

PART VI

ADMINISTRATIVE AND INSTITUTIONAL PROVISIONS

CHAPTER 17

TRANSPARENCY

Article 17.1: Definitions

For purposes of this Chapter:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice.

Article 17.2: Contact Points

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Agreement.
2. Upon request of a Party, the contact point of the other Party shall indicate the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

Article 17.3: Publication

1. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made publicly available.
2. To the extent possible, each Party shall:
 - (a) publish in advance any such measure that it proposes to adopt; and
 - (b) provide interested persons and the other Party a reasonable opportunity to comment on such proposed measures.

Article 17.4: Notification and Provision of Information

1. To the maximum extent possible, each Party shall notify the other Party of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other Party's interests under this Agreement.
2. Upon request of the other Party, a Party shall promptly provide information and respond to questions pertaining to any actual or proposed measure, whether or not the other Party has been previously notified of that measure.
3. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.
4. The information referred to under this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made available on the official, public and fee-free accessible website of the Party concerned.

Article 17.5: Exchange of Information on State Aid

Each Party may request information on individual cases of state aid that it believes to affect trade between the Parties. The requested Party shall make its best efforts to provide non-confidential information.

Article 17.6: Administrative Proceedings

With a view to administering in a consistent, impartial and reasonable manner all measures of general application affecting matters covered by this Agreement, each Party shall ensure that in its administrative proceedings applying measures referred to in Article 17.3 to particular persons, goods or services of the other Party in specific cases:

- (a) wherever possible, persons of the other Party that are directly affected by a proceeding are provided with a reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;
- (b) such persons are afforded with a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- (c) its procedures are in accordance with its domestic law.

Article 17.7: Review and Appeal

1. Each Party shall establish or maintain judicial, or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

- (a) a reasonable opportunity to support or defend their respective positions; and
- (b) a decision based on the evidence and submissions of record and, where required by domestic law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.

CHAPTER 18

ADMINISTRATION OF THE AGREEMENT

Article 18.1: The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising officials referred to in Annex 18.1.1 or their designees.
2. The Parties, through the Commission, shall:
 - (a) supervise the implementation and appropriate application of the provisions of this Agreement;
 - (b) evaluate the results obtained in the course of the application of this Agreement;
 - (c) supervise the work of the committees and working groups established under this Agreement, referred to in Annex 18.1.2(c);
 - (d) ensure that, with regard to public enterprises and enterprises to which special or exclusive rights have been granted, in fulfillment of Article 14.8, following the date of entry into force of this Agreement, any measure distorting trade in goods or services between the Parties is neither enacted or maintained to an extent contrary to the Parties interests; and
 - (e) consider any other matter that may affect the operation of this Agreement, or that is entrusted to the Commission by the Parties.
3. In the fulfillment of its functions, the Commission may:
 - (a) establish and delegate responsibilities to *ad hoc* or standing committees, working groups or expert groups and assign them with tasks on specific matters;
 - (b) seek the advice of non-governmental persons or groups;
 - (c) modify, in accordance with Annex 18.1.3(c):
 - (i) the established rules of origin in Annex 4;
 - (ii) the Schedules established in Annex 3.4, in order to accelerate the tariff elimination process;
 - (iii) the Uniform Regulations; and
 - (iv) the Annexes 15.1 and 15.2 (Government procurement); and
 - (d) take such other action in the exercise of its functions, as the Parties may agree.
4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be adopted by mutual agreement between the Parties.
5. The Commission shall convene at least once a year in regular session. Regular sessions of the Commission shall be chaired alternately by each Party.

Article 18.2: The Secretariat

1. Each Party hereby designates the competent national organ referred to in Annex 18.2 to serve as its Secretariat for purposes of this Agreement.

2. For purposes of this Agreement, all communication or notification to or by a Party shall be made through its Secretariat.

Annex 18.1.1
Officials of the Free Trade Commission

For purposes of Article 18.1, officials of the Commission are:

- (a) in the case of Chile, the Minister of Foreign Affairs, or her/his designees; and
- (b) in the case of Korea, the Minister for Trade, or her/his designees.

Annex 18.1.2(c)
Committees and Working Groups

1. Committees:

- (a) Committee on Trade in Goods;
- (b) Committee on Sanitary and Phytosanitary Measures;
 - (i) Sub-Committee on Animal Health;
 - (ii) Sub-Committee on Plant Protection; and
 - (iii) Sub-Committee on Food Safety;
- (c) Committee on Standards-Related Measures;
- (d) Investment and Cross-Border Trade in Services Committee; and
- (e) Committee on Telecommunications Standards.

2. Working Groups:

- (a) Temporary Entry Working Group; and
- (b) Government Procurement Working Group.

Annex 18.1.3(c)
Implementation of Decisions Adopted by the Commission

The Parties shall implement decisions of the Commission, referred to in Article 18.1.3(c), according to their respective domestic legislation and the following procedures:

- (a) in the case of Chile, by means of executive agreements, in conformity with Article 50 N°1, second paragraph of the Political Constitution of the Republic of Chile; and
- (b) in the case of Korea, in conformity with Article 60.1 of the Constitution of the Republic of Korea.

Annex 18.2
The Secretariat

For purposes of Article 18.2, the competent national organs of the Parties are:

- (a) for Chile, the General Directorate of International Economic Affairs of the Ministry of Foreign Affairs, or its successor; and
- (b) for Korea, the Multilateral Trade Bureau of the Ministry of Foreign Affairs and Trade, or its successor.

CHAPTER 19 DISPUTE SETTLEMENT

Section A - Dispute Settlement

Article 19.1: Cooperation

The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Article 19.2: Scope of Application

Except as otherwise provided in this Agreement, the provisions of this Chapter shall apply:

- (a) with respect to the avoidance and settlement of disputes between the Parties regarding the interpretation or application of this Agreement; or
- (b) wherever a Party considers that an existing or proposed measure of the other Party is or would be inconsistent with the obligations of this Agreement or causes nullification or impairment in the sense of Annex 19.2.

Article 19.3: Choice of Forum

1. Disputes regarding any matter arising under both this Agreement and the WTO Agreement, any agreement negotiated thereunder, or any successor agreement, may be settled in the forum selected by the complaining Party.
2. Once dispute settlement procedures have been initiated under Article 19.6 or dispute settlement proceedings have been initiated under the WTO Agreement, the forum selected shall be used to the exclusion of the other.
3. For purposes of this Article, dispute settlement proceedings under the WTO Agreement are deemed to be initiated upon a request for a panel by a Party.

Article 19.4: Consultations

1. A Party may request in writing consultations with the other Party regarding any existing or proposed measure or any other matter that it considers might affect the operation and application of this Agreement.
2. The Party that requests consultations according to paragraph 1 shall indicate the provisions of the Agreement that it considers relevant and deliver the request to the other Party.

3. Consultations on matters regarding perishable agricultural goods shall commence within 15 days of the date of delivery of the request.
4. The Parties shall:
 - (a) provide information to enable a full examination of how the existing or proposed measure or other matter might affect the operation and application of this Agreement; and
 - (b) give confidential treatment to any information exchanged in the course of consultations.

Article 19.5: Good Offices, Conciliation and Mediation

1. Good offices, conciliation and mediation are procedures undertaken voluntarily if the Parties so agree.
2. Proceedings involving good offices, conciliation and mediation, and in particular positions taken by the Parties during these proceedings, shall be confidential, and without prejudice to the rights of either Party in any further proceedings under these procedures.
3. Good offices, conciliation or mediation may be requested at any time by any Party. They may begin at any time and be terminated at any time. Once procedures for good offices, conciliation or mediation are concluded without an agreement between the Parties, the complaining Party may request the establishment of a panel.

Article 19.6: Request for an Arbitral Panel

1. A Party may request in writing the establishment of an arbitral panel if the matter has not been resolved pursuant to Article 19.4, within:
 - (a) 45 days of delivery of a request for consultations;
 - (b) 30 days of delivery of a request for consultations in matters regarding perishable agricultural goods; or
 - (c) such other period as the Parties may agree.
2. A Party may also request in writing the establishment of an arbitral panel where consultations have been held pursuant to Article 8.12.
3. Upon delivery of the request, an arbitral panel shall be established.
4. Unless otherwise agreed by the Parties, the panel shall be established and perform its functions in accordance with the provisions of this Chapter.

Article 19.7: Roster

1. The Parties shall establish, by mutual agreement, no later than six months after the entry into force of this Agreement a roster of up to 15 individuals, one-third of whom shall not be nationals of either Party, who are willing and qualified to serve as panelists. The roster members shall be appointed for a term of three years, and will automatically be reappointed for an additional three-year term, unless either Party objects.
2. Roster members shall:
 - (a) have expertise or experience in law, international trade, other matters covered by this Agreement or the resolution of disputes arising under international trade agreements;
 - (b) be chosen strictly on the basis of objectivity, reliability and sound judgment;
 - (c) be independent of, not be affiliated with or take instructions from, either Party; and
 - (d) comply with the Code of Conduct set out in Annex 19.7.

Article 19.8: Qualifications of Panelists

1. All panelists shall meet the qualifications set out in Article 19.7.2.
2. Individuals may not serve as panelists for a dispute in which they have participated pursuant to Article 19.5.

Article 19.9: Panel Selection

1. The panel shall comprise three members.
2. Each Party shall select one panelist within 15 days from the delivery of the request for the establishment of the panel.
3. Within 15 days of the selection of the panelists under paragraph 2, the Parties shall agree on the chair of the panel. If the Parties are unable to agree on the chair within this period, the chairperson of the Commission shall select by lot the chair of the panel within five days, from among the roster members who are not nationals of either Party.
4. If a Party fails to select its panelist within the period indicated in paragraph 2, the chairperson of the Commission shall select by lot the panelist within five days, from among the roster members who are nationals of that Party.
5. Panelists shall normally be selected from the roster.
6. If a Party believes that a panelist is in violation of the Code of Conduct set out in Annex 19.7, the Parties shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article 19.10: Model Rules of Procedure

1. Unless the Parties otherwise agree, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure set out in Annex 19.10.
2. The Commission may amend when it considers necessary the Model Rules of Procedure referred to in paragraph 1.

Article 19.11: Information and Technical Advice

Upon request of a Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate. Any information and technical advice so obtained shall be submitted to the Parties for comments.

Article 19.12: Initial Report

1. Unless the Parties otherwise agree, the panel shall base its report on the relevant provisions of this Agreement, on the submissions and arguments of the Parties, and on any information before it, pursuant to Article 19.11.
2. Unless the Parties otherwise agree, the panel shall, within 90 days after the last panelist is selected, present to the Parties an initial report containing:
 - (a) findings of fact, including any findings pursuant to a request under Rule 8 of Annex 19.10;
 - (b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 19.2, or any other determination requested in the terms of reference; and
 - (c) its recommendations, if any, for resolution of the dispute.
3. Panelists may furnish separate opinions on matters not unanimously agreed.
4. The Parties may submit written comments on the initial report within 14 days of its presentation.
5. In case that such written comments by the Parties are received as provided for in paragraph 4, the panel, on its own initiative or at the request of a Party, may reconsider its report and make any further examination that it considers appropriate after considering such written comments.

Article 19.13: Final Report

1. The panel shall present a final report to the Parties, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the Parties otherwise agree.

2. No panel may, either in its initial report or its final report, disclose which panelists are associated with the majority or minority of the opinions.
3. The final report of the panel shall be made publicly available within 15 days of its delivery to the Parties.

Article 19.14: Implementation of Final Report

1. The final report of a panel shall be binding on the Parties and shall not be subject to appeal. Unless the Parties decide otherwise, they shall implement the decision contained in the final report of the panel in the manner and within the time-frame that it orders.
2. Notwithstanding paragraph 1, where the final report of the panel states that a measure is not in compliance with this Agreement, or is causing nullification or impairment in the sense of Annex 19.2, the responding Party, wherever possible, shall abstain from executing the measure or shall abrogate it.

Article 19.15: Non-Implementation - Suspension of Benefits

1. The complaining Party may suspend the application of benefits of equivalent effect to the Party complained against if the panel resolves:
 - (a) that a measure is inconsistent with the obligations of this Agreement and the responding Party does not implement the final report within 30 days following the expiration of the time-frame established in such a report; or
 - (b) that a measure causes nullification or impairment in the sense of Annex 19.2 and the Parties do not reach a mutually satisfactory agreement on the dispute within 30 days following the expiration of the time-frame established in the final report.
2. The suspension of benefits shall last until the responding Party implements the decision of the panel's final report or until the Parties reach a mutually satisfactory agreement on the dispute, depending on the case.
3. In considering what benefits to suspend pursuant to paragraph 1:
 - (a) the complaining Party should first seek to suspend benefits in the same sector(s) as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations derived of this Agreement or to have caused nullification or impairment in the sense of Annex 19.2; and
 - (b) if the complaining Party considers that it is not practicable or effective to suspend benefits in the same sector(s), it may suspend benefits in other sectors. The communication in which it announces such a decision shall indicate the reasons on which it is based.
4. Upon written request of the Party concerned, the original panel shall determine whether the level of benefits suspended by the complaining Party is excessive pursuant to paragraph 1. If

the panel cannot be established with its original members, the proceeding set out in Article 19.9 shall be applied.

5. The panel shall present its determination within 60 days from the request made pursuant to paragraph 4, or if a panel cannot be established with its original members, from the date on which the last panelist is selected. The ruling of the panel shall be final and binding. It shall be delivered to the Parties and be made publicly available.

Section B - Domestic Proceedings and Private Commercial Dispute Settlement

Article 19.16: Interpretation of the Agreement before Judicial and Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises, in any domestic judicial or administrative proceeding of a Party, which that Party considers would merit its intervention, or if a judicial or administrative body requests the views of a Party in this regard, that Party shall notify the other Party. The Commission shall endeavour to agree on an appropriate response as expeditiously as possible.

2. The Party in whose territory the judicial or administrative body is located shall submit any agreed interpretation of the Commission to such a body, in accordance with the rules of that forum.

3. If the Commission does not reach an agreement, any Party may submit its own views to the judicial or administrative body in accordance with the rules of that forum.

Article 19.17: Private Rights

Neither Party may provide for a right of action for private parties under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Article 19.18: Alternative Dispute Resolution

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration proceeding and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes under paragraph 1.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Annex 19.2
Nullification or Impairment

1. A Party may have recourse to the dispute settlement procedures under this Chapter if the application of any measure that is not inconsistent with this Agreement, results in nullification or impairment of any benefit that is reasonably expected to accrue to it under any of the following provisions contained in:

- (a) Part II;
- (b) Chapter 11; and
- (c) Chapter 15.

2. With respect to any measure subject to an exception under Article 20.1, the Parties may not invoke:

- (a) subparagraphs 1(a) and (c), to the extent that the benefit arises from any cross-border trade in services provision of Part II; or
- (b) subparagraph 1(b).

Annex 19.7 Code of Conduct for Members of Panels

Definitions

1. For purposes of this Annex:

assistant means a person who, under the terms of appointment of a member, conducts research or provides support for the member;

candidate means an individual whose name is on the roster referred to in Article 19.7 and who is under consideration for appointment as a member of a panel under Article 19.9;

member means a member of a panel effectively established under Article 19.6;

proceeding, unless otherwise specified, means a panel proceeding under Chapter 19; and

staff, in respect of a member, means persons under the direction and control of the member, other than assistants.

Section I Responsibilities to the Process

2. Every candidate and member shall avoid impropriety and the appearance of impropriety, be independent and impartial, avoid direct and indirect conflicts of interests and observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved. Former members shall comply with the obligations established in Sections V and VI of this Code of Conduct.

Section II Disclosure Obligations

3. Prior to confirmation of his or her selection as a member of the panel under Article 19.9, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Once selected, a member shall continue to make all reasonable efforts to become aware of any interests, relationships and matters referred to in Rule 3 and shall disclose them by communicating them in writing to the Commission for consideration by the Parties. The obligation to disclose is a continuing duty, which requires a member to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

Section III

Performance of Duties by Candidates and Members

5. A candidate who accepts a selection as a member shall be available to perform, and shall perform, a member's duties thoroughly and expeditiously throughout the course of the proceeding.
6. A member shall carry out all duties fairly and diligently.
7. A member shall comply with this Code of Conduct.
8. A member shall not deny other members the opportunity to participate in all aspects of the proceeding.
9. A member shall consider only those issues raised in the proceeding and necessary to rendering a decision and shall not delegate the duty to decide to any other person.
10. A member shall take all reasonable steps to ensure that the member's assistant and staff comply with Sections I, II and VI of this Code of Conduct.
11. A member shall not engage in *ex parte* contacts concerning the proceeding.
12. A candidate or member shall not communicate matters concerning actual or potential violations of this Code of Conduct unless the communication is to the Commission or is necessary to ascertain whether that candidate or member has violated or may violate this Code.

Section IV

Independence and Impartiality of Members

13. A member shall be independent and impartial. A member shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.
14. A member shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
15. A member shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the member's duties.
16. A member shall not use his or her position on the panel to advance any personal or private interests. A member shall avoid actions that may create the impression that others are in a special position to influence the member. A member shall make every effort to prevent or discourage others from representing themselves as being in such a position.

17. A member shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the member's conduct or judgement.

18. A member shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the member's impartiality or that might reasonably create an appearance of impropriety or bias.

Section V Duties in Certain Situations

19. A member or former member shall avoid actions that may create the appearance that the member was biased in carrying out the member's duties or would benefit from the decision or ruling of the panel.

Section VI Maintenance of Confidentiality

20. A member or former member shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of others people.

21. A member shall not disclose a panel ruling prior to its publication.

22. A member or former member shall not at any time disclose the deliberations of a panel, or any member's view.

Section VII Responsibilities of Assistants and Staff

23. Sections I, II and VI of this Code of Conduct apply also to assistants and staff.

Annex 19.10
Model Rules of Procedure

Application

1. These Rules are established under Article 19.10 and shall apply to dispute settlement proceedings under Chapter 19 unless the Parties otherwise agree.

Definitions

2. For purposes of this Annex:

adviser means a person retained by a Party to advise or assist the Party in connection with the panel proceeding;

complaining Party means a Party that requests the establishment of a panel under Article 19.6;

legal holiday, with respect to a Party's Secretariat, means every Saturday and Sunday and any other day designated by that Party as a holiday for purposes of these Rules and notified by that Party to its Secretariat and by that Secretariat to the other Secretariat and the other Party;

panel means a panel established under Article 19.6;

representative of a Party means an employee of a government department or of any other government entity of a Party;

responsible Secretariat means the Secretariat of the Party complained against; and

Secretariat means the Secretariat established under Article 18.2.1.

3. Any reference made in these Rules to an Article, Annex or Chapter is a reference to the appropriate Article, Annex or Chapter of this Agreement.

Terms of Reference for Panels

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

"To examine, in the light of the relevant provisions of this Agreement, the matter referred to the panel and deliver the written reports referred to in Articles 19.13 and 19.14."

5. The Parties shall promptly deliver the agreed terms of reference to the panel, upon the designation of the last panelist.

6. If the complaining Party argues that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

7. If a Party requests the panel to make findings as to the degree of adverse trade effects on a Party of the measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Annex 19.2, the terms of reference shall so indicate.

Written Submissions and Other Documents

8. The Parties shall deliver the original and as many copies as the Secretariat requires and in any event no less than five copies of their respective written submissions to their respective Secretariats which, in turn, shall retain a copy and forward the original and the remaining copies by the most expeditious means practicable to the responsible Secretariat. The responsible Secretariat shall deliver the submissions by the most expeditious means practicable to the other Party and the panel.

9. A complaining Party shall deliver its initial written submission to its Secretariat no later than 10 days after the date on which the last panelist is designated. The responding Party shall deliver its written counter-submission to the responsible Secretariat no later than 20 days upon receipt of the initial written submission of the complaining Party.

10. A request, notice or other document related to the panel proceeding that is not covered by Rule 8 or 9, the Party shall deliver copies of the document to both Secretariats and to the other Party by facsimile or other means of electronic transmission.

11. A Party may correct minor errors of a clerical nature in any request, notice, written submission or other document related to the panel proceeding by delivering a new document clearly indicating the changes.

12. A Party that delivers any request, notice, written submission or other document to its Secretariat shall, to the extent practicable, also deliver a copy of the document in electronic form to that Secretariat.

13. Any delivery to a Secretariat under these Rules shall be made during the normal business hours of that Secretariat.

14. If the last day for delivery of a document to a Secretariat falls on a legal holiday observed by that Secretariat or on any other day on which the offices of that Secretariat are closed by order of the government or by force majeure, the document may be delivered to that Secretariat on the next business day.

Operation of Panels

15. The chair of the panel shall preside at all of its meetings. A panel may delegate to the chair authority to make administrative and procedural decisions.
16. Except as otherwise provided in these Rules, the panel may conduct its business by any means, including by telephone, facsimile transmission and computer links.
17. Only panelists may take part in the deliberations of the panel, but the panel may permit assistants, interpreters or translators to be present during such deliberations.
18. Where a procedural question arises that is not addressed by these Rules, a panel may adopt an appropriate procedure that is consistent with this Agreement.
19. If a panelist dies, withdraws or is removed from the panel, a replacement shall be selected as expeditiously as possible in accordance with the procedures to designate panelists.
20. The time-period applicable to the panel proceeding shall be suspended for a period that begins on the date on which the panelist dies, withdraws or is removed from the panel and ends on the date on which the replacement is selected.
21. A panel may, in consultation with the Parties, modify any time-period applicable in the panel proceeding and make other procedural or administrative adjustments as may be required in the proceeding, such as in cases where a panelist is replaced or where the Parties are required to reply in writing to the questions of a panel.

Hearings

22. The chair shall fix the date and time of the hearing in consultation with the Parties, the other members of the panel and the responsible Secretariat. The responsible Secretariat shall notify the Parties in writing of the date, time and location of the hearing.
23. The hearing shall be held in the capital of the Party complained against.
24. The panel may convene additional hearings if the Parties so agree.
25. All panelists shall be present at hearings.
26. The following persons may attend a hearing:
 - (a) representatives of the Parties;
 - (b) advisers of the Parties, provided that they do not address the panel and they or their employers, partners, business associates or family members do not have a financial or personal interest in the proceeding;
 - (c) Secretariat personnel, interpreters, translators and court reporters (designated note takers); and
 - (d) panelists' assistants.
27. No later than five days before the date of a hearing, each Party shall deliver to the other Party and the responsible Secretariat a list of the names of those persons who will make oral

arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will attend the hearing.

28. The hearing shall be conducted by the panel in the following manner, ensuring that the complaining Party and the Party complained against are afforded with equal time:

- (a) Argument:
 - (i) argument of the complaining Party.
 - (ii) argument of the Party complained against.
- (b) Reply and Counter-Reply:
 - (i) reply of the complaining Party.
 - (ii) counter-reply of the Party complained against.

29. The panel may direct questions to any Party at any time during a hearing.

30. The responsible Secretariat shall arrange for a transcript of each hearing to be prepared and shall, as soon as possible after it is prepared, deliver a copy of the transcript to the Parties, the other Secretariat and the panel.

Supplementary Written Submissions

31. The panel may at any time during a proceeding address questions in writing to one or both of the Parties. The panel shall deliver the written questions to the Party or Parties to whom the questions are addressed through the responsible Secretariat, which, in turn, shall provide for the delivery of copies of the questions by the most expeditious means practicable to the other Secretariat and the other Party.

32. The Party to whom the panel addresses written questions shall deliver a copy of any written reply to its Secretariat which, in turn, shall provide for delivery of that submission by the most expeditious means practicable to the other Secretariat and the panel. The other Secretariat shall provide for delivery of that submission by the most expeditious means practicable to the other Party. The other Party shall be given the opportunity to provide written comments on the reply within five days after the date of delivery.

33. Within 10 days after the date of the hearing, each Party may deliver to its Secretariat a supplementary written submission responding to any matter that arose during the hearing.

Burden of Proof Regarding Inconsistent Measures and Exceptions

34. The Party asserting that a measure of the other Party is inconsistent with the provisions of this Agreement shall have the burden of establishing such inconsistency.

35. The Party asserting that a measure is subject to an exception under this Agreement shall have the burden of establishing that the exception applies.

Availability of Information

36. The Parties shall maintain the confidentiality of the panel's hearings, deliberations and initial report, and all written submissions to, and communications with, the panel, in accordance with the following procedures:

- (a) A Party or, subject to its instructions, the Party's Secretariat, may make available to the public at any time that Party's written submissions and those of the other Party. Before such documents are made available to the public any information designated for confidential treatment by a Party pursuant to subparagraph (d) shall be removed;
- (b) A Party or, subject to its instructions, the Party's Secretariat, may make the hearing transcript available to the public 15 days after the final report of the panel is made public pursuant to Article 19.13.3. Before the transcript is made available to the public, any information designated for confidential treatment by a Party pursuant to subparagraph (d) shall be removed;
- (c) Where information has been removed from a document pursuant to subparagraph (a) or (b), the document shall indicate clearly where such information has been removed;
- (d) To the extent it considers strictly necessary to protect personal privacy or to address essential confidentiality concerns, a Party may designate specific information included in its written submissions, or that it has presented in the panel hearing, for confidential treatment;
- (e) A Party may disclose to other persons such information in connection with the panel proceedings as it considers necessary for the preparation of its case, but it shall ensure that those persons maintain the confidentiality of any such information;
- (f) A Party shall treat as confidential the initial report and information submitted by the other Party to the panel that the Party has designated as confidential pursuant to subparagraph (d);
- (g) The responsible Secretariat shall take such reasonable steps as are necessary to ensure that experts, interpreters, translators, court reporters (designated note takers) and other individuals retained by the Secretariat maintain the confidentiality of the panel proceedings; and
- (h) Except as provided under paragraphs (a) and (b), the Secretariat personnel shall maintain the confidentiality of the panel proceedings.

Ex Parte Contacts

37. The panel shall not meet or contact a Party in the absence of the other Party.

38. No panelist may discuss any aspect of the subject matter of the proceeding with a Party or with the Parties in the absence of the other panelists.

Official Language

39. Written submissions, oral arguments or presentations at the hearing, initial and final panel reports, as well as all other written or oral communications between the Parties and the panel, related to panel proceedings, shall be conducted in English.

Computation of Time

40. Where anything under this Agreement or these Rules is to be done, or the panel requires anything to be done, within a number of days after or before a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.

41. Where, by reason of the operation of Rule 14, a Party receives a document on a date other than the date on which the same document is received by the other Party, any period of time the calculation of which is dependent on such receipt shall be calculated from the date of receipt of the last such document.

Suspension of Benefits Panels

42. These Rules shall apply to a panel established under Article 19.15 except that:
- (a) the Party that requests the establishment of the panel shall deliver its initial written submission to its Secretariat within 10 days after the date on which the last panelist is designated;
 - (b) the responding Party shall deliver its written counter-submission to its Secretariat within 15 days upon receipt of the initial written submission of the complaining Party;
 - (c) the panel shall fix the time limit for delivering any further written submissions, including rebuttal written submissions, so as to provide each Party with the opportunity to make an equal number of written submissions subject to the time limits for panel proceedings set out in this Agreement and these Rules; and
 - (d) unless the Parties disagree, the panel may decide not to convene a hearing.

Responsible Secretariat

43. The responsible Secretariat shall:
- (a) provide administrative assistance to the panel;
 - (b) provide administrative assistance to experts, panelists and their assistants, interpreters, translators, court reporters (designated note takers) or other individuals that it retains in a panel proceeding;
 - (c) make available to the panelists, upon confirmation of their appointment, copies of this Agreement and other documents relevant to the proceedings of the panel, such as the Uniform Regulations and these Rules;
 - (d) retain indefinitely a copy of the complete record of the panel proceeding; and
 - (e) compensate in accordance with Rules 44, 45 and 46.

Remuneration and Payment of Expenses

44. The responsible Secretariat shall establish the amounts of remuneration and expenses that will be paid to the panelists, their assistants, court reporters (designated note takers) or other individuals that it retains in a panel proceeding upon agreement by both Parties.

45. The remuneration of the amounts established under Rule 44 shall be borne equally by the Parties unless otherwise agreed by them.

46. Each panelist or other persons who participate in the panel proceeding shall keep a record and render a final account of the person's time and expenses, and the panel shall keep a record and render a final account of all general expenses.

Maintenance of Rosters

47. The Parties shall inform each Secretariat of the composition of the roster established under Article 19.7. The Parties shall promptly inform their counterpart Secretariat of any changes made to the roster.