

MERCOSUR-Israel Negotiations
II Round of Negotiations
(25-28 April 2006)
Draft on Disputes Settlement

The numbering of Articles in this Chapter is provisional for case of reference and will, upon finalization, follow on in sequential order from previous Chapters.

CHAPTER XX

DISPUTES 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. [For the purpose of this Chapter, both Parties, i.e. MERCOSUR and the State of Israel, hereinafter the “parties”, as well as one or more MERCOSUR State Parties and the State of Israel, may be parties to the dispute, in their capacity as Signatory Parties]¹ [The parties to a dispute -hereinafter in this Chapter the “parties”- may be either the Contracting Parties or one or more of the Signatory Parties]².

Article 2

Scope

[Disputes arising from the interpretation, application or non performance of the provisions contained in the Free Trade Agreement signed between MERCOSUR and the State of Israel, hereinafter the “Agreement”, and from the legal instruments signed or to be signed within their framework shall be ruled by the disputes settlement procedure established under this Chapter]³.

Article X

Choice of Forum

[Notwithstanding the provisions of the previous article, 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 claiming party’s election.

Once a disputes settlement procedure has started in accordance with the Protocol, or in accordance with the WTO Agreement, the forum chosen shall exclude the other forum.

For the purposes of this article, the disputes settlement procedures shall be considered to have been initiated in accordance with the WTO Agreement when the claiming party requests the formation of a panel under Article 6 of the Understanding on Rules and Procedures governing the Settlement of Disputes of the WTO Agreement.

¹ MERCOSUR proposal.

² Israel proposal.

³ MERCOSUR proposal.

Dispute settlement procedures shall be initiated in accordance with this Agreement, once the Joint Committee is convened pursuant to the provisions of this Article 8.]⁴

[1. Where a dispute regarding any matter arises under both this Agreement and the WTO Agreements, the Parties agree to favourably consider resolving their differences with regard to this Agreement [by giving priority]⁵ to the dispute settlement mechanisms established under it. Nevertheless, the complaining Party has the discretion to select the forum in which to settle the dispute.

2. Before a Party initiates a dispute settlement proceeding under the WTO Agreements against the other Party on grounds that are substantially equivalent to those available to that Party under this Agreement, that Party shall notify the other Party of its intention. If the other Party wishes the dispute to be settled under the dispute settlement procedures provided in this Agreement, it shall inform promptly the notifying Party and the Parties shall consult with a view to agree on a single forum.

3. Once the complaining Party has requested the establishment of a panel referred to in paragraph 1, the forum selected shall be used to the exclusion of the other.

4. [For purposes of this Article:

- (a) dispute settlement proceedings under the WTO Agreements are deemed to be initiated by a Party's request for a panel, as specified under Article 6 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, following consultations under Article 4 thereof;
- (b) dispute settlement proceedings under this Agreement are deemed to be initiated once a Party has requested the establishment of a Panel under Article 6(1) of this Chapter].⁷

Article 3 Direct Negotiations

1. The parties shall attempt to settle the disputes referred to in Article 2 through direct negotiations aimed at a mutually satisfactory solution.

In the case of MERCOSUR, if the dispute is between contracting Parties, direct negotiations 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 State Party of MERCOSUR as Signatory Party direct negotiations shall be carried out by the National Coordinator of the Common Market Group of that State Party. If the dispute is among Israel and more than one State Party of MERCOSUR as Signatory Party direct negotiations shall be carried out by the National Coordinator of the Common Market Group appointed by the States Parties involved.

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, specifying the reason, the circumstances and 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.

⁴ MERCOSUR proposal.

⁵ MERCOSUR is analyzing this text.

⁶ Both parties will analyze whether it is convenient to establish the choice of forum once diplomatic negotiations have been completed, in the case of WTO, prior to convening the panel, and in the case of the MERCOSUR-Israel Agreement, prior to the beginning of the arbitration procedure. MERCOSUR proposed the choice of forum be decided before the Joint Committee intervention (art. 3.4)

⁷ Israel proposal. Israel will propose a text considering both proposals on choice of forum.

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.

Article 4
Consultations within the Joint Committee

1. If within the term established in the fifth paragraph of Article 3 no mutually satisfactory solution is reached or if the dispute has been settled only partially, [the complaining party]⁸ [any of the parties]⁹ may request consultations to be held within the Joint Committee by means of a written request to the other party.

2. This written request shall include the reasons, the circumstances, the relevant provisions of the Agreement [and the legal basis which are the subject of the complaint]¹⁰ [which are considered breached and the legal basis for the complaint]¹¹.

3. 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, shall commence within fifteen (15) days of the date of submission of the request.]¹²

4. [The Joint Committee, by consensus, may deal jointly with two or more procedures relative to the cases it hears, only when due to their nature or possible thematic link, it considers their joint examination convenient.]¹³

5. The Joint Committee shall evaluate the dispute and allow the parties an opportunity to inform 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.

6. When the Joint Committee considers that the advice of Experts is necessary to make its recommendations, it shall order, within thirty (30) days, the creation of a Group of Experts.

7. If consultations are not held within the timeframe laid down in paragraph 3, and 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 panel in accordance with Article 6.

8. Deliberations, [the minutes of the Joint Committee containing its recommendations]¹⁴ and all information including documents disclosed during the consultations shall remain confidential.

[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.

⁸ Israel proposal.

⁹ MERCOSUR proposal.

¹⁰ Israel proposal.

¹¹ MERCOSUR proposal.

¹² Israel proposal.

¹³ MERCOSUR proposal.

¹⁴ Israel proposal.

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 6 (2) 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 are 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.
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]¹⁵.

Article 6 Arbitration Procedure

1. If the dispute cannot be settled by the procedures provided for in Articles XX [or where the parties have had recourse to mediation as provided for in Article XX 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 panel.
2. The complaining party shall state in its request for the establishment of an arbitration panel the [measure]¹⁶ it considers to be in breach of the Agreement and indicate the provisions considered relevant.
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.]¹⁷

Article 7 Appointment of arbitrators

1. Within thirty (30) days as of the entry into force of the Agreement, each Contracting Party shall appoint XX arbitrators to be included in the list of national arbitrators and XX arbitrators to be included in the list of non national arbitrators. Both Contracting Parties should agree with the list of appointed non national arbitrators.

In the case of MERCOSUR, its arbitrators shall be appointed XX by each State Party, XX of whom shall not be national of any State Party.

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 be jurists with recognized competence in the issues that may be the subject matter of the dispute]¹⁸ [shall have specialized knowledge or experience of law and/or international trade]¹⁹ [the chairperson shall be a jurist with knowledge and experience of law and/or international trade]²⁰.

¹⁵ Israel proposal.

¹⁶ Whilst the text has been agreed in principle, MERCOSUR will propose another word.

¹⁷ MERCOSUR proposal.

¹⁸ MERCOSUR proposal.

¹⁹ Israel proposal.

²⁰ Israel proposal.

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

Article 8
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 6, each party shall appoint an arbitrator and an alternate chosen among the persons that such party has proposed for the list mentioned in Article 7.

b) Within the same term, the parties shall mutually appoint a third arbitrator from the list referred to in Article 7, who shall chair the Arbitration Tribunal. The persons appointed shall be non-nationals of the parties.

c) If the appointments referred to in a) are not made within the term provided for, they shall be made by means of a draw held by the Joint Committee, at the request of any of the parties, among the arbitrators appointed by the parties and included in the list.

d) If the appointment referred to in b) is not made within the term provided for, it shall be made by means of a draw held by the Joint Committee, 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 7]²¹.

2. The appointments provided for in a), b), c) and d) of this article must be notified to the parties and, if appropriate, to the Joint Committee.

3. [The alternate members shall replace the titular arbitrator in case of the arbitrator's incapacity or excuse to form the Arbitration Tribunal, whether at the time of its establishment or in the course of the procedure]²².

Article 9

[The members of the Arbitration Tribunal shall act independently and not as representatives of the parties or of a Government. Therefore, 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 affidavit to be submitted to the Joint Committee.]²³

[Arbitrators should be independent from the Parties, serve in their individual capacities and not be affiliated with, or take instructions from, any organization or government, and shall comply with the Code of Conduct set out in Annex II to this Chapter. This does not preclude government civil servants from being arbitrators. However, they should act strictly in *ad personam* basis and therefore must not take instructions from either their own national government or their agencies. The same applies to instructions from any source be it a governmental organization or government of a third party.]²⁴

Article 10
Rules of Procedure

²¹ MERCOSUR proposal, Israel will further reflect on this matter.

²² MERCOSUR proposal, Israel will further reflect on this matter.

²³ MERCOSUR proposal.

²⁴ Israel proposal.

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 panels 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 I to this Chapter for conducting the arbitration panel proceedings. At the request of the Arbitration Tribunal, and under duly justified circumstances, the Rules of Procedure shall be modified/amended subject to the agreement of the parties hereto.
3. The deliberation of the arbitration panels and all information including documents submitted to it shall be kept confidential.

Article 11

Information and technical advice

[The arbitration panel may seek the opinion of experts as it deems appropriate. Any information obtained in this manner must be disclosed to both Parties.]²⁵

Article 12

[The parties shall inform the Arbitration Tribunal about the steps taken prior to the arbitration procedure and shall submit the factual and legal grounds of their respective positions. The parties may appoint their representatives and advisors before the Arbitration Tribunal to defend their rights.]²⁶

Article 13

[At the request of one of the parties and when there are grounded presumptions that maintaining the situation would cause serious and irreparable damage to one of the parties, the Arbitration Tribunal may adopt appropriate provisional measures to prevent such damage, according to the circumstances and to the conditions which the Arbitration Tribunal establishes.

The parties, immediately or in the term established by the Arbitration Tribunal, shall comply with any provisional measure, which shall be extended until the Award referred to in Article XX is rendered]²⁷

Article 14

Applicable Law

[The Arbitration Tribunal shall decide on the dispute based on the provisions of the Agreement, the legal instruments adopted within its framework and the applicable principles and provisions of international law.

The provisions of this article shall not restrict the power of the Arbitration Tribunal to decide on the dispute *ex aequo et bono*, if the parties so agree.]²⁸

[Arbitration panels shall apply the provisions of the Agreement, interpreted in accordance with customary rules of interpretation of public international law, as set forth in the Vienna Convention on the Law of Treaties 1969.]²⁹

Article 15

²⁵ MERCOSUR will propose a text that reflects that the technical advice should be requested under exceptional cases that have to be justified and clarify that the opinions won't be binding in any case.

²⁶ MERCOSUR proposal.

²⁷ MERCOSUR proposal.

²⁸ MERCOSUR proposal.

²⁹ Israel proposal.

[The Arbitration Tribunal shall consider the arguments submitted by the parties, the evidence produced and the information received, in addition to any other appropriate elements.]³⁰

Article 16 Arbitration Awards

1. 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 panel shall notify of such delay in writing, stating the reasons for the delay. Under no circumstances should the ruling be issued later than one hundred and twenty (120) days following the establishment of the panel]³¹.

2. [The Arbitration Award shall be approved by the majority vote, substantiated and signed by the members of the Arbitration Tribunal. The Tribunal shall not substantiate dissenting votes and shall keep the votes confidential]³² [The arbitration panel shall make every effort to take their 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 panel shall not include in its report the dissenting opinion and shall keep it confidential.]

3. [In cases of urgency, including those involving perishable goods, the arbitration panel shall make every effort to issue its ruling within forty five (45) days of the establishment of the panel. Under no circumstance should it take longer than one hundred (100) days from the establishment of the panel. The arbitration panel may give a preliminary ruling within ten (10) days of its establishment on whether it deems the case to be urgent.]³³

4. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions that it makes. [The Arbitration Award must contain the following details, in addition to any other elements which the Arbitration Tribunal may consider appropriate for inclusion:

1. The parties to the dispute;
2. The name and nationality of each of the members of the Arbitration Tribunal and the date of its establishment;
3. The names of the representatives of the parties;
4. The subject matter of the dispute;
5. A report on the development of the arbitration procedure, including a summary of the actions taken and the arguments of each of the parties;
6. The decision reached in relation to the dispute, indicating the factual and legal grounds;
7. The share of the costs of the arbitration procedure which shall be borne by each party, pursuant to Article XX;
8. The date and place of issue; and
9. The signature of all the members of the Arbitration Tribunal.]³⁴

Article 17

[The Arbitration awards are unappealable, and binding on the parties as from receipt of the respective notification and will be final in respect of them.

³⁰ MERCOSUR proposal.

³¹ Israel proposal.

³² MERCOSUR proposal.

³³ Israel proposal.

³⁴ MERCOSUR proposal. Israel proposed to include this text in the Rules of Procedure.

The awards shall be enforced within a term of sixty (60) days, unless the Arbitration Tribunal establishes a different term.]³⁵

All other rulings provided for in Article XX shall be also final and binding.

Article XX

[The arbitration panel 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 panel will lapse, without prejudice to the right of the complaining party to request at a later stage the establishment of a panel on the same measure.]³⁶

Article XX

Request for clarification

[Any of the parties may request, within fifteen (15) days as from the notification date of the Award, its clarification or an interpretation of the way in which it should be enforced. The Arbitration Tribunal shall resolve on the request for clarification within fifteen (15) days as from its filing.

Should the Arbitration Tribunal consider that circumstances so require, it may postpone the enforcement of the Award until it resolves on the request submitted.]³⁷

Article XX

Compliance with the Award

1. [The party complained against]³⁸ [Each Party]³⁹ shall take the measures necessary to comply with the ruling of the arbitration panel [the award]⁴⁰.

2. [The awards shall be enforced within the term established by the Arbitration Tribunal, if this term is not established in the award the term will be of sixty (60) days.]⁴¹

3. [The ruling of the panel shall include the period of time for compliance of the award. That period of time shall be final unless one of the parties justify by written the need of another term. The panel shall decide about this term within a period of 15 days.]⁴²

The panel would decide on the basis on written submissions of the parties and they do not need to meet for this.

4. [The Party complained against shall notify the complaining Party before the end of the reasonable period of time of the implementing measures that it has adopted or intends to adopt in order to comply with the ruling of the arbitration panel.]⁴³

5. 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 panel 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 panel will issue its ruling within forty five (45) days of the date of its re-establishment.

³⁵ MERCOSUR proposal.

³⁶ Israel proposal.

³⁷ MERCOSUR proposal.

³⁸ MERCOSUR proposal.

³⁹ Israel proposal

⁴⁰ MERCOSUR proposal.

⁴¹ MERCOSUR proposal.

⁴² Israel proposal.

⁴³ Israel proposal.

6. [In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 8 shall apply. The period for issuing the ruling remains forty five (45) days from the date of the panel's establishment.]⁴⁴

7. [If the Party complained against fails to notify the implementing measures before the expiry of the reasonable period of time, the Party complained against shall if so requested by the complaining Party, present an offer for temporary compensation. If no agreement on compensation has been reached within thirty (30) days from the end of the reasonable period of time or]⁴⁵ [If the original arbitration panel decides under paragraph 5 that the measures adopted are not compatible with this Agreement, 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. The complaining Party may implement the suspension ten (10) days after the date of the notification, unless the Party complained against has requested arbitration under paragraph 8.]⁴⁶

[If within the term provided for in Article 24 the Arbitration Award were not enforced or if it were only partially enforced, the claiming party may inform in writing its decision to temporarily suspend in respect of the other party concessions or other equivalent obligations aimed at enforcing the award.]⁴⁷

8. [If the Party complained against considers that the level of suspension is not equivalent to the adverse economic impact caused by the measure, it may make a written request before the expiry of the ten (10) day period referred to in paragraph 7 for the reconvening of the original arbitration panel. The Joint Committee and the Parties shall be informed of the arbitration panel's ruling on the level of the suspension of benefits within thirty (30) days of the date of the request for its establishment. Benefits shall not be suspended until the arbitration panel has issued its ruling, and any suspension shall be consistent with the ruling of the arbitration panel.]⁴⁸

[If the party against which the claim is filed considers that the suspension of concessions or obligations adopted by the claiming party is disproportionate, it shall notify its objections to the other party and may request the Arbitration Tribunal rendering the Award to state whether the measure adopted is equivalent to the degree of the damage suffered. The Tribunal shall have thirty (30) days to decide on the degree as from the time it meets for that purpose.]⁴⁹

9. [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.]⁵⁰

[The Party complained against shall submit a notification of the measures it has adopted to implement the decision of the arbitration panel 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 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 measures with this Agreement within thirty (30) days of receipt of the request for consultations, the complaining Party may request that the original arbitration panel rule on the matter within sixty (60) days of the notification of the measures. The ruling shall be issued within forty five (45) days of the written request for its re-establishment. If the arbitration panel rules 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.]⁵¹

⁴⁴ Israel proposal. This matter is related to the existence of an alternate arbitrator which will be further discuss.

⁴⁵ Israel proposal.

⁴⁶ MERCOSUR may accept a panel intervention limited just to decide whether there was or not full compliance with the award but it shall not decide on the suspension of benefits.

⁴⁷ MERCOSUR proposal.

⁴⁸ Israel proposal. MERCOSUR may accept this concept but needs further explanation about the last sentence of the paragraph.

⁴⁹ MERCOSUR proposal.

⁵⁰ Israel proposal. MERCOSUR considers that this paragraph may need another wording.

⁵¹ Israel proposal.

10. [In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 8 shall apply. The period for issuing the ruling remains forty five (45) days from the date of the panel's establishment.]⁵²

[The situations referred to in Articles XX (clarification request) and 26 shall be settled by the same Arbitration Tribunal rendering the Award, but if the Tribunal cannot meet with all the original titular arbitrators, the procedure provided for in Article 8 shall apply to complete it.]⁵³

Article XX
Expenses

[The expenses of the Arbitration Tribunal include 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, notifications and other expenses required to be incurred in connection with the arbitration.

The expenses of the Arbitration Tribunal as defined in the first paragraph of this article shall be borne in equal parts by the parties.]⁵⁴

Article XX
Notifications⁵⁵

[Any notifications between MERCOSUR or its State Parties and the State of Israel, shall be sent, in the case of Israel, to.....; and in the case of MERCOSUR, to the Pro Tempore Presidency or to the National Coordinators of the Common Market Group, as the case may be.]⁵⁶

[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 shall be 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]. In addition, all aforesaid documents shall be submitted to each of the arbitrators from the time of the establishment of the arbitration panel.]⁵⁷

Article XX
Time-limits

[The terms referred to in this 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 Saturday or Sunday, it shall begin or become due on the following Monday.]⁵⁸

1. All time-limits laid down this Chapter shall be counted in calendar days from the day following the act or fact to which they refer.

2. Any time-limit referred to in this Chapter may be extended by mutual agreement of the Parties.]⁵⁹

Article XX

[The members of the Arbitration Tribunal, upon accepting their appointment, shall assume in writing the commitment to act in accordance with the provisions of this Annex.

⁵² Israel proposal.

⁵³ MERCOSUR proposal.

⁵⁴ MERCOSUR proposal.

⁵⁵ MERCOSUR will propose a text considering both proposal.

⁵⁶ MERCOSUR proposal.

⁵⁷ Israel proposal.

⁵⁸ MERCOSUR proposal.

⁵⁹ Israel proposal.

The written commitment shall be sent to the Joint Committee indicating independence with respect to the interests that are the subject matter of the dispute and the obligation to act impartially, not accepting suggestions from the parties or from third parties.]⁶⁰

Article XX

[All documentation 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.]⁶¹

Article XX

Withdraw

[The claiming party may withdraw from the procedure at any time or the parties may reach a settlement; in both cases the dispute shall be terminated. Withdrawals or settlements shall be notified to the Arbitration Tribunal as appropriate, in order that the measures for their enforcement are adopted.]⁶²

[The complaining Party may withdraw its complaint by written notification at any time before the ruling is transmitted to the Parties and the Joint Committee. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same measure at a later point in time.]⁶³

Article XX

Language

[All written and oral submissions of the Parties shall be made in English.]⁶⁴

⁶⁰ MERCOSUR proposal.

⁶¹ MERCOSUR proposal.

⁶² MERCOSUR proposal.

⁶³ Israel proposal.

⁶⁴ Israel proposal. MERCOSUR will propose a text considering its official languages.