TRADE DISPUTE SETTLEMENT (ANNEX D of the ECT)

between Contracting Parties at least one of which is not a party to the GATT or WTO

(CPs are encouraged to consult throughout the whole proceeding with a view to settling their dispute)

A Contracting Party may make a written request to any other Contracting Party for consultations regarding any measure that might affect materially compliance with Article 5 (TRIMs) or 29 (interim provisions on trade) of the ECT:

*Indicate the measure complained of + specify the relevant provisions of Art. 5 or 29 and of the GATT/WTO and Related Instruments*

The Secretariat (who shall also be notified) shall periodically inform Contracting Parties of pending consultations

Within 60 days from the receipt of the consultation

The Contracting Parties attempt to resolve the dispute (by conciliation, mediation, arbitration or other method) making every effort to avoid a resolution that adversely affects the trade of any other Contracting Party

If dispute not resolved within 60 days

Either Disputing Party may deliver to the Secretariat a written request for the establishment of a panel: including the substance of the dispute + provisions considered relevant

Secretariat delivers copies of the request to all Contracting Parties

45 days after the receipt of the written request by Secretariat

Other Contracting Parties with substantial interest may give written notice to the Disputing Parties & Secretariat before the establishment of the panel

SG (with the consent of all Disputing Parties) may appoint a single panel in case of two or more written requests in relation to substantively similar disputes

A panel shall determine its jurisdiction (as a preliminary question or with the merits of the dispute); such determination is final + binding

Panel established by the Secretariat:

composed of three members chosen from the roster by the Secretary

within 10 working days

The Disputing Parties shall respond to the nominations of panel members and shall not oppose nominations except for compelling reasons

The Secretariat shall promptly notify all Contracting Parties that a panel has been constituted

Panel proceedings (see Rules of Procedure of Panel Proceedings)

After considering rebuttal arguments, Panel submits to the Disputing Parties the descriptive sections of its draft written report, including a statement of the facts + summary of the arguments

The Disputing Parties can submit written comments on the draft written report

Panel issues to the Disputing Parties an interim written report including the descriptive section + proposed findings and conclusions

Panel issues its final report (with descriptive sections, findings & conclusions, and discussion of the arguments made) to the Secretariat and the Disputing Parties

within timeline set by panel

within timeline set by panel

within 180 days from establishment of panel

A Disputing Party may submit to the panel a written request for reviewing specific aspects of the interim report. The panel at its discretion may meet with the Disputing Parties to consider the issues raised in the written request
The Secretariat distributes to all Contracting Parties the final report + any written views a disputing Party desires to have appended

at least 10 days before report being considered by the Conference

Written objections by Contracting Parties given to the Secretariat, who shall provide them to all Contracting Parties

At least 30 days after CPs received the final report

Disputing Parties and Contracting Parties that notified their interest shall fully participate in the consideration of the report by the Conference and their views fully recorded ─── Adoption of the Report by the Conference

Immediate compliance with Report by the concerned Contracting Party, who shall inform of its intentions regarding compliance

If immediate compliance is impracticable, the concerned Contracting Party shall explain its reasons for non-compliance to the Conference and is given reasonable period of time to effect compliance

In case of non-compliance within a reasonable period of time, the injured Contracting Party to the dispute may deliver to the non-complying Contracting Party a written request to negotiate a mutually acceptable compensation

within 30 days after delivery of the request for negotiations OR if the non-complying CP refuses to negotiate

In case of no agreement the injured Contracting Party may make a written request for authorization of the Conference to suspend obligations owed by it to the non-complying Contracting Party under Article 5 or 29

The Conference may authorize the temporal suspension under provisions of Art. 5 or 29 or under applicable provisions of GATT/WTO or related instruments

The injured Contracting Party shall inform in advance the non-complying Contracting Party of the nature and level of the proposed suspension

The non-complying Contracting Party may deliver to the Secretary General a written objection to the level of suspension

The proposed suspension of obligations shall be stayed until the determination of the arbitral panel has become final and binding

The objection shall be referred to arbitration

Secretary General establishes an arbitral panel (if practicable, same panel as before)

Determination by the arbitration panel

within 60 days of the establishment of the panel OR any other period agreed by the injured and non-complying parties

Written determination by the arbitral panel delivered to the injured and non-complying Contracting Parties + the Secretariat

at the earliest practicable opportunity

The Secretariat shall present the determination to the Conference

30 days after the date of presentation to the Conference

The determination of the arbitral panel becomes final and binding