

# FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND THE REPUBLIC OF MACEDONIA

## PREAMBLE

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter called the EFTA States)

and the Republic of Macedonia (hereinafter called Macedonia),

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their preparedness to co-operate in seeking ways and means to strengthen this process,

Considering the importance of the links existing between the EFTA States and Macedonia, in particular the Declaration on Co-operation signed in Vaduz in March 1996, and recognising the common wish to strengthen these links, thus establishing close and lasting relations,

Reaffirming the EFTA States' and Macedonia's commitment and readiness to support the Stability Pact for South Eastern Europe,

Aware of the importance of giving full effect to all the provisions and principles of the CSCE/OSCE process, in particular the Helsinki Final Act and the Charter of Paris for a new Europe, as well as the final document of the Bonn Conference on economic cooperation in Europe,

Reaffirming their commitment to pluralistic democracy based on the rule of law, human rights, including rights of persons belonging to minorities, and fundamental freedoms, and recalling the principles of the United Nations Charter,

Desiring to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law,

Recalling the membership of the EFTA States in the World Trade Organisation (hereinafter referred to as "the WTO") and their commitment to comply with the rights and obligations arising from the Marrakesh Agreement establishing the WTO, including the principles of most-favoured-nation and of national treatment, and mindful of Macedonia's objective to become a Member of WTO,

Resolved to contribute to the strengthening of the multilateral trading system and to develop their relations towards free trade in compliance with WTO rules, Considering that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements, especially the WTO,

Determined to implement this Agreement with the objective to preserve and protect the environment and to ensure an optimal use of natural resources in accordance with the principle of sustainable development,

Firmly convinced that this Agreement will contribute to the creation and strengthening of an enlarged and harmonious free trade area within Europe, thus constituting an important contribution to European integration,

Declaring their readiness to examine, in the light of any relevant factor, the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement,

Convinced that this Agreement provides an appropriate framework for exchange of information and views on economic developments and trade as well as related matters,

Also convinced that this Agreement will create conditions encouraging economic, trade and investment relations between them,

HAVE DECIDED, in pursuit of the above, to conclude the following Agreement (hereinafter called this Agreement):

## **Article 1. Objectives**

1. The EFTA States and Macedonia shall during a transitional period of 10 years, starting from the date of entry into force of this Agreement, gradually establish a free trade area in accordance with the provisions of this Agreement.

2. The objectives of this Agreement, which is based on trade relations between market economies and on the respect of democratic principles and human rights, are:

(a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the EFTA States and Macedonia and thus to foster in the EFTA States and in Macedonia the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability;

(b) to provide fair conditions of competition for trade between the Parties;

(c) to contribute in this way, by the removal of barriers to trade, to European economic integration and to the harmonious development and expansion of world trade.

## **Article 2. Scope**

This Agreement shall apply:

(a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS), excluding the products listed in Annex I;

(b) to products specified in Protocol A, with due regard to the arrangements provided for in that Protocol;

(c) to fish and other marine products as provided for in Annex II; originating in an EFTA State or Macedonia.

## **Article 3. Rules of Origin and Co-operation In Customs Administration**

1. Protocol B lays down the rules of origin and methods of administrative co-operation.

2. The Parties shall take appropriate measures, including reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Articles 4 (Customs duties on imports and charges having equivalent effect), 6 (Customs duties of a fiscal nature), 7 (Customs duties on exports and charges having equivalent effect), 8 (Quantitative restrictions on imports or exports and measures having equivalent effect), 13 (Internal taxation and regulations) and 22 (Re-export and serious shortage) of this Agreement and Protocol B are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising from the operation of those provisions.

3. On the basis of the reviews referred to in paragraph 2, the Parties shall decide on the appropriate measures to be taken.

## **Article 4. Customs Duties on Imports and Charges Having Equivalent Effect**

1. No new customs duties on imports or charges having equivalent effect shall be introduced in trade between the EFTA States and Macedonia.

2. The Parties shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on products originating in an EFTA State or Macedonia, except as provided for in Annex III.

## **Article 5. Basic Duties**

1. For each product the basic duty, to which the successive reductions set out in this Agreement are to be applied, shall be the most-favoured-nation rate of duty (MFN rate) applied on 1 January 2000.

2. If, before, by or after entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions in accordance with commitments resulting from multilateral negotiations under the WTO, such reduced duties shall replace the basic duties referred to in paragraph 1 as from the date when such reductions are applied, or from the entry into force of this Agreement if this is later.

3. The reduced duties calculated in accordance with Article 4(2) (Customs duties on imports and charges having equivalent effect) shall be applied rounded to the first decimal place or, in case of specific duties, to the second decimal place.

## **Article 6. Customs Duties of a Fiscal Nature**

The provisions of Article 4 (Customs duties on imports and charges having equivalent effect) shall also apply to customs duties of a fiscal nature.

## **Article 7. Customs Duties on Exports and Charges Having Equivalent Effect**

1. No new customs duties on exports or charges having equivalent effect shall be introduced in trade between the EFTA States and Macedonia.

2. The Parties shall abolish on the date of entry into force of this Agreement all customs duties on exports and any charges having equivalent effect on products originating in an EFTA State or Macedonia.

## **Article 8. Quantitative Restrictions on Imports or Exports and Measures Having Equivalent Effect**

1. No new quantitative restrictions on imports or exports or measures having equivalent effect shall be introduced in trade between the EFTA States and Macedonia.

2. The Parties shall abolish on the date of entry into force of this Agreement quantitative restrictions on imports and exports and measures having equivalent effect on products originating in an EFTA State or Macedonia, except as provided for in Annex IV.

## **Article 9. General Exceptions**

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants and the environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of intellectual property; rules relating to gold or silver; or the conservation of exhaustible natural resources, if such measures are made effective in conjunction with restrictions on domestic production or consumption. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

## **Article 10. State Monopolies**

1. The EFTA States and Macedonia shall ensure that any state monopoly of a commercial character be adjusted, with the exceptions laid down in Protocol C, so that with the entry into force of this Agreement no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of the EFTA States and of Macedonia. These goods shall be procured and marketed in accordance with commercial considerations.

2. The provisions of this Article shall apply to any body through which the competent authorities of the Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the Parties. These provisions shall likewise apply to monopolies delegated by the State to other bodies.

## **Article 11. Technical Regulations**

1. The Parties shall co-operate in the field of technical regulations, standards and conformity assessment; and through appropriate measures promote in particular European-wide solutions. The Joint Committee shall establish guidelines for the implementation of this paragraph.

2. The Parties agree to hold immediate consultations in the framework of the Joint Committee in case a Party considers that another Party has taken measures which are likely to create, or have created, a technical obstacle to trade, in order to find an appropriate solution.

3. The extent of the Parties' obligations to notify draft technical regulations shall be governed by the provisions of the WTO Agreement on Technical Barriers to Trade. The EFTA States will make their notifications of draft technical regulations to the WTO available to Macedonia. Macedonia shall notify draft technical regulations to the EFTA Secretariat, which shall distribute them to the other Parties.

## **Article 12. Trade In Agricultural Products**

1. The Parties declare their readiness to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products.
2. In pursuance of this objective each individual EFTA State and Macedonia concluded a bilateral arrangement providing for measures to facilitate trade in agricultural products.
3. The Parties shall apply their regulations in sanitary and phytosanitary matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

## **Article 13. Internal Taxation and Regulations**

1. The Parties commit themselves to apply any internal taxes and other charges and regulations in accordance with Article III of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "the GATT 1994") and other relevant WTO Agreements.
2. Exporters may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on products exported to the territory of one of the Parties.

## **Article 14. Payments and Transfers**

1. Payments relating to trade between an EFTA State and Macedonia and the transfer of such payments to the territory of the Party where the creditor resides, shall be free from any restrictions.
2. The Parties shall refrain from any currency exchange or administrative restrictions on the grant, repayment or acceptance of short and medium-term credits covering commercial transactions in which a resident participates.
3. No restrictive measures shall apply to transfers related to investments and in particular to the repatriation of amounts invested or reinvested and of any kind of revenues stemming therefrom.

## **Article 15. Public Procurement**

1. The Parties consider the effective liberalisation of their respective public procurement markets on the basis of non-discrimination and reciprocity, as an integral objective of this Agreement.
2. To this effect, the Parties shall elaborate rules within the framework of the Joint Committee. The rules shall in particular be based on the WTO Agreement on Government Procurement.
3. The Parties concerned shall endeavour to accede to the WTO Agreement of Government Procurement and to further liberalise access to their respective public procurement markets.

## **Article 16. Protection of Intellectual Property**

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex V to this Agreement and the international agreements referred to therein.
2. The Parties shall accord to each others' nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Article 3 of the WTO TRIPS Agreement.
3. The Parties shall grant to each others' nationals treatment no less favourable than that accorded to nationals of any other State. In accordance with Article 4, paragraph (d) of the TRIPS Agreement, any advantage, favour, privilege or immunity deriving from international agreements in force before this Agreement and notified to the other Parties at the latest six months after the entry into force of this Agreement, shall be exempted from this obligation, provided that it does not constitute an arbitrary or unjustifiable discrimination of nationals of the other Parties. The Parties shall be exempted from the notification if they have already made such notification to the TRIPS Council. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. The Parties agree, upon request of any Party, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex V, with a view to further improving the levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

## **Article 17. Rules of Competition Concerning Undertakings**

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between an EFTA State and Macedonia:

(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.

2. The provisions of paragraph 1 shall also apply to the activities of public undertakings, and undertakings for which the Parties grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.

3. If a Party considers that a given practice is incompatible with the provisions of paragraphs 1 and 2, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 24 (Procedure for the application of safeguard measures).

## **Article 18. Subsidies**

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Article XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as otherwise provided for in this Article.

2. The extent of the Parties' obligations to ensure transparency of subsidy measures shall be governed by the criteria set out in Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures. The EFTA States will make their notifications on subsidies to the WTO available to Macedonia. Macedonia shall notify its subsidies to the EFTA Secretariat, which shall distribute them to the other Parties.

3. Before an EFTA State or Macedonia, as the case may be, initiates an investigation to determine the existence, degree and effect of any alleged subsidy in Macedonia, or in an EFTA State, as provided for in Article 11 of the Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 30 day period with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if any Party so requests within 10 days from the receipt of the notification.

## **Article 19. Dumping**

If an EFTA State finds that dumping within the meaning of Article VI of the GATT 1994 is taking place in trade with Macedonia, or if Macedonia finds that dumping within this meaning is taking place in trade with an EFTA State, the Party concerned may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the GATT 1994 and with the procedure laid down in Article 24 (Procedure for the application of safeguard measures).

## **Article 20. Emergency Action on Imports of Particular Products**

Where any product is being imported in such increased quantities and under such conditions as to cause, or threaten to cause:

(a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or

(b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 24 (Procedure for the application of safeguard measures).

## **Article 21. Structural Adjustment**

1. Exceptional measures of limited duration in the form of increased customs duties which derogate from the provisions of Article 4 (Customs duties on imports and charges having equivalent effect) may be taken by Macedonia.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in Macedonia to products originating in the EFTA States introduced by these measures may, after the introduction of these measures, not exceed in total 25% ad valorem and shall maintain an element of preference for products originating in the EFTA States. They may not exceed customs duties levied on imports to Macedonia of similar goods from any other country. The total value of imports of the products which are subject to these measures may not exceed 15% of total imports of industrial products from the EFTA States as defined in Article 2 (a) during the last year for which statistics are available.
4. Macedonia shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of the EFTA States, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are implemented. When taking such measures Macedonia shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties at equal annual rates starting at the latest 2 years after their introduction, unless the Joint Committee decides on a different schedule.
5. The application of exceptional measures specified in this Article shall not exceed 3 years. All exceptional measures regarding structural adjustment shall cease to apply 9 years after the entry into force of this Agreement. The Joint Committee may decide on different time periods than those specified in this paragraph.

## **Article 22. Re-export and Serious Shortage**

Where compliance with the provisions of Articles 7 (Customs duties on exports and charges having equivalent effect) and 8 (Quantitative restrictions on imports or exports and measures having equivalent effect) leads to:

- (a) re-export to a third country against which the exporting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 24 (Procedure for the application of safeguard measures). The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

## **Article 23. Balance of Payments Difficulties**

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance of payments purposes.
2. A Party in serious balance of payments difficulties, or under imminent threat thereof, may, in accordance with the conditions established under the GATT 1994 and the Understanding on the Balance-of-Payments Provisions thereof, adopt trade restrictive measures, which shall be of limited duration and non-discriminatory, and may not go beyond what is necessary to remedy the balance of payments situation. Preference shall be given to price-based measures which shall be progressively relaxed as balance of payments conditions improve and eliminated when conditions no longer justify their maintenance. The Party introducing restrictive measures shall inform the other Parties and the Joint Committee forthwith, preferably prior to their introduction and shall as soon as possible provide a time schedule for their removal. The Joint Committee shall, upon request of any other Party, examine the need for maintaining the measures taken.

## **Article 24. Procedure for the Application of Safeguard Measures**

1. Before initiating the procedure for the application of safeguard measures set out in this Article, the Parties shall endeavour to solve any differences between them through direct consultations, and inform the other Parties thereof.
2. Without prejudice to paragraph 6, a Party which considers resorting to safeguard measures shall promptly notify the other Parties and the Joint Committee thereof and supply all relevant information. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.
3. (a) As regards Article 17 (Rules of competition concerning undertakings), the Parties concerned shall give to the Joint

Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement after consultations, or after thirty days following referral for such consultations, the Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.

(b) As regards Articles 19 (Dumping), 20 (Emergency action on imports of particular products) and 22 (Re-export and serious shortage), the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the Party concerned. In the absence of such a decision within thirty days of the matter being referred to the Joint Committee, the Party concerned may adopt the measures necessary in order to remedy the situation.

(c) As regards Article 32 (Fulfilment of obligations), the Party concerned shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a commonly acceptable solution. If the Joint Committee fails to reach such a solution or if a period of three months has elapsed from the date of notification, the Party concerned may take appropriate measures.

4. The safeguard measures taken shall be notified immediately to the Parties and to the Joint Committee. They shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the difficulty in question. Priority shall be given to such measures that will least disturb the functioning of this Agreement. The measures taken by Macedonia against an action or an omission of an EFTA State may only affect the trade with that State. The measures taken against an action or omission of Macedonia may be only taken by that or those EFTA States the trade of which is affected by the said action or omission.

5. The safeguard measures taken shall be the object of regular consultations within the Joint Committee with a view to their relaxation, substitution or abolition, when conditions no longer justify their maintenance.

6. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 19 (Dumping), 20 (Emergency action on imports of particular products) and 22 (Re-export and serious shortage), apply forthwith the precautionary and provisional measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the Parties shall take place as soon as possible within the Joint Committee.

## **Article 25. Security Exceptions**

Nothing in this Agreement shall prevent a Party from taking any measures which it considers necessary:

(a) to prevent the disclosure of information contrary to its essential security interests;

(b) for the protection of its essential security interests or for the implementation of international obligations or national policies

(i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or

(ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or (iii) taken in time of war or other serious international tension.

## **Article 26. Evolutionary Clause**

1. The Parties undertake to review the present Agreement in light of further developments in international economic relations, i.a. in the framework of the WTO and to examine in this context, and in the light of any relevant factor, 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 instruct the Joint Committee to examine this possibility and, where appropriate, to make recommendations to them, particularly with a view to opening up negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties in accordance with their own procedures.

## **Article 27. Services and Investments**

1. The Parties recognise the growing importance of services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of European integration, they will co-operate with the aim of further promoting investments and achieving a gradual liberalisation and mutual opening of markets for trade in services, taking into account on-going work under the auspices of the WTO.
2. The EFTA States and Macedonia shall review developments in the services sectors with a view to considering liberalisation measures between the Parties.
3. The EFTA States and Macedonia will discuss this co-operation in the Joint Committee with the aim of developing and deepening their relations under this Agreement.

## **Article 28. Technical Assistance**

In order to facilitate the implementation of this Agreement the Parties shall agree upon appropriate modalities for technical assistance and co-operation of their respective authorities, in particular in the fields of intellectual property, customs matters and technical regulations. To this end, they shall co-ordinate efforts with relevant international organisations.

## **Article 29. The Joint Committee**

1. The implementation of this Agreement shall be supervised and administered by a Joint Committee which shall simultaneously act under the Declaration signed in Vaduz in March 1996. Each Party shall be represented in the Joint Committee.
2. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the EFTA States and Macedonia.
3. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Joint Committee may make recommendations.

## **Article 30. Procedures of the Joint Committee**

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary but normally once a year. Each Party may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a Party has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no later date is contained therein, on the date the lifting of the reservation is notified.
4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions for convening meetings and for the designation of the Chairman and his/her term of office.<sup>11</sup> Rules of procedure were adopted by Joint Committee Decision No. 1 of 2003 (8 May 2003).
5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.<sup>2</sup>

## **Article 31. Dispute Settlement Procedure**

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. Any Party may request in writing consultations with any other Party 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.
3. The consultations shall take place in the Joint Committee if any of the Parties so request within 10 days from the receipt of the notification referred to in paragraph 2, with a view to find a commonly acceptable solution.
4. Disputes between the Parties to this Agreement, relating to the interpretation of rights and obligations of the Parties to

this Agreement, which have not been settled through direct consultations or in the Joint Committee within 90 days from the date of the receipt of the request for consultations, 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.

5. The constitution and functioning of the arbitral tribunal is governed by Annex VI.

6. The arbitral tribunal shall settle the dispute in accordance with the provisions of this Agreement, interpreted and applied in accordance with the customary rules of interpretation of public international law.

7. The award of the arbitral tribunal shall be final and binding upon the Parties to the dispute. 2 A Sub-Committee on Customs and Origin Matters was established by Joint Committee Decision No. 2 of 2003 (30 May 2003)

## **Article 32. Fulfilment of Obligations**

1. The Parties shall take all necessary measures to ensure the achievement of the objectives of this Agreement and the fulfilment of their obligations under this Agreement.

2. If an EFTA State considers that Macedonia has, or if Macedonia considers that an EFTA State has failed to fulfil an obligation under this Agreement, the Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 24 (Procedure for the application of safeguard measures).

## **Article 33. Annexes and Protocols**

The Annexes and the Protocols to this Agreement are an integral part of it. The Joint Committee may decide to amend the Annexes and Protocols.

## **Article 34. Trade Relations Governed by this Agreement**

This Agreement applies to trade relations between, on the one side, the individual EFTA States and, on the other side, Macedonia, but not to the trade relations between individual EFTA States, except if otherwise provided for in this Agreement.

## **Article 35. Territorial Application**

This Agreement shall apply to the territories of the Parties except as provided for in Protocol D.

## **Article 36. Customs Unions, Free Trade Areas, Frontier Trade and other Preferential Agreements**

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas, arrangements for frontier trade and other preferential agreements to the extent that these do not negatively affect the trade regime provided for by this Agreement.

## **Article 37. Amendments**

Amendments to this Agreement other than those referred to in Article 33 (Annexes and Protocols) which are approved by the Joint Committee shall be submitted to the Parties for acceptance and shall enter into force when they have been accepted by all the Parties. The text of the amendments as well as the instruments of acceptance shall be deposited with the Depository.

## **Article 38. Accession**

1. Any State, Member of the European Free Trade Association, may accede to this Agreement, provided that the Joint Committee decides to approve its accession, to be negotiated between the acceding State and the Parties concerned, on such terms and conditions as may be set out in that decision. The instrument of accession shall be deposited with the Depository.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession.

## **Article 39. Withdrawal and Expiration**

1. Each Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.
2. If Macedonia withdraws, this Agreement shall expire at the end of the notice period.
3. Any EFTA State which withdraws from the Convention establishing the European Free Trade Association shall ipso facto on the same day as the withdrawal takes effect cease to be a Party to this Agreement.

## **Article 40. Entry Into Force**

1. This Agreement shall enter into force on 1 January 2001 in relation to those Signatories which by then have deposited their instruments of ratification or acceptance with the Depositary, provided that Macedonia has deposited its instrument of ratification or acceptance.
2. In relation to a Signatory depositing its instrument of ratification or acceptance after 1 January 2001, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument, provided that in relation to Macedonia this Agreement enters into force at the latest on the same date.
3. Any Party may, if its constitutional requirements permit, apply this Agreement provisionally during an initial period starting on 1 January 2001, provided that in relation to Macedonia this Agreement has entered into force or is provisionally applied at the latest as of the same date. Provisional application of this Agreement shall be notified to the Depositary.

## **Article 41. Depositary**

The Government of Norway, acting as Depositary, shall notify all States that have signed or acceded to this Agreement of the deposit of any instrument of ratification or accession or of acceptance of amendments under Article 37 (Amendments) as well as of the entry into force of this Agreement and amendments thereto made under the procedure laid down in Article 37 (Amendments), of its expiration or of any withdrawal therefrom.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed the present Agreement.

Done at Zurich, this 19th day of June 2000, in a single authentic copy in the English language which shall be deposited with the Government of Norway. The Depositary shall transmit certified copies to all Signatory States, and States acceding to this Agreement.

## **ANNEX VI.. REFERRED TO IN ARTICLE 31. CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL**

1. In its written notification made pursuant to Article 31 of this 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. 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.

4. 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.

5. The Optional Rules for Arbitrating disputes between two States of the Permanent Court of Arbitration (PCA), effective 20 October 1992, shall apply to supplement provisions of these Articles. The Joint Committee may adopt supplemental provisions to ensure the smooth functioning of these rules, in particular to clarify the inter-relationship between these rules and the PCA Optional Rules.

6. The tribunal shall take its decisions by majority vote.

7. A Party that is not a disputing Party, on delivery of a written notice to the disputing parties, shall be entitled to make written submissions to the tribunal, to receive written submissions of the disputing parties and if such procedures are applied by the tribunal attend all hearings and make oral submissions

8. 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 Joint Committee may grant an extension of this time period up to six additional months. 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.

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