agreement on a resolution of the dispute.

Upon written request of any party to the dispute delivered to the other Member State or Member States, the same arbitral tribunal shall be reconvened to determine whether the level of benefits suspended by a Member State pursuant to paragraph 1 is of equivalent effect.

The proceedings of the arbitral tribunal shall be conducted in accordance with paragraph 2 of Article 1 above. The arbitral tribunal shall present its determination within 60 days after the date of the request referred to in paragraph 2 or such other period as the parties to the dispute may agree.