

# AGREEMENT BETWEEN THE EFTA STATES AND SINGAPORE

## PREAMBLE

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (hereinafter referred to as "the EFTA States"),

and

The Republic of Singapore (hereinafter referred to as "Singapore"),

hereinafter collectively referred to as the Parties,

CONSIDERING the important links existing between Singapore and the EFTA States, and wishing to strengthen these links through the creation of a free trade area, thus establishing close and lasting relations;

REAFFIRMING their commitment to the principles set out in the United Nations Charter and the Universal Declaration of Human Rights;

DESIROUS by way of the removal of obstacles to trade to contribute to the harmonious development and expansion of world trade and provide a catalyst to broader international co-operation, in particular between Europe and Asia;

DETERMINED to create an expanded and secure market for goods and services in their territories;

RESOLVED to ensure a stable and predictable environment for investment;

INTENDING to enhance the competitiveness of their firms in global markets;

AIMING to create new employment opportunities, improve living standards and ensure a large and steadily growing volume of real income in their respective territories through the expansion of trade and investment flows;

RECOGNIZING that the gains from trade liberalisation should not be offset by private, anti-competitive practices;

CONVINCED that this Agreement will create conditions encouraging economic, trade and investment relations between them;

BUILDING on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization and the other agreements negotiated thereunder and other multilateral and bilateral instruments of co-operation; and

RECOGNIZING that trade liberalisation should allow for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment;

HAVE AGREED, in pursuit of the above, to conclude the following Agreement (hereinafter referred to as "this Agreement"):

## **Title I. GENERAL PROVISIONS**

### **Article 1. Objectives**

1. The EFTA States and Singapore hereby 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 are:

(a) to achieve the liberalisation of trade in goods, in conformity with Article XXIV of the General Agreement on Tariffs and Trade (hereinafter referred to as "the GATT 1994");

(b) to promote competition in their economies, particularly as it relates to economic relations between the Parties;

(c) to achieve further liberalisation on a mutual basis of the government procurement markets of the Parties;

(d) to achieve the liberalisation of trade in services, in conformity with Article V of the General Agreement on Trade in Services (hereinafter referred to as "the GATS");

(e) to mutually enhance investment opportunities and accord constant protection for investors and investments;

(f) to ensure adequate and effective protection of intellectual property rights, in accordance with international standards; and

(g) to contribute in this way, by the removal of barriers to trade and investment, to the harmonious development and expansion of world trade.

## **Article 2. Geographical Scope**

1. Without prejudice to Annex I, this Agreement shall apply:

(a) to the land territory, internal waters, and the territorial sea of a Party, and the air-space above the territory in accordance with international law; as well as

(b) beyond the territorial sea, with respect to measures taken by a Party in the exercise of its sovereign rights or jurisdiction in accordance with international law.

2. Annex I applies with respect to Norway.

## **Article 3. Trade and Economic Relations Governed by this Agreement**

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

2. As a result of the customs union established by the Treaty of 29 March 1923 between Switzerland and the Principality of Liechtenstein, Switzerland shall represent the Principality of Liechtenstein in matters covered thereby.

## **Article 4. Relationship to other Agreements**

The provisions of this Agreement shall be without prejudice to the rights and obligations of the Parties under the Marrakesh Agreement Establishing the World Trade Organization and the other agreements negotiated thereunder (hereinafter referred to as "the WTO Agreement") to which they are a party and any other international agreement to which they are a party.

## **Article 5. Regional and Local Government**

Each Party is fully responsible for the observance of all obligations and commitments under this Agreement and shall ensure their observance by its respective regional and local governments and authorities and by non-governmental bodies in the exercise of governmental powers delegated by central, regional and local governments or authorities within its territory.

## **Title II. TRADE IN GOODS**

### **Article 6. Scope and Coverage**

1. This Chapter applies To:

(a) products falling within Chapters 25 through 97 of the Harmonized Commodity Description and Coding System (HS);

(b) products specified in Annex II with due regard to the arrangements provided for in that Annex; and

(c) fish and other marine products as provided for in Annex IV.

2. Singapore and each individual EFTA State have concluded agreements on trade in agricultural products on a bilateral basis. These agreements form part of the instruments establishing a free-trade area between the EFTA States and Singapore.

## **Article 7. Rules of Origin and Administrative Co-operation**

1. The provisions on rules of origin and administrative co-operation applicable to Articles 8, 16 and 17 are set out in Annex I.
2. The non-preferential rules of origin of a Party shall apply to the other Articles of this Chapter not listed under paragraph 1. The arrangements for administrative co-operation set out in Annex I shall apply mutatis mutandis.
3. Two years after the entry into force of this Agreement the Parties shall meet to review Annex I with a view to adapting the system of outward processing to their evolving economic needs. Such review shall take place biennially unless the Parties agree otherwise.

## **Article 8. Customs Duties**

1. Upon the entry into force of this Agreement, the Parties shall abolish all customs duties on imports and exports of products originating in an EFTA State or in Singapore, excluding the products listed in Annex V. No new customs duties shall be introduced.
2. A customs duty includes any duty or charge of any kind imposed in connection with the importation or exportation of a product, including any form of surtax or surcharge in connection with such importation or exportation.
3. Nothing in this Chapter shall prevent a Party from imposing at any time on the importation or exportation of any product of another Party:
  - (a) a charge equivalent to an internal tax, such as excise duties and other taxes, levied at the time of importation or exportation, imposed consistently with Article 11; or
  - (b) a fee or other charge, not applied on an ad valorem basis, provided that it is limited in amount to the approximate cost of services rendered,and does not represent an indirect protection for domestic products or a taxation of imports or exports for fiscal purposes.

## **Article 9. Import and Export Restrictions**

Upon the entry into force of this Agreement, all import or export prohibitions or restrictions on trade in goods between the EFTA States and Singapore, other than customs duties and taxes, whether made effective through quotas, import or export licenses or other measures, shall be eliminated on all products of each Party.

## **Article 10. Most-Favoured-Nation Treatment**

If a Party concludes a preferential agreement with a non-Party under Article XXIV of the GATT 1994, it shall, upon request from another Party, afford adequate opportunity to negotiate any additional benefits granted therein.

## **Article 11. National Treatment**

The Parties shall apply national treatment in accordance with Article III of the GATT 1994, including its interpretative notes, which is hereby incorporated into and made part of this Agreement.

## **Article 12. Sanitary and Phytosanitary Measures**

1. The Parties shall apply their regulations in sanitary and phytosanitary matters in a non-discriminatory manner and shall not introduce any new measures that have the effect of unduly obstructing trade.
2. The principles set out in paragraph 1 shall be applied in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, which is hereby incorporated into and made part of this Agreement.

## **Article 13. Technical Regulations**

1. The rights and obligations of the Parties in respect of technical regulations, standards and conformity assessment shall be governed by the WTO Agreement on Technical Barriers to Trade.

2. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets. To this end, they shall in particular co-operate in:

(a) reinforcing the role of international standards as a basis for technical regulations including conformity assessment procedures;

(b) promoting the accreditation of conformity assessment bodies on the basis of relevant ISO/IEC Standards and Guides; and

(c) promoting the mutual acceptance of conformity assessment results of the above bodies which have been recognised under an appropriate multilateral agreement between their respective accreditation systems or bodies.

3. The Parties shall, within the context of this Article, expeditiously:

(a) broaden the exchange of information; and

(b) give favourable consideration to any written request for consultation.

4. Without prejudice to paragraph 1, the Parties agree to hold consultations in the framework of the Joint Committee to address any matter that may arise from the application of specific technical regulations, standards and conformity assessment procedures and which according to Singapore or one or more of the EFTA States has created or is likely to create an obstacle to trade between the Parties, with a view to working out an appropriate solution in conformity with the WTO Agreement on Technical Barriers to Trade.

## **Article 14. State Trading Enterprises**

The rights and obligations of the Parties in respect of state trading enterprises shall be governed by Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994, which are hereby incorporated into and made part of this Agreement

## **Article 15. Subsidies**

The rights and obligations of the Parties in respect of subsidies shall be governed by Articles VI and XVI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture.

## **Article 16. Anti-Dumping**

1. A Party shall not apply anti-dumping measures as provided for under the WTO Agreement on Implementation of Article VI of the GATT 1994 in relation to products originating in another Party.

2. In order to prevent dumping, the Parties shall undertake the necessary measures as provided for under Chapter V.

## **Article 17. Emergency Action on Imports of Particular Products**

1. Where any product originating in a Party, as a result of the reduction or elimination of a customs duty under this Agreement, is being imported into the territory of another Party in such increased quantities and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry of like or directly competitive products in the territory of the importing Party, the importing Party may take emergency measures to the minimum extent necessary to remedy or prevent the injury.

2. Such measures shall consist in increasing the rate of customs duty on the product to a level not to exceed the lesser of:

a) the most-favoured nation (MFN) rate of duty in effect at the time the action is taken; and

b) the MFN applied rate of duty in effect on the day immediately preceding the date of the entry into force of this Agreement.

3. Emergency measures shall be taken for a period not exceeding one year. In very exceptional circumstances, after review by the Joint Committee, measures may be taken up to a total maximum period of three years. A Party taking such measures shall present a schedule leading to their progressive elimination. No measures shall be applied to the import of a product which has previously been subject to such a measure for a period of, at least, five years since the expiry of the measure.

4. Emergency measures shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the procedures laid down in the WTO Agreement on Safeguards.

5. The Party intending to take an emergency measure under this Article shall promptly make a notification to the other Parties and the Joint Committee, containing all pertinent information which shall include evidence of serious injury or threat thereof caused by increased imports, precise description of the product involved, the proposed measure, proposed date of introduction and expected duration of the investigation and the proposed measure. Any Party that may be affected by the measure shall simultaneously be offered compensation in the form of substantially equivalent trade liberalisation in relation to the imports from any such Party.

6. The Joint Committee shall, within 30 days from the date of notification, examine the information provided under paragraph 5 in order to facilitate a mutually acceptable resolution to the matter. In the absence of such resolution, the importing Party may adopt a measure pursuant to paragraph 2 to remedy the problem, and, in the absence of mutually agreed compensation, the Party against whose product the measure is taken may take compensatory action. The emergency measure and the compensatory action shall be immediately notified to the Joint Committee. The compensatory action shall consist of suspension of concessions having substantially equivalent trade effects or concessions substantially equivalent to the value of the additional duties expected to result from the emergency action. In the selection of the emergency measure and the compensatory action, priority must be given to the action which least disturbs the functioning of this Agreement.

7. In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional emergency measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury. The Party intending to take such a measure shall immediately inform the other Parties and the Joint Committee thereof. The duration of any such provisional measure shall be counted as part of the initial period and any extension.

8. Two years after entry into force of this Agreement the Parties shall meet to review this Article with a view to determining whether there is a need to maintain an emergency action mechanism.

9. If the Parties decide, after the first review, to maintain such a mechanism, they shall thereafter conduct biennial reviews in the Joint Committee.

## **Article 18. 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 WTO Understanding on the Balance-of-Payments Provisions, 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. The relevant provisions of the GATT 1994 and the WTO Understanding on the Balance-of-Payments Provisions are hereby incorporated into and made part of this Agreement.

3. The Party introducing a measure under this Article shall promptly notify the other Parties and the Joint Committee thereof.

## **Article 19. General Exceptions**

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importations or exportations of gold and silver;

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of the GATT 1994, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archaeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the Members of the WTO and not disapproved by them or which is itself so submitted and not so disapproved;

(i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of the GATT 1994 relating to non-discrimination;

(j) essential to the acquisition or distribution of products in general or local short supply; provided that any such measures shall be consistent with the principle that all Members of the WTO are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

## **Article 20. Security Exceptions**

Nothing in this Chapter shall be construed:

(a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

## **Title III. SERVICES**

### **Article 21. Scope and Coverage (1)**

1. This Chapter applies to measures affecting trade in services taken by central, regional or local governments and authorities as well as by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities.

2. This Chapter applies to measures affecting trade in all services sectors with the exception of air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:

(a) aircraft repair and maintenance services;

(b) the selling and marketing of air transport services;

(c) computer reservation system (CRS) services (2).

3. The EFTA States and Singapore agree to review developments in the air transport sector with a view to reassessing the need for further co-operation in this sector.

4. Nothing in this Chapter shall be construed to impose any obligation with respect to government procurement.

(1) Article 21 was amended by Joint Committee Decision No. 1 of 2011 (23 November 2011). The Decision will enter into force when the instruments of acceptance have been deposited by all Parties with the Depositary. The Article will then be replaced

(2) The terms "aircraft repair and maintenance services", "selling and marketing of air transport services" and "computer reservation system (CRS) services" are as defined in paragraph 6 of the Annex on Air Transport Services to the GATS.

## **Article 22. Definitions**

For the purposes of this Chapter:

(a) "measure" means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;

(b) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

(c) "measures by Parties affecting trade in services" include measures in respect of:

(i) the purchase, payment or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by those Parties to be offered to the public generally;

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of another Party;

(d) "commercial presence" means any type of business or professional establishment, including through:

(i) the constitution, acquisition or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office; within the territory of a Party for the purpose of supplying a service;

(e) "sector" of a service means:

(i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule;

(ii) otherwise, the whole of that service sector, including all of its subsectors;

(f) "service supplier" means any person that seeks to supply or supplies a service (3);

(g) "service consumer" means any person that receives or uses a service;

(h) "service of another Party" means a service which is supplied:

(i) from or in the territory of that other Party, or in the case of maritime transport, by a vessel registered under the laws of that other Party, or by a person of that other Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or

(ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

(i) "person" means either a natural person or a juridical person;

(j) "natural person of a Party" means a natural person who resides in the territory of that Party or elsewhere and who under the law of that Party:

(i) is a national of that Party; or

(ii) has the right of permanent residence in that Party and is accorded substantially the same treatment as nationals in respect of measures affecting trade in services;

(k) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(l) "juridical person of another Party" means a juridical person which is either:

(i) constituted or otherwise organised under the law of that other Party, and is engaged in substantive business operations (4) in the territory of any Party; this includes a service supplier of a WTO member who is a non-Party that is a juridical person constituted under the laws of a Party, provided that it engages in substantive business operations in the territory of the Parties; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

1. natural persons of that other Party; or
2. juridical persons identified under paragraph (l)(i);

(m) a juridical person is:

(i) "owned" by persons of a Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Party;

(ii) "controlled" by persons of a Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;

(iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;

(n) "monopoly supplier of a service" means any person, public or private, which in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

(o) "trade in services" means the supply of a service:

(i) from the territory of a Party into the territory of another Party (hereinafter referred to as "cross-border supply");

(ii) in the territory of a Party to the service consumer of another Party (hereinafter referred to as "consumption abroad");

(iii) by a service supplier of a Party, through commercial presence in the territory of another Party (hereinafter referred to as "commercial presence");

(iv) by a service supplier of a Party, through presence of natural persons of that Party in the territory of another Party (hereinafter referred to as "presence of natural persons");

(p) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(q) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(r) "direct taxes" comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(3) Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.

(4) This also includes juridical persons intending to engage in substantive business operations such as start-up companies.

## **Article 23. Most-Favoured-Nation Treatment**

1. Subject to exceptions that may derive from harmonisation of regulations based on agreements concluded by a Party with a non-Party providing for mutual recognition in accordance with Article VII of the GATS, and except as provided in Annex VI, a Party shall accord immediately and unconditionally, with respect to any measure covered by this Chapter, to services and service suppliers of another Party treatment no less favourable than that it accords to like services and service suppliers of any non-Party.



2. Treatment granted under other agreements concluded by one of the Parties with a non-Party which have been notified under Article V of the GATS shall not be subject to paragraph 1.

3. If a Party enters into an agreement of the type referred to in paragraph 2, it shall, upon request from another Party, afford adequate opportunity to the other Parties to negotiate the benefits granted therein.

## **Article 24. Market Access**

1. With respect to market access through the modes of supply identified in Article 22 (0), each Party shall accord services and service suppliers of another Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule (5).

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional sub-division or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs (6) test;

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

(5) If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 22 (o) (i) and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 22 (o) (iii), it is thereby committed to allow related transfers of capital into its territory.

(6) Paragraph 2 (c) does not cover measures of a Party which limit inputs for the supply of services.

## **Article 25. National Treatment**

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of another Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers. (7)

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of another Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of a Party compared to like services or service suppliers of another Party.

(7) Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or services suppliers.

## **Article 26. Additional Commitments**

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 24 and 25 above, including those regarding qualifications, standards or licensing matters. Such commitments shall be entered in a Party's Schedule.

## **Article 27. Trade Liberalisation/Schedule of Specific Commitments**

1. The Parties shall liberalise trade in services between themselves, in conformity with Article V of the GATS.
2. Each Party shall set out in a Schedule the specific commitments it undertakes under Articles 24, 25 and 26. With respect to sectors where such commitments are undertaken, each Schedule shall specify:
  - (a) terms, limitations and conditions on market access;
  - (b) conditions and qualifications on national treatment;
  - (c) undertakings relating to additional commitments; and
  - (d) where appropriate, the time-frame for implementation of such commitments.
3. Measures inconsistent with both Articles 24 and 25 shall be inscribed in the column relating to Article 24. In this case, the inscription will be considered to provide a condition or qualification to Article 25 as well.
4. The Parties' Schedules of specific commitments are set out in Annex VII, and form an integral part of this Chapter.
5. The Parties undertake to review their Schedules of specific commitments at least every two years, but earlier if so agreed, with a view to provide for the elimination of substantially all remaining discrimination between the Parties with regard to trade in services covered in this Chapter at the end of a transitional period of ten years from the date of entry into force of this Agreement. Such review shall continue if substantially all remaining discrimination has not been eliminated at the end of this transitional period. This paragraph is not subject to dispute settlement pursuant to Chapter IX.

## **Article 28. Domestic Regulation**

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.
2. Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier of another Party, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.
3. Where authorisation is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Party shall promptly, after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Party shall provide, without undue delay, information concerning the status of the application.
4. The Parties shall jointly review the results of the negotiations on disciplines for certain regulations, including qualification requirements and procedures, technical standards and licensing requirements, pursuant to Article VI.4 of the GATS, with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements are *inter alia*:
  - (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
  - (b) not more burdensome than necessary to ensure the quality of the service;
  - (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.
5. In sectors where a Party has undertaken specific commitments, subject to any terms, limitations, conditions or qualifications set out therein, pending the incorporation of disciplines developed pursuant to paragraph 4, a Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which:
  - (a) does not comply with the criteria outlined in paragraph 4 (a), (b) or (c) and

(b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

6. Whenever a domestic regulation is prepared, adopted and applied in accordance with international standards of relevant international organisations (8) applied by a Party, there shall be a rebuttable presumption that it complies with the provisions of this Article.

7. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of another Party.

(8) The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of the Parties.

## **Article 29. Subsidies**

A Party which considers that it is adversely affected by a subsidy of another Party may request consultations with that Party on such matters. Such requests shall be accorded sympathetic consideration.

## **Article 30. Recognition**

1. In principle no later than three years following the entry into force of this Agreement, the Joint Committee shall establish the necessary steps for the negotiation of agreements or arrangements providing for the mutual recognition of education or experience obtained, requirements, qualifications, licenses and other regulations, for the purpose of the fulfilment, in whole or in part, by service suppliers of the criteria applied by each Party for the authorisation, licensing, operation and certification of service suppliers.

2. Any such recognition conferred by a Party shall be in conformity with the relevant provisions of the WTO and, in particular, Article VII of the GATS.

3. Where a Party recognises, by agreement or arrangement, the education or experience obtained, requirements met or licenses or certifications granted in the territory of a non-Party, that Party shall accord another Party, upon request, adequate opportunity to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for another Party to demonstrate that the education or experience obtained, requirements met or licenses or certifications granted in the territory of that other Party should also be recognised.

## **Article 31. Monopolies and Exclusive Service Suppliers**

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with the Party's obligations under its specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's obligations under its specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has reason to believe that a monopoly supplier of a service of another Party is acting in a manner inconsistent with paragraph 1 or 2, it may request that other Party to provide specific information concerning the relevant operations.

4. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect, (a) authorises or establishes a small number of service suppliers and (b) substantially prevents competition among those suppliers in its territory.

## **Article 32. Movement of Natural Persons**

1. This Chapter applies to measures affecting natural persons who are service suppliers of a Party, and natural persons of a Party who are employed by a service supplier of a Party, in respect of the supply of a service. Natural persons covered by a Party's specific commitments shall be allowed to supply the service in accordance with the terms of those commitments.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in a manner so as to nullify or impair the benefits accruing to a Party under the terms of a specific commitment (9).

(9) The sole fact of requiring a visa for natural persons of a certain nationality and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

## **Article 33. General Exceptions**

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures:

(a) necessary to protect public morals or to maintain public order (10);

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;

(iii) safety;

(d) inconsistent with Article 25, provided that the difference in treatment is aimed at ensuring the equitable or effective (11) imposition or collection of direct taxes in respect of services or service suppliers of another Party;

(e) inconsistent with Article 23, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which a Party is bound.

(10) The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(11) Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which: (i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; or (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or (iv) apply to consumers of services supplied in or from the territory of another Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or (v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member's tax base. Tax terms or concepts in Article 33 (d) and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Party taking the measure.

## **Article 34. Security Exceptions**

Nothing in this Agreement shall be construed:

(a) to require a Party to furnish or allow access to information the disclosure of which it considers contrary to its essential security interests;

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

## **Article 35. Restrictions to Safeguard the Balance-of-Payments**

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.

2. Articles XI and XII of the GATS shall apply to payments and transfers, and to restrictions to safeguard the balance-of-payments relating to trade in services.

3. A Party adopting or maintaining a measure under this Article shall promptly notify the other Parties and the Joint Committee thereof.

## **Article 36. Annexes**

Annexes VI to X Form an integral part of this Chapter.

## **Title IV. INVESTMENT**

### **Article 37. Definitions**

For the purposes of this Chapter:

(a) "company" means any entity constituted or organized under the applicable law, whether or not for profit, and whether private or government owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture or other association;

(b) "investment" means any kind of asset and particularly:

(i) movable and immovable property as well as any other rights in rem, such as mortgages, liens, and pledges;

(ii) shares, bonds and debentures or any other forms of participation in a company;

(iii) claims to money or to any performance associated with a company having an economic value;

(iv) intellectual property rights, technical know-how and goodwill;

(v) business concessions conferred by law or under contract, including any concession to search for, cultivate, extract or exploit natural resources;

(c) "investment of an investor of a Party" means an investment that is owned or controlled, either directly or indirectly, by an investor of that Party;

(d) "investor of a Party" means:

(i) a natural person having the nationality of that Party or having the right of permanent residence of that Party in accordance with its applicable laws;

(ii) a company constituted or organized under the applicable law of that Party and carrying out substantial business activities there;

making or having made an investment in the territory of another Party

### **Article 38. Scope and Coverage**

1. This Chapter shall apply to investors of a Party, and to their investments whether made before or after the entry into force of this Agreement.

2. Article 40 (1) shall not apply to measures affecting trade in services whether or not a sector concerned is scheduled in Chapter III.

3. Article 40 (1) shall also not apply to investors of a Party in services sectors and their investments in such sectors. This provision is subject to review after a period of ten years from the date of entry into force of this Agreement, with a view to examining its continued need.

4. The provisions of this Chapter shall be without prejudice to the rights and obligations of the Parties under other international agreements relating to investment.

### **Article 39. Promotion and Protection**

1. Each Party shall, in accordance with the provisions of this Chapter, create and maintain stable, equitable, favourable and transparent conditions for investors of the other Parties to make investments in its territory.

2. Such conditions shall include a commitment to accord at all times to investments of investors of another Party fair and equitable treatment. Such investments shall also enjoy the most constant protection and security.

### **Article 40. National Treatment and Most-Favoured-Nation Treatment**

1. Each Party shall accord to investors and investments of investors of another Party, in relation to the establishment, acquisition, expansion, management, conduct, operation and disposal of investments, treatment that is no less favourable than that which it accords in like situations to its own investors and their investments or to investors and their investments of any other State, whichever is more favourable.

2. If a Party accords more favourable treatment to investors of any other State or their investments by virtue of a free trade agreement, customs union or similar agreement that also provides for substantial liberalisation of investments, it shall not be obliged to accord such treatment to investors of another Party or their investments. However, upon request from another Party, it shall afford adequate opportunity to negotiate the benefits granted therein.

3. The standard of national treatment as provided for in paragraph 1 shall not apply to subsidies based on a Party's social policy or its economic development policy, even if such subsidies, directly or indirectly, favour local enterprises or entrepreneurs. If another Party considers that such subsidies, in a particular case, have a seriously distortive effect on the investment opportunities of its own investors, it may request consultations on such matters. Such requests shall be accorded sympathetic consideration.

4. The standard of national treatment as provided for in paragraph 1, means, with respect to a sub-national entity, treatment no less favourable than the most favourable treatment accorded, in like situations, by that entity to investors, and to investments of investors, of the Party of which it forms a part.

### **Article 41. Taxation**

1. Except as otherwise provided for in this Article, nothing in this Chapter shall create rights or impose obligations with respect to taxation measures.

2. Article 40 shall apply to taxation measures subject to deviations from national treatment that are necessary for the equitable or effective imposition or collection of direct taxes (12).

3. If a Party accords special advantages to investors and their investments of any other State by virtue of an agreement for the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of another Party and their investments.

(12) Footnote 10 under Article 33 of Chapter III on Services shall also apply mutatis mutandis to this Chapter.

### **Article 42. Dispossession, Compensation**

1. None of the Parties shall take, either de jure or de facto, measures of expropriation or nationalisation against investments of investors of another Party, unless such measures are in the public interest; non-discriminatory; carried out under due process of law; and accompanied by the payment of compensation. The amount of compensation shall be settled in a freely convertible currency and paid without delay to the person entitled thereto without regard to its residence or domicile.

2. Investors of a Party whose investments in the territory of another Party have suffered losses due to armed conflict or civil strife in the territory of the latter Party, shall benefit from treatment in accordance with Article 40 as regards restitution, indemnification, compensation or any other settlement it adopts or maintains relating to such losses.

### **Article 43. Domestic Regulation**

Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure consistent with this Chapter that is in the public interest, such as measures to meet health, safety or environmental concerns.

### **Article 44. Transfers**

1. Each Party shall allow payments relating to an investment in its territory of an investor of another Party to be freely transferred into and out of its territory without delay. Such transfers shall include, in particular, though not exclusively:

- (a) profits, interest, dividends, capital gains, royalties and fees as well as any other amounts yielded by an investment;
- (b) payments made under a contract including a loan agreement;
- (c) additional amounts to maintain or increase an investment;
- (d) proceeds from the sale or liquidation of all or any part of an investment; and
- (e) earnings and other remuneration of personnel engaged from abroad in connection with an investment.

2. A transfer shall be deemed to have been made "without delay" if effected within such a period as is normally required for the completion of transfer formalities, including reports of currency transfers.

3. Each Party shall permit such transfers to be made in a freely convertible currency. "Freely convertible currency" means a currency that is widely traded in international foreign exchange markets and widely used in international transactions.

4. It is understood that paragraphs 1 to 3 above are without prejudice to the equitable, non-discriminatory and good faith application of laws relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors;
- (b) the issuing, trading or dealing in securities;
- (c) criminal or penal offences, and the recovery of proceeds of crimes;
- (d) ensuring the satisfaction of judgments in adjudicatory proceedings.

5. It is also understood that paragraphs 1 to 3 above are without prejudice to obligations under tax laws or social security and public retirement schemes.

### **Article 45. Key Personnel**

1. The Parties shall, subject to their laws and regulations relating to the entry, stay and work of natural persons, grant investors of another Party, and key personnel (executives, managers and specialists, as defined by the granting Party as "Intra- corporate transferees" in the horizontal commitments of its respective Appendix of Annex VID) who are employed by such investors or investments of such investors, temporary entry, stay and authorisation to work in their territories to engage in activities connected with the establishment, management, maintenance, use, enjoyment, expansion or disposal of relevant investments.

2. The Parties shall, subject to their laws and regulations, permit investors of another Party which have investments in their territories, and investments of such investors, to employ any key personnel of the investor's or the investment's choice regardless of nationality and citizenship provided that such key personnel has been permitted to enter, stay and work in the territory of the other Party and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key personnel.

3. The Parties are encouraged to grant, subject to their laws and regulations, temporary entry and stay to the spouse and minor children of an investor of another Party or of key personnel employed by such investors, who has been granted temporary entry, stay and authorisation to work.

## **Article 46. Reservations**

1. Article 40 (1), shall not apply to:

(a) any reservation that is listed by a Party in Annex XI;

(b) an amendment to a reservation covered by sub-paragraph (a) to the extent that the amendment does not decrease the conformity of the reservation with Article 40;

(c) any new reservation adopted by a Party, and incorporated into Annex XI provided that such reservation does not affect the overall level of commitments of that Party under this Chapter;

to the extent that such reservation is inconsistent with the above-mentioned Article.

2. The Parties undertake to review at least every two years the status of the reservations set out in Annex XI with a view to reducing the reservations or removing them.

3. A Party may, at any time, either upon the request of another Party or unilaterally, remove in whole or in part reservations set out in Annex XI by written notification to the other Parties.

4. A Party may, at any time, incorporate a new reservation into Annex XI in accordance with paragraph 1 (c) of this Article by written notification to the other Parties. On receiving such notification, the other Parties may request consultations regarding the reservation. On receiving the request for consultations, the Party incorporating the new reservation shall enter into consultations with the other Parties.

## **Article 47. Subrogation**

In the event that a Party (or any agency, institution, statutory body or corporation designated by it), as a result of an indemnity it has given in respect of an investment or any part thereof, makes a payment to its own investors in respect of any of their claims under this Chapter, the other Party acknowledges that the former Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of such investors.

## **Article 48. Disputes between an Investor and a Party**

1. If an investor of a Party considers that a measure applied by another Party is inconsistent with an obligation of this Chapter, thus causing loss or damage to him or his investment, he may request consultations with a view to solving the matter amicably.

2. Any such matter which has not been settled within a period of six months from the date of request for consultations may be referred to the courts or administrative tribunals of the Party concerned or, if both parties to the dispute agree, be submitted to one of the following:

a) arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "ICSID Convention"), if this Convention is available;

b) conciliation or arbitration under the Additional Facility Rules of the International Centre for the Settlement of Investment Disputes;

c) arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law.

3. A Party may conclude contractual agreements with investors of another Party giving its unconditional and irrevocable consent to the submission of all or certain types of disputes to international conciliation or arbitration in accordance with paragraph 2 above. Such agreements may be notified to the Depository of this Agreement.

## **Article 49. Exceptions**

The following provisions shall apply, mutatis mutandis, to this Chapter: Articles 33, 34 and 35, as well as Article 19 (e), (f) and (g).

## **Title V. COMPETITION**



## **Article 50. Competition**

1. The Parties recognise that certain business practices, such as anti-competitive agreements or concerted practices, and abuse of a dominant position, may restrict trade between the Parties.
2. A Party shall, at the request of another Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall co-operate through the supply of publicly available non-confidential information of relevance to the matter in question. Subject to its domestic law and the conclusion of a satisfactory agreement safeguarding confidentiality of information, the Party addressed shall also provide any other information available to the requesting Party.
3. No Party may have recourse to arbitration under Chapter IX with respect to matters arising under this Chapter.

## **Title VI. GOVERNMENT PROCUREMENT**

### **Article 51. Scope and Coverage**

1. The rights and obligations of the Parties to this Agreement in respect of public procurement shall be governed by the WTO Agreement on Government Procurement.
2. The Parties agree to co-operate in the Joint Committee with the aim of increasing the understanding of their respective public procurement systems, and achieving further liberalisation and mutual opening up of public procurement markets.

### **Article 52. Exchange of Information**

The Parties shall exchange the names and addresses of "contact points" responsible for providing information on the rules and regulations in the field of public procurement.

### **Article 53. Further Negotiations**

If a Party grants to a non-Party, after the entry into force of this Agreement, additional benefits with regard to the access to its public procurement markets, it shall agree to enter into negotiations with a view to extending these benefits to another Party on a reciprocal basis.

## **VII. PROTECTION OF INTELLECTUAL PROPERTY**

### **Article 54. Protection of Intellectual Property**

1. The Parties shall grant and ensure adequate and effective 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 XII and the international agreements referred to therein.
2. The Parties shall accord to each other's 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 the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "the TRIPS Agreement"), in particular Articles 3 and 5 thereof.
3. The Parties shall accord to each other's nationals treatment no less favourable than that they accord to nationals of any other State. 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 the Joint Committee and subject to its consensus, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex XII, with a view to further improving the levels of protection and to avoiding or remedying trade distortions caused by actual levels of protection of intellectual property rights.

## **Title VIII. INSTITUTIONAL PROVISIONS**

### **Article 55. The Joint Committee**

1. The Parties hereby establish the EFTA-Singapore Joint Committee comprising representatives of each Party. It shall be co-

chaired by Ministers or by senior officials delegated by them for this purpose. (13)

2. The Joint Committee shall:

(a) supervise the implementation of this Agreement;

(b) keep under review the possibility of further removal of barriers to trade and other restrictive measures concerning commerce between the EFTA States and Singapore;

(c) oversee the further elaboration of this Agreement;

(d) supervise the work of all sub-committees and working groups established under this Agreement;

(e) endeavour to resolve disputes that may arise regarding the interpretation or application of this Agreement; and

(f) 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 for 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 meet whenever necessary but normally once every two years. The regular meetings of the Joint Committee shall be chaired jointly by one of the EFTA States and Singapore. 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, unless the Parties agree otherwise.

8. The Joint Committee may decide to amend the Annexes and Appendices to this Agreement. Subject to paragraph 9, it may set a date for the entry into force of such decisions.

9. If a representative of a Party in the Joint Committee has accepted a decision subject to the fulfillment of constitutional requirements, the decision shall enter into force on the date that the last Party notifies that its internal requirements have been fulfilled, unless the decision itself specifies a later date. The Joint Committee may decide that the decision shall enter into force for those Parties that have fulfilled their internal requirements, provided that Singapore is one of those Parties. A Party may apply a decision of the Joint Committee provisionally until such decision enters into force, subject to its constitutional requirements.

(13) Rules of procedure were adopted by Joint Committee Decision No. 1 of 2004 (26 May 2004).

## **Title IX. DISPUTE SETTLEMENT**

### **Article 56. Scope and Coverage**

1. The provisions of this Chapter shall apply with respect to the avoidance or the settlement of all disputes arising from this Agreement between any one or more of the EFTA States and Singapore.

2. Disputes on the same matter arising under both this Agreement and the WTO Agreement, or any agreement negotiated thereunder, to which the Parties are party, may be settled in either forum at the discretion of the complaining Party. The forum thus selected shall be used to the exclusion of the other.

3. Before a Party initiates a dispute settlement proceedings under the WTO Agreement against another Party or Parties or, vice-versa, that Party shall notify all other Parties of its intention.

### **Article 57. Good Offices, Conciliation or Mediation**

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the Parties involved so agree.

They may begin at any time and be terminated at any time. 2. Proceedings involving good offices, conciliation and mediation shall be confidential and without prejudice to the Parties' rights in any other proceedings.

## **Article 58. 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. Any one or more of the EFTA States may request in writing consultations with Singapore, and vice-versa whenever a Party considers that a measure applied by the Party or Parties to which the request is made is inconsistent with this Agreement or that any benefit accruing to it directly or indirectly under this Agreement is impaired by such measure. (14) The Party requesting consultations shall at the same time notify the other Parties in writing thereof. Consultations shall take place before the Joint Committee unless the Party or Parties making or receiving the request for consultations disagree.
3. Consultations shall be held within 30 days from the date of receipt of the request for consultations. Consultations on urgent matters, including those on perishable agricultural goods, shall commence within 15 days from the receipt of the request for consultations.
4. The Parties involved in the consultations shall provide sufficient information to enable a full examination of how the measure or other matter might affect the operation of this Agreement and treat any confidential or proprietary information exchanged in the course of consultations in the same manner as the Party providing the information.
5. The consultations shall be confidential and without prejudice to the rights of the Parties involved in any further proceedings.
6. The Parties involved in the consultations shall inform the other Parties of any mutually agreed resolution of the matter.

(14) The word "such" refers to "a measure applied by the Party or Parties to which the request is made".

## **Article 59. Establishment of Arbitration Panel**

1. If the matter has not been resolved within 60 days, or 30 days in relation to a matter of urgency, after the date of receipt of the request for consultations, it may be referred to arbitration by one or more of the Parties involved by means of a written notification addressed to the Party or Parties complained against. A copy of this notification shall also be communicated to all Parties so that each Party may determine whether to participate in the dispute.
2. Where more than one Party requests the establishment of an arbitration panel relating to the same matter, a single arbitration panel should be established to examine these complaints whenever feasible.
3. A request for arbitration shall give the reason for the complaint including the identification of the measure at issue and an indication of the legal basis of the complaint.

## **Article 60. Arbitration Panel**

1. The arbitration panel shall comprise three members.
2. In the written notification pursuant to Article 59, the Party or the Parties referring the dispute to arbitration shall designate one member of the arbitration panel.
3. Within 15 days of the receipt of the notification referred to in paragraph 2, the Party or Parties to which it was addressed to shall designate one member of the arbitration panel.
4. The Parties to the dispute shall agree on the appointment of the third arbitrator within 30 days of the appointment of the second arbitrator. The member thus appointed shall chair the arbitration panel.
5. If all 3 members have not been designated or appointed within 45 days from the date of receipt of the notification referred to in paragraph 2, the necessary designations shall be made at the request of any Party to the dispute by the Director-General of the World Trade Organization within a further 30 days.
6. The Chair of the arbitration panel shall not be a national of any of the Parties, nor have his or her usual place of residence in the territory of any of the Parties, nor be employed or previously have been employed by any of the Parties, nor have

dealt with the case in any capacity.

7. If an arbitrator dies, withdraws or is removed, a replacement shall be selected within 15 days in accordance with the selection procedure followed to select him or her. In such a case, any time period applicable to the arbitration panel proceedings shall be suspended for a period beginning on the date the arbitrator dies, withdraws or is removed and ending on the date the replacement is selected.

8. The date of establishment of the arbitration panel shall be the date on which the Chair is appointed.

## **Article 61. Procedures of the Arbitration Panel**

1. Unless the Parties to the dispute agree otherwise, the arbitration panel proceedings shall be conducted in accordance with the Model Rules of Procedure that shall be adopted at the first meeting of the Joint Committee. Pending the adoption of such rules, the arbitration panel shall regulate its own procedures, unless the Parties to the dispute agree otherwise. (15)

2. Notwithstanding paragraph 1, for all arbitration panel proceedings the procedures shall ensure that:

(a) the Parties to the dispute have the right to at least one hearing before the arbitration panel as well as the opportunity to provide initial and rebuttal written submissions;

(b) the Parties to the dispute shall be invited to all the hearings held by the arbitration panel;

(c) all submissions and comments made to the arbitration panel be available to the Parties to the dispute, subject to any requirements on confidentiality; and

(d) hearings, deliberations and initial report and all written submissions to and communications with the arbitration panel be confidential.

3. Unless the Parties to the dispute otherwise agree within 20 days from the date of delivery of the request for the establishment of the arbitration panel, the terms of reference shall be:

"To examine, in the light of the relevant provisions of the Agreement, the matter referred to in the request for the establishment of an arbitration panel pursuant to Article 59 and to make findings of law and fact together with the reasons therefore as well as recommendations, if any, for the resolution of the dispute."

4. At the request of a Party to the dispute or on its own initiative, the arbitration panel may seek scientific information and technical advice from experts as it deems appropriate.

5. The arbitration panel shall make its award based on the provisions of this Agreement, applied and interpreted in accordance with the rules of interpretation of public international law.

6. Decisions of the arbitration panel shall be taken by a majority of its members. Panellists may furnish separate opinions on matters not unanimously agreed. No arbitration panel may disclose which panellists are associated with majority or minority opinions.

7. The expenses of the arbitration panel, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

(15) Model rules of procedure were adopted by Joint Committee Decision No. 2 of 2004 (26 May 2004).

## **Article 62. Initial Report**

1. The arbitration panel shall within 90 days from the date of the establishment of the arbitration panel present to the Parties to the dispute an initial report.

2. The arbitration panel shall base its report on the submissions and arguments of the Parties to the dispute and on any scientific information and technical advice pursuant to paragraph 4 of Article 61.

3. A Party to the dispute may submit written comments to the arbitration panel on its initial report within 14 days of presentation of the report.

4. In such an event, and after considering such written comments, the arbitration panel, on its own initiative or at the request of any of the Parties to the dispute, may:

- (a) request the views of any of the Parties to the dispute;
- (b) reconsider its report; and
- (c) make any further examination that it considers appropriate.

### **Article 63. Final Report**

1. The arbitration panel shall present to the Parties to the dispute a final report, containing the matters referred to in paragraph 2 of Article 62, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report.
2. Unless the Parties to the dispute decide otherwise, the final report shall be published 15 days after it is presented to them.

### **Article 64. Termination of Arbitration Panel Proceedings**

A complaining Party may withdraw its complaint at any time before the initial report has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

### **Article 65. Implementation of Arbitration Panel Reports**

1. The final report shall be final and binding on the Parties to the dispute. Each Party to the dispute shall be bound to take the measures involved in carrying out the final report referred to in Article 63.
2. The Party or Parties concerned shall inform the other Party or Parties to the dispute within 30 days after the final report has been issued of its intentions in respect of its implementation.
3. The Parties to the dispute shall endeavour to agree on the specific measures that are required for implementing the final report. Wherever possible, the resolution shall be the removal of a measure not conforming to this Agreement, or failing such a resolution, compensation.
4. The Party or Parties concerned shall promptly comply with the final report. If it is impracticable to comply immediately, the Parties to the dispute shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement, any Party to the dispute may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel shall be given within 15 days from that request.
5. The Party or Parties concerned shall notify to the other Party or Parties to the dispute the measures adopted in order to implement the final report before the expiry of the reasonable period of time determined in accordance with paragraph 4. Upon that notification, any Party to the dispute may request the original arbitration panel to rule on the conformity of those measures with the final report. The ruling of the arbitration panel shall be given within 60 days from that request.
6. If the Party or Parties concerned fails to notify the implementing measures before the expiry of the reasonable period of time determined in accordance with paragraph 4, or if the arbitration panel rules that the implementing measures notified by the Party or Parties concerned are inconsistent with the final report, such Party or Parties shall, if so requested by the complaining Party or Parties, enter into consultations with a view to agree on a mutually acceptable compensation. If no such agreement has been reached within 20 days from the request, the complaining Party or Parties shall be entitled to suspend only the application of benefits granted under this Agreement equivalent to those affected by the measure found to violate this Agreement.
7. In considering what benefits to suspend, the complaining Party or Parties should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the arbitration panel has found to violate this Agreement. The complaining Party or Parties that consider it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.
8. The complaining Party or Parties shall notify the other Party or Parties of the benefits which it intends to suspend no later than 60 days before the date on which the suspension is due to take effect. Within 15 days from that notification, any of the Parties to the dispute may request the original arbitration panel to rule on whether the benefits which the complaining Party or Parties intend to suspend are equivalent to those affected by the measure found to violate this Agreement, and whether the proposed suspension is in accordance with paragraphs 6 and 7. The ruling of the arbitration panel shall be given within 45 days from that request. Benefits shall not be suspended until the arbitration panel has issued its ruling.

9. The suspension of benefits shall be temporary and shall only be applied by the complaining Party or Parties until the measure found to violate this Agreement has been withdrawn or amended so as to bring it into conformity with this Agreement, or the Parties to the dispute have reached agreement on a resolution of the dispute.

10. At the request of any of the Parties to the dispute, the original arbitration panel shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the suspension of benefits should be terminated or modified. The ruling of the arbitration panel shall be given within 30 days from the date of that request.

11. The rulings provided for in paragraphs 4, 5, 8 and 10 shall be binding.

## **Article 66. Other Provisions**

Any time period mentioned in this Chapter may be extended by mutual agreement of the Parties involved.

## **Title X. FINAL CLAUSES**

### **Article 67. Transparency**

1. The Parties shall publish their laws, or otherwise make publicly available their laws, regulations and administrative rulings and judicial decisions of general application as well as their respective international agreements that may affect the operation of this Agreement.

2. The Parties shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

3. Nothing in this Agreement shall require any Party to disclose confidential information, which would impede law enforcement, or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of any economic operator.

### **Article 68. Annexes and Appendices**

The Annexes and Appendices to this Agreement form an integral part thereof.

### **Article 69. Amendments**

1. Amendments to this Agreement shall, after approval by the Joint Committee, be submitted to the Parties for ratification, acceptance or approval, subject to each Party's constitutional requirements.

2. Unless the Joint Committee decides otherwise, the amendments shall enter into force on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval.

3. The text of the amendments as well as the instruments of ratification, acceptance or approval shall be deposited with the Depositary.

### **Article 70. Additional Parties**

Any third State may become a Party to this Agreement. The terms and conditions of the participation by such third State shall be the subject of an agreement between the Parties and that State.

### **Article 71. Withdrawal and Termination**

1. Any Party may withdraw therefrom by means of a written notification to the Depositary. The withdrawal shall take effect on the first day of the sixth month after the date on which the notification was received by the Depositary.

2. If Singapore withdraws, this Agreement shall expire on the date specified in paragraph 1.

### **Article 72. Entry Into Force**

1. This Agreement is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. This Agreement shall enter into force on 1 January 2003 in relation to those Signatory States which by then have deposited their instruments of ratification, acceptance or approval with the Depositary, and provided that Singapore is among the States that have deposited their instruments of ratification, acceptance or approval.

3. In relation to a Signatory State depositing its instrument of ratification, acceptance or approval after 1 January 2003, 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 the Republic of Singapore this Agreement enters into force at the latest on the same date.

4. Any Party may, if its constitutional requirements permit, apply this Agreement provisionally during an initial period starting on 1 January 2003. Provisional application of this Agreement shall be notified to the Depositary.

### **Article 73. Depositary**

The Government of Norway shall act as Depositary.

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

Done at Egilsstadir, this 26th day of June 2002, in a single original in the English language, which shall be deposited with the Government of Norway. The Depositary shall transmit certified copies to all Signatory States.