

CIVIL SOCIETY AND TRANSPARENCY IN EUFTAS DISPUTE SETTLEMENT MECHANISMS

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TRANSPARENCY IN DISPUTE SETTLEMENT

- Access to information about the existence of a dispute
- Access to hearings
- Documentary transparency
- Participation of *amici curiae*

ACCESS TO INFORMATION ABOUT THE EXISTENCE OF A DISPUTE

- [European Commission website](#)

Bilateral disputes

The EU includes a dispute settlement mechanism in all its [trade agreements](#) so that the EU and its trading partners can resolve disputes.

The system allows for the rapid settlement of disputes and is modeled after the WTO dispute settlement system. It is specifically designed to deal with disputes arising from the rules of the EU's bilateral trade agreements.

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Keywords

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Trade topics

Bilateral disputes (4)



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Algeria trade restrictive measures

The EU and Algeria engaged in a dispute settlement procedure under the Association Agreement to resolve the dispute concerning some trade measures introduced by Algeria.

Korea labour commitments

On 17 December 2018, the EU requested formal consultations with the government of the Republic of Korea regarding the implementation of the sustainable development commitments under the EU-Korea trade agreement.

Southern African Customs Union poultry safeguards

On 14 June 2019, the European Union requested formal consultations with the Southern African Customs Union (SACU) over safeguard measures affecting imports of frozen chicken cuts from the EU.

Ukraine wood export ban

On 16 January 2019, the EU formally requested consultations with Ukraine under the EU-Ukraine Association Agreement on Ukraine's export ban on unprocessed wood.

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ACCESS TO HEARINGS

1) EU – Chile Free Trade Agreement (2002), Rule 23 of Annex XV:

“The hearings of the arbitration panels shall be closed to the public, unless the Parties decide otherwise. If the Parties decide that the hearing is open to the public, part of the hearing may however be closed to the public, if the arbitration panel, on application by the Parties, so decides for serious reasons. In particular, the arbitration panel shall meet in closed sessions when the submission and arguments of a Party contain business confidential information.”

2) EU – Moldova Association Agreement (2014), Art. 399.2:

“Any hearing of the arbitration panel shall be open to the public unless provided otherwise in the Rules of Procedure.”

Art. 34 of Annex XXXIII to the Agreement:

“The arbitration panel shall meet in closed session when the submission and the arguments of a Party contain confidential information.”

ACCESS TO HEARINGS

EU – UK FTA (2020), Annex 48, para. 23:

“On the basis of the timetable determined pursuant to rule 11, after consulting with the Parties and the other arbitrators, the chairperson of the arbitration tribunal shall notify the Parties of the date, time and venue of the hearing. That information shall be made publicly available by the Party in which the hearing takes place, unless the hearing is closed to the public.”

EU – SINGAPORE FTA (2018), ANNEX 14-A:

- 32. The hearings of the arbitration panels shall be open to the public, unless the Parties decide that the hearings shall be partially or completely closed to the public. Where the hearings are open to the public, unless the Parties agree otherwise, the following shall apply:
 - (a) public viewing shall take place via simultaneous closed circuit television broadcast to a separate viewing room at the venue of the arbitration;
 - (b) registration for public viewing of the hearings shall be required;
 - (c) no audio or video recording or photography shall be permitted in the viewing room;
 - (d) the panel shall have the right to call for a closed session of any of the hearings in order to address issues related to any confidential information. The arbitration panel shall meet in closed session when the submission and arguments of a Party contains confidential information. Exceptionally, the panel shall have the right to conduct the hearing in a closed session at any time on its own initiative or at the request of either Party

DOCUMENTARY TRANSPARENCY

EU-Korea FTA (2011), Art. 9 of Annex 14-B:

“Where a Party submits a confidential version of its written submissions to the arbitration panel, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public...

Nothing in this Article shall preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.”

DOCUMENTARY TRANSPARENCY

EU- UK (2020), Annex 48, para. 35:

“... When a Party submits to the arbitration tribunal a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information which shall be disclosed to the public.”

PARTICIPATION OF *AMICI CURIAE*

- EU- Singapore FTA (2018), Art. 14.17(2):

“Interested natural and legal persons of the Parties are authorised to submit *amicus curiae* briefs to the arbitration panel in accordance with Annex 14-A.”

Annex 14-A:

The arbitration panel may consider unsolicited written submissions from interested natural or legal persons of the Parties if they are:

- made within ten days of the date of the establishment of the arbitration panel,
- concise and in no case are longer than 15 typed pages, including any annexes,
- directly relevant to the factual issue under consideration by the arbitration panel.

THANK YOU FOR YOUR ATTENTION!