

# EUROPEAN FREE TRADE ASSOCIATION

IL-D 5/97

1 Annex

24 November 1997

Distribution List B (IL)

## DECISION OF THE JOINT EFTA-ISRAEL COMMITTEE

No. 5 of 1997

(Adopted at the third meeting on 12 November 1997)

### AMENDMENT TO THE AGREEMENT

#### INTRODUCTION OF A NEW ARTICLE 25 BIS AND ANNEX VIII

#### ON ARBITRATION PROCEDURE

THE JOINT COMMITTEE,

Recalling paragraph 21 of the Record of Understandings relating to the Agreement,

Having regard to Article 34 of the Agreement,

#### DECIDES:

The Agreement shall be amended as follows:

1. A new Article 25 bis shall be introduced with the following wording:

#### **“Arbitration procedure**

1. Disputes between Parties to this Agreement relating to the interpretation of rights and obligations of the Parties to this Agreement, which have not been settled through consultation or in the Joint Committee within six months, may be referred to arbitration by any party to the dispute by means of a written notification addressed to the other party to the dispute. A copy of this notification shall be communicated to all Parties to this Agreement.

2. The constitution and functioning of the arbitral tribunal is governed by Annex VIII.
  3. The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and applicable rules and principles of international law.
  4. The award of the arbitral tribunal shall be final and binding upon the parties to the dispute.”.
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2. An Annex VIII shall be introduced with the wording set out at Annex to this Decision.
  3. The above amendments shall enter into force when the instruments of acceptance have been deposited by all the States Parties with the Depositary which shall notify all the other States Parties.
  4. The Secretary-General of the European Free Trade Association shall deposit the text of this Decision with the Depositary.
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ANNEX VIII

CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL

1. In its written notification made pursuant to Article 25 bis of the Agreement, the Party referring the dispute to arbitration shall designate one member, who may be its national.
2. Within thirty days from the receipt of the notification referred to in paragraph 1, the Party to which it was addressed shall, in turn, designate one member, who may be its national.
3. The parties to the dispute shall mutually determine the subject-matter of the dispute and, if possible, the points on which they agree, and those which are to be referred to the arbitral tribunal for settlement.

If the parties to the dispute fail to do so within a period of 60 days from the date of the written notification, the subject-matter of the dispute and the points which are to be settled shall be determined by the arbitral tribunal.

4. Within sixty days from the receipt of the notification referred to in paragraph 1, the two members already designated shall agree on the designation of a third member who shall be confirmed by the parties to the dispute within 15 days. The third member shall not be a national of either party to the dispute, nor permanently reside on the territory of either Party. The member thus appointed shall be the President of the arbitral tribunal.
5. If all three members have not been designated or appointed within sixty days from the receipt of the notification referred to in paragraph 1, the necessary designations shall be made, at request of either party to the dispute, by the President of the International Court of Justice. If the President is unable to act under this paragraph or is a national of a party to the dispute, the designations shall devolve on the Vice-President of the Court. If the latter, in turn, is unable to act 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 Party.
6. The tribunal shall lay down its own rules of procedure and take its decisions by majority vote.
7. The arbitral award shall be rendered within six months of the date at which the President of the Tribunal was appointed. At the request of the tribunal the parties to

the dispute may grant an extension of this time period up to six additional months. The arbitral award is final and binding upon the parties to the dispute. In the event of a dispute over the meaning and scope of the award, any party to the dispute can, within 60 days from the communication of the arbitral award, ask for clarification by the tribunal. The tribunal shall deliver its clarification within 60 days from the day the issue was brought before it.

8. The expenses of the Tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.
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