

# **FREE TRADE AGREEMENT BETWEEN THE STATES OF THE EUROPEAN FREE TRADE ASSOCIATION AND THE REPUBLIC OF TUNISIA**

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation as Members of the European Free Trade Association (hereinafter called the EFTA States), on the one part, and the Republic of Tunisia (hereinafter called Tunisia), on the other: hereinafter collectively referred to as the Parties,

CONSIDERING the importance of the links existing between the EFTA States and Tunisia, in particular the Declaration on co-operation signed in Zermatt in December 1995, and recognizing the common wish to strengthen these links, thus establishing close and lasting relations;

RECALLING their intention to participate actively in the process of economic integration in the Euro-Mediterranean region, and the creation of an enlarged and harmonious free trade area between the European and Mediterranean countries and conscious of the objective of integration between the countries of the Maghreb;

CONSIDERING the importance which the Parties attach to the principles of the United Nations Charter, particularly the observance of human rights and political and economic freedom, which form the very basis for co-operation between the EFTA States and Tunisia;

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;

BUILDING on their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "the WTO") and other multilateral and bilateral instruments of co-operation;

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;

NOTING the intention of EFTA States to support efforts to liberalize the Tunisian economy and in that way to contribute to the improvement of economic and social conditions in Tunisia;

DECLARING their readiness to examine 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 will create conditions encouraging economic, trade and investment relations between them;

CONVINCED that this Agreement will create favourable conditions to strengthen both bilateral and multilateral relations between the Parties, in the economic, scientific, technical, social and cultural fields;

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

## **Chapter I. General Provisions**

### **Article 1. Objectives**

1. The EFTA States and Tunisia shall establish a free trade area in accordance with the provisions of this Agreement with a view to spurring economic activities in their territories, thereby raising standards of living and improving employment conditions and contributing to Euro-Mediterranean economic integration.

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 gradually develop an environment conducive to increased investment flows and enhanced trade in services;

(c) to provide fair conditions of competition for trade between the Parties to the Agreement and to ensure adequate and effective protection of intellectual property rights; and

(d) to support the harmonious development of economic relations between the Parties through the expansion of trade and economic co-operation and technical assistance.

## **Article 2. 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, Tunisia, but not to the trade relations between individual EFTA States, except if otherwise provided for in this Agreement.

## **Article 3. Territorial Application**

This Agreement shall apply to the territories of the Parties except as provided for in Annex I.

# **Chapter II. Trade In Goods**

## **Article 4. Scope**

1. This Chapter shall apply to the following products originating in an EFTA State or Tunisia:

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

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

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

2. Tunisia 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 Tunisia.

## **Article 5. Rules of Origin and Co-operation In Customs Administration**

Protocol B lays down the rules of origin and methods of administrative cooperation.

## **Article 6. Customs Duties on Imports and Charges Having Equivalent Effect**

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the EFTA States and Tunisia.

2. The EFTA States shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect.

3. Tunisia shall gradually eliminate its customs duties on imports and any charges having equivalent effect in accordance with Annex IV.

## **Article 7. Basic Duties**

1. The applicable rates for imports between the Parties shall be the WTO bound rate, or if lower, the applied rate enforced as of 1 January 2004. If, by, before or after the entry into force of this Agreement, a tariff reduction is applied on an erga omnes basis, the reduced rate shall apply.

2. The Parties shall communicate to each other their respective rates applied on the date of the entry into force of this Agreement.

## **Article 8. Customs Duties of a Fiscal Nature**

The provisions of Article 6 shall also apply to customs duties of a fiscal nature.

## **Article 9. Customs Duties and Quantitative Restrictions on Exports**

Without prejudice to the provisions of the GATT 1994, the EFTA States and Tunisia shall not apply to exports between themselves either customs duties or charges having equivalent effect, or quantitative restrictions or measures having equivalent effect.

## **Article 10. Quantitative Restrictions on Imports and Measures Having Equivalent Effect**

1. Without prejudice to the provisions of the GATT 1994:

(a) no new quantitative restriction on imports or any other measures having equivalent effect shall be introduced in trade between the EFTA States and Tunisia;

(b) quantitative restrictions on imports and any other measures having equivalent effect in trade between the EFTA States and Tunisia shall be abolished from the entry into force of this Agreement.

2. The provisions of paragraph 1(b) shall not apply to products in category D appearing in Annex IV. The arrangements to be applied to such products shall be reexamined by the Joint Committee four years after the entry into force of the Agreement.

## **Article 11. 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 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 12. 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, thereby preparing the ground for mutual recognition agreements. The Parties concerned shall consult each other in the Joint Committee in view of the implementation of the objective set out in paragraph 1.

3. Without prejudice to paragraph 1, the Parties agree to hold immediate consultations in the framework of the Joint Committee where Tunisia or an EFTA Party considers that one or more EFTA Parties or Tunisia have taken measures which are likely to create, or have created, an obstacle to trade, in order to find an appropriate solution in conformity with the WTO Agreement on Technical Barriers to Trade.

## **Article 13. Sanitary and Phytosanitary Measures**

The rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

## **Article 14. State Monopolies**

1. The EFTA States and Tunisia shall adjust, without affecting rights and obligations under the GATT 1994, any state monopolies of a commercial character so as to ensure that, by the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the EFTA States and of Tunisia.

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

## **Article 15. Subsidies**

1. 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.
2. If a Party finds that subsidies are granted which affect trade with another Party, the Party concerned may take appropriate measures in accordance with the above mentioned Agreements and the relevant internal executive regulations.
3. Before an EFTA State or Tunisia, as the case may be, initiates an investigation to determine the existence, degree and effect of any alleged subsidy in Tunisia, 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 16. Anti-dumping**

1. The rights and obligations of the Parties in respect of the application of anti-dumping measures shall be governed by Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the GATT 1994.
2. After an EFTA State or Tunisia, as the case may be, receives a properly documented application and before initiation of an investigation under the provisions of the Agreement referred to in paragraph 1, that Party shall notify in writing the Party whose goods are allegedly being dumped and allow for consultations with a view to finding a mutually acceptable solution. The outcome of the consultations shall be communicated to the other Parties.
3. The Parties shall, upon request of any Party, meet in the Joint Committee to review the contents of this Article.

## **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 Tunisia:
  - (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. The provisions of paragraphs 1 and 2 shall not be construed such as to create any direct obligations for undertakings.
4. If a Party considers that a given practice is incompatible with the provisions of paragraphs 1 and 2, 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 appropriate measures to deal with the difficulties resulting from the practice in question. The application and removal of such measures shall be governed by Article 37.

## **Article 18. Emergency Action on Imports of Particular Products**

1. Where any product originating in a Party, as a result of the application of 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, or of serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region of the importing Party, the importing Party may take safeguard measures in accordance with Article XIX GATT 1994 and the WTO Agreement on Safeguards.
2. Before applying safeguard measures pursuant to the provisions of Article XIX GATT 1994 and the WTO Agreement on

Safeguards, the Party intending to apply such measures shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

3. In order to find such a solution, the Parties shall immediately hold consultations within the Joint Committee. If, as a result of the consultations, the Parties do not reach an agreement within thirty days of the initiation of the consultations on a solution to avoid the application of the safeguard measures, the Party intending to apply safeguard measures may do so in accordance with the provisions of Article XIX GATT 1994 and the WTO Agreement on Safeguards.

4. In the event of an EFTA State or Tunisia subjecting imports of products liable to give rise to the difficulties referred to in this Article to an administrative procedure having as its purpose the rapid supply of information on trade flow trends, it shall inform the other Party.

5. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

6. In the selection of safeguard measures pursuant to this Article, Parties shall give priority to those which cause least disturbance to the achievement of the objectives of this Agreement.

7. Safeguard measures shall be notified immediately to the Joint Committee and shall be the subject of periodic consultations within the Committee, particularly with a view to their abolition as soon as circumstances permit.

## **Article 19. Structural Adjustment**

1. Exceptional measures of limited duration in the form of increased customs duties which derogate from the provisions of Article 6 may be taken by Tunisia.

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 Tunisia to products originating in the EFTA States introduced by these measures may, after the introduction of these measures, not exceed in total 25 per cent ad valorem and shall maintain an element of preference for products originating in the EFTA States. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the EFTA States as defined in paragraph 1(a) of Article 4 during the last year for which statistics are available.

4. Tunisia 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 Tunisia 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 five years. All exceptional measures regarding structural adjustment shall cease to apply three years after the end of the transitional period referred to in Annex IV. The Joint Committee may decide on different time periods than those referred to in this paragraph.

## **Article 20. Re-export and Serious Shortage**

1. Where compliance with the provisions of Article 9 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.

2. The Party intending to take measures under this Article shall promptly notify the other Parties and the Joint Committee thereof. The Joint Committee shall examine the situation and may take any decisions needed to put an end to it. In the absence of such a decision within 30 days of the matter being referred to the Joint Committee, the Party concerned may adopt the appropriate measures to remedy the problem. The measures shall be immediately notified to the Joint Committee. In the selection of measures priority must be given to the action which least disturbs the functioning of this

Agreement.

3. Where exceptional and critical circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Party concerned may forthwith apply temporary measures necessary to deal with the situation and shall immediately inform the other Parties and the Joint Committee thereof.

4. The measures taken shall be the subject of periodic consultations within the Joint Committee with a view to their elimination as soon as circumstances permit.

## **Article 21. General Exceptions**

Nothing in this Agreement shall preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, of the protection of health and life of humans, animals or plants, of the protection of national treasures possessing artistic, historic or archaeological value, of the protection of intellectual property or of regulations concerning gold and silver or conservation of exhaustible natural resources. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or disguised restriction on trade between the parties.

## **Article 22. 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.

# **Chapter III. Protection of Intellectual Property**

## **Article 23. Protection of Intellectual Property**

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property rights, including 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 Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as "the TRIPS Agreement").

3. The Parties shall grant to each others' 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, upon request of any Party and subject to agreement of all the Parties, shall 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 promoting development of trade between the Parties.

# **Chapter IV. Investment**

## **Article 24. Investment Conditions**

1. The Parties shall create stable, favourable and transparent conditions for companies of the other Parties that are making

or seeking to make investments in their territories.

2. Investments of investors of a Party shall in the territories of the other Parties enjoy full protection and security and shall at all times be accorded fair and equitable treatment in accordance with international law.

## **Article 25. Investment Promotion**

The Parties recognise the importance of promoting investment and technology flows between them as a means for achieving economic growth and development. Cooperation in this respect shall include:

(a) appropriate means of identifying investment opportunities and information channels on investment regulations;

(b) the provision of information on the Parties' measures promoting investment abroad (technical assistance, financial support, investment insurance etc.);

(c) the creation of a legal environment conducive to increased investment flows, including through the conclusion of international agreements; and (d) the planning and implementation of development projects, including for the participation of foreign investors.

## **Chapter V. Services**

### **Article 26. Trade In Services**

1. The Parties shall aim at achieving gradual liberalisation and the opening of their markets for trade in services in accordance with the provisions of the General Agreement on Trade in Services (hereinafter referred to as "GATS"), taking into account ongoing work under the auspices of the WTO. To this end, the Parties shall jointly review developments in services sectors and consider the adoption of liberalisation measures, with due regard to Article V GATS.

2. 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 services markets, it shall be prepared to enter into consultations in the Joint Committee with a view to addressing this matter in light of the objective set out in paragraph 1.

## **Chapter VI. Current Payments and Capital Movements**

### **Article 27. Payments for Current Transactions**

Subject to the provisions of Article 29, the Parties undertake to allow all current payments for current transactions to be made in a freely convertible currency.

### **Article 28. Capital Movements**

With regard to transactions on the capital account of balance of payments, the EFTA States and Tunisia shall ensure, from the entry into force of this Agreement, that capital relating to direct investments in Tunisia in companies formed in accordance with current laws can move freely and that the yield from such investments and any profit stemming therefrom can be liquidated and repatriated.

### **Article 29. Balance of Payments Difficulties**

Where one or more EFTA States or Tunisia is in serious balance of payments difficulties, or under threat thereof, the EFTA States or Tunisia, as the case may be, may, in accordance with the conditions established under the GATT 1994 and Articles VIII and XIV of the Articles of Agreement of the International Monetary Fund, adopt restrictions on current transactions which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The EFTA States or Tunisia, as the case may be, shall inform the other Parties forthwith and shall submit to them as soon as possible a timetable for the elimination of the measures concerned.

## **Chapter VII. Government Procurement**

### **Article 30. Government Procurement**

1. The Parties shall set as their objective a reciprocal and gradual liberalisation of public procurement markets.

2. If a Party grants to a non-Party access to its procurement markets, it shall be prepared to enter into consultations in the Joint Committee with a view to addressing this matter in light of the objective set out in paragraph 1.

## **Chapter VIII. Economic Co-operation and Technical Assistance**

### **Article 31. Objectives and Scope**

1. The EFTA States declare their readiness to engage in economic co-operation and provide technical assistance to Tunisia, in accordance with their national policy objectives, in order to:

- (a) facilitate the implementation of the overall objectives of this Agreement, in particular to enhance trading and investment opportunities arising from this Agreement;
- (b) support Tunisia's own efforts to achieve sustainable economic and social development.

2. Co-operation and assistance shall focus on sectors suffering from internal difficulties or affected by the process of liberalisation of the Tunisian economy as well as sectors likely to bring the economies of the EFTA States and Tunisia closer together, particularly those generating growth and employment.

### **Article 32. Methods and Means**

1. Co-operation and assistance shall be carried out, bilaterally or through EFTA programmes or a combination of the two.
2. Parties shall co-operate with the objective of identifying and employing the most effective methods and means for the implementation of this Chapter. To this end they may coordinate efforts with relevant international organisations.
3. Conservation of the environment shall be taken into account in the implementation of assistance in the various sectors to which it is relevant.
4. Means of co-operation and assistance may include:
  - (a) exchange of information, transfer of technology and training;
  - (b) implementation of joint actions such as seminars and workshops;
  - (c) technical and administrative assistance;
  - (d) financial co-operation, such as preferential loans and development funds.

### **Article 33. Fields of Co-operation**

Co-operation and assistance may cover any fields jointly identified by the Parties that may serve to enhance Tunisia's capacities to benefit from increased international trade and investment, including in particular:

- (a) trade promotion, trade facilitation, and promotion of market opportunities;
- (b) customs and origin matters, including vocational training in the customs field;
- (c) modernisation of economic sectors, such as fish and aquaculture, manufacturing, food industry, financial services, tourism;
- (d) technical regulations and sanitary and phytosanitary measures, including standardisation and certification; and
- (e) regulatory assistance and implementation of laws in areas such as intellectual property and public procurement.

## **Chapter IX. Institutional and Procedural Provisions**

### **Article 34. The Joint Committee**

1. The implementation of this Agreement shall be supervised and administered by a Joint Committee. 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, 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 Tunisia.

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 35. Procedures of the Joint Committee**

1. For the proper implementation of this Agreement the Joint Committee shall, upon request of any Party, meet whenever necessary but normally every two years.

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 at which 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.

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.

## **Article 36. Fulfilment of Obligations and Consultations**

1. The Parties shall take all necessary measures to ensure the fulfilment of their obligations under this Agreement. Should any divergency with respect to the interpretation and application of this Agreement arise, the Parties shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution.

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 30 days from the receipt of the notification referred to in paragraph 2, with a view to finding a commonly acceptable solution.

## **Article 37. Provisional Measures**

If an EFTA State considers that Tunisia has, or if Tunisia considers that an EFTA State has failed to fulfil an obligation under this Agreement and the Joint Committee has failed to arrive at a commonly acceptable solution within 3 months, the Party concerned may take such provisional rebalancing measures as are appropriate and strictly necessary to remedy the imbalance. Priority shall be given to such measures as will least disturb the functioning of the Agreement. The measures taken shall be notified immediately to the Parties and to the Joint Committee, which shall hold regular consultations with a view to their abolition. The measures shall be abolished when conditions no longer justify their maintenance, or, if the dispute is submitted to arbitration, when an arbitral award has been rendered and complied with.

## **Article 38. Arbitration**

1. Disputes between the Parties, relating to the interpretation of rights and obligations under 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. Where more than one Party requests the submission to an arbitral tribunal of a dispute with the same Party relating to the same question a single arbitral tribunal should be established to consider such disputes whenever feasible.

2. The constitution and functioning of the arbitral tribunal shall be governed by Annex VI. The award of the arbitral tribunal shall be final and binding upon the Parties to the dispute.

# **Chapter X. Final Provisions**

## **Article 39. 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 40. 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 41. Amendments**

1. Amendments to this Agreement shall, after approval by the Joint Committee, be submitted to the Parties for ratification, acceptance or approval.

2. Unless otherwise agreed by the Parties, 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 acceptance shall be deposited with the Depositary.

## **Article 42. Relation to other International Agreements**

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas and arrangements for frontier trade insofar as they do not have the effect of altering the trade arrangements provided for in this Agreement.

2. The Parties confirm their rights and obligations under the WTO and the other agreements negotiated thereunder to which they are party, and under any other international agreement to which they are a party.

3. When a Party enters into a customs union or free trade agreement with a third party it shall, upon request by any other Party, be prepared to enter into consultations with the requesting Party.

## **Article 43. Accession**

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

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, or the approval of the terms of accession by the existing Parties, whichever is later.

## **Article 44. 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. 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 45. 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 June 2005 in relation to those Signatory States which by then have deposited their instruments of ratification or acceptance with the Depositary, provided that Tunisia is among the States that have deposited their instruments of ratification or acceptance.

3. In case this Agreement does not enter into force on 1 June 2005 it shall enter into force on the first day of the second month following the latter date on which Tunisia and at least one EFTA State have deposited their instruments of ratification.

4. In relation to an EFTA State depositing its instrument of ratification, after this Agreement has entered into force, the Agreement shall enter into force on the first day of the second month following the deposit of its instrument.

5. If its constitutional requirements permit, any EFTA State may apply this Agreement provisionally. Provisional application of this Agreement under this paragraph shall be notified to the Depositary.

## **Article 46. Depositary**

The Government of Norway shall act as Depositary.

## **Article Article**

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

Done at Geneva, this 17th day of December 2004, in two original copies, each in the English and the French languages, both texts being equally authentic. In case of conflict the English version shall prevail. One original for each language shall be deposited with the Government of Norway.

For the Republic of Iceland

For the Republic of Tunisia

For the Principality of Liechtenstein

For the Kingdom of Norway

For the Swiss Confederation

## **ANNEX VI. REFERRED TO IN ARTICLE 38. CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL**

1. The arbitral tribunal shall comprise three members.

2. In the written notification pursuant to Article (arbitration) of this Agreement, the Party or Parties referring the dispute to arbitration shall designate one member of the arbitral tribunal.

3. Within 15 days from the receipt of the notification referred to in paragraph 2, the Party or Parties to which it was addressed shall, in turn, designate one member.

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

5. If all three members have not been designated or appointed within 30 days from the receipt of the notification referred to in paragraph 2, the necessary designations shall be made, at request of any party to the dispute, by the President of the International Court of Justice applying the criteria of paragraphs 3 and 4. If the President is unable to act under this paragraph or is a national of a party to the dispute, the designations shall be effected by the next senior member of the Court who is neither unable to act nor a national of a Party.

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

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

8. The arbitral award shall be rendered within six months of the date at which the President of the arbitral tribunal was

appointed. This period can be extended by a maximum of three additional months, if the parties to the dispute so agree.

9. The expenses of the arbitral tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. Fees and expenses payable to members of an arbitral tribunal established under this Agreement will be subject to schedules established by the Joint Committee and in force at the time of the establishment of the arbitral tribunal. These schedules normally shall conform to the WTO standards.