

(e) receive all notifications and information provided pursuant to this Agreement, and, as necessary, facilitate communications between the Parties on any matter covered by this Agreement; and

(f) deal with any other matter that may affect the operation of this Agreement, as mandated by the Commission.

3. Regular meetings of the Contact Points may be held; such meetings shall be held as often as requested by one of them.

4. Each Party may request in writing at any time that a special meeting of the Contact Points be held. Such a meeting shall take place within thirty (30) days of receipt of the request.

5. Both regular and special meetings of the Contact Points may be held in person or by any technological means available.

Article 13-3: Trade-Related Cooperation

To realize the objectives of this Agreement and in order to contribute to the implementation of its provisions, and in order to help the Parties to maximize the opportunities and benefits deriving from this Agreement, the Parties declare their readiness to explore, as appropriate and subject to the availability of resources, trade-related technical assistance.

Annex 13-2

Committees, Subcommittees and Working Groups

1. Committees:

Committee on Trade in Goods and Rules of Origin

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Chapter 14: Dispute Settlement

Article 14-1: Co-operation

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 14-2: Scope of Application

1. Except as provided in paragraphs 3 and 4, the dispute settlement provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:

(a) an actual or proposed measure of the other Party is or would be inconsistent with the obligations of this Agreement;

(b) the other Party has otherwise failed to carry out its obligations under this Agreement; or

(c) any benefit that the Party could reasonably have expected to accrue to it under any provision of Chapters 2 (National Treatment and Market Access for Goods), 3 (Electronic Commerce), 4 (Rules of Origin), 5 (Customs Procedures) or 6 (Trade Facilitation) is being nullified or impaired as a result of the application of any measure of the other Party that is not inconsistent with this Agreement.

2. In any dispute in respect of subparagraph 1(c), a panel established under this Chapter shall take into consideration the jurisprudence interpreting Article XXIII:1(b) of the GATT 1994. A Party may not invoke subparagraph 1(c) with respect to any measure subject to an exception under Article 15-1 nor with respect to any measure subject to the exception under Article 15-5.

3. This Chapter does not apply to any matters arising in relation to any one of the following: Articles 1-3 and 1-4; and Chapters 7 (Sanitary and Phytosanitary Measures), 10 (Environment) and 11 (Labour).

4. Neither Party may request the establishment of an arbitral panel under this Chapter regarding any proposed emergency action pursuant to Chapter 8 (Emergency Action).

Article 14-3: Choice of Forum

1. Subject to paragraph 2, disputes regarding any matter arising under both this Agreement and the WTO Agreement or any other free trade agreement to which both Parties are party, may be settled in either forum at the discretion of the complaining Party.

2. In any dispute referred to in paragraph 1 where the Party complained against claims that its measures are subject to Article 1-5 and requests in writing that the

matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

3. Where the complaining Party requests the establishment of a dispute settlement panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of the others, unless the Party complained against makes a request pursuant to paragraph 2.

Article 14-4: Consultations

1. A Party may request in writing consultations with the other Party regarding any matter referred to in Article 14-2.

2. The requesting Party shall deliver the request to the other Party, and shall set out the reasons for the request, including the identification of the measure or other matter at issue under Article 14-2 and an indication of the legal basis for the complaint.

3. Subject to paragraph 4, the Parties shall, unless otherwise agreed, enter into consultations within 30 days of the date of receipt of the request by the other Party.

4. In cases of urgency, including those involving goods that rapidly lose their trade value, such as perishable goods, consultations shall commence within 15 days of the date of receipt of the request by the other Party.

5. The requesting Party may request the other Party to make available personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.

6. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article. To this end, each Party shall:

(a) provide sufficient information that is reasonably available to it to the other party to enable a full examination of the measure or other matter at issue; and

(b) treat any confidential or proprietary information received in the course of consultations on the same basis as the Party providing the information.

7. Consultations are confidential and without prejudice to the rights of the Parties in proceedings under this Chapter.

8. Consultations may be held in person or by any other means agreed to by the Parties.

Article 14-5: Good Offices, Conciliation and Mediation

1. The Parties may agree to undertake an alternative method of dispute resolution, such as good offices, conciliation or mediation.
2. Such alternative methods of dispute resolution shall be conducted according to procedures agreed to by the Parties.
3. Procedures established under this Article may begin at any time and be suspended or terminated at any time by either Party. Once procedures for good offices, conciliation or mediation are terminated, the requesting party may then proceed with a request for the establishment of a panel or in case of a suspension of proceedings before a panel, resume such proceedings.
4. Proceedings involving good offices, conciliation and mediation are confidential and without prejudice to the rights of the Parties in any other proceedings.

Article 14-6: Referral to a Panel

1. Unless the Parties agree otherwise, if a matter referred to in Article 14-4 has not been resolved within:
 - (a) forty-five (45) days of the date of receipt of the request for consultations; or
 - (b) twenty-five (25) days of the date of receipt of the request for consultations for matters referred to in paragraph 4 of Article 14-4;the complaining Party may refer the matter to a dispute settlement panel by providing written notice to the other Party.
2. In the notice referred to in paragraph 1, the complaining Party shall identify the specific measures or other matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.
3. A dispute settlement panel may not be established to review a proposed measure.
4. The term “date of receipt” in paragraph 1 refers to the date on which the request for consultations was received by the other Party.

Article 14-7: Qualifications of Panel Members

1. Each panel member shall:
 - (a) have expertise or experience in international law, international trade, other matters covered by this Agreement, or in the settlement of disputes arising under international trade agreements;
 - (b) be chosen strictly on the basis of objectivity, reliability and sound judgement;
 - (c) be independent of, and not be affiliated with or take instructions from either Party, nor have dealt with the matter in dispute in any capacity;

(d) not be a national of either Party, nor have his or her usual place of residence in the territory of either of the Parties, nor be employed by either of them; and

(e) comply with a code of conduct for dispute settlement that the Commission shall establish no later than one year following the entry into force of this Agreement or in any event no later than the commencement of any dispute settlement proceedings, whichever comes first.

2. If a Party believes that a panel member does not satisfy a qualification in paragraph 1, the Parties shall consult and may remove the panel member by consensus.

Article 14-8: Panel Composition

1. The panel shall comprise three members.

2. Each Party shall, within 30 days of the Receipt Date, appoint one panel member, propose up to four candidates to serve as chair of the panel and notify the other Party in writing of the appointment and its proposed candidates to serve as the chair. If a Party fails to appoint a panel member in accordance with this paragraph, the panel member shall be selected by lot from the candidates proposed for the chair.

3. The Parties shall endeavour to appoint by consensus the chair from among the candidates proposed, within 60 days of the Receipt Date. If the Parties fail to agree on the chair within this time period, the chair shall be selected by lot from the candidates proposed within a further seven days.

4. If a panel member appointed by a Party withdraws, is removed, or is unable to serve, a replacement shall be appointed by that Party within 30 days, failing which the replacement shall be appointed in accordance with paragraph 3. If the chair of the panel withdraws, is removed or becomes unable to serve, the Parties shall endeavour to appoint a replacement by consensus, failing which the replacement shall be appointed by a selection by lot within 30 days from among the remaining candidates previously proposed for the chair. If there are no remaining candidates, the Parties shall each propose up to three additional candidates and the chair shall be selected by lot from among them. In any such case, any time period applicable to the proceeding shall be suspended for a period beginning on the date the panel member or chair withdraws, is removed, or is unable to serve, and ending on the date the replacement is selected.

5. In this Article, the "Receipt Date" refers to the date on which the notice referring an issue to a dispute settlement panel pursuant to paragraph 1 of Article 14-6 is received by the other Party.

Article 14-9: Rules of Procedure

1. Any panel established under this Chapter shall follow the provisions of this Chapter, including Annex 14-9 (Detailed Rules pertaining to Dispute Settlement Proceedings) ("Detailed Rules"), as well any additional procedural rules adopted by the Joint Commission pursuant to subparagraph 2(e) of Article 13-1. A panel may establish, in consultation with the Parties, supplementary rules of procedure that do not conflict with the provisions of this Chapter or with any additional procedural rules adopted by the Joint Commission.

2. Unless the Parties determine otherwise, the rules of procedure of a panel shall ensure:

(a) an opportunity for each Party to provide initial and rebuttal written submissions;

(b) subject to subparagraph (f), that each Party's written submissions, written versions of its oral statements, and written responses to requests or questions from the panel may be made public;

(c) the right to at least one hearing before the panel and that, subject to subparagraph (f), such hearings shall be open to the public;

(d) that the panel allow a non-governmental person of a Party the opportunity to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the Parties;

(e) that all submissions and comments made to the panel be available to the other Party; and

(f) the protection of confidential information, in accordance with Articles 15- 2 and 15-5.

3. Unless the Parties determine otherwise, the terms of reference of the Panel shall be:

"To examine, in the light of the relevant provisions of the Agreement, the matter referred to in the notification of referral to a panel and to make findings, determinations and recommendations as provided in Article 14- 10."

4. If a complaining Party claims that there is nullification or impairment of benefits in the sense of subparagraph 1(c) of Article 14-2, the terms of reference shall so indicate.

5. If a Party requests the panel to make findings regarding the degree of adverse effects of any measure found not to conform to the obligations of the Agreement or regarding the degree of nullification or impairment in the sense of subparagraph 1(c) of Article 14-2, the terms of reference shall so indicate.

6. On request of a Party, or on the panel's own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, in accordance with paragraph 14 of the Detailed Rules and subject to any terms and conditions agreed by the Parties. Any information obtained in this manner must be disclosed to each Party and submitted for their comments.

7. The panel may rule on its own jurisdiction.
8. Findings, determinations and recommendations of the panel under Article 14-10 shall be made by a majority of its members. Panel members may furnish separate opinions on matters not unanimously agreed. A panel shall not disclose which panellists are associated with majority or minority opinions. The panel may delegate to the chair authority to make administrative and procedural decisions.
9. The Parties shall bear the expenses of a panel, including the remuneration of its members, in accordance with additional procedural rules that will be adopted by the Joint Commission.

Article 14-10: Panel Reports

1. Unless the Parties determine otherwise, the panel shall issue reports in accordance with the provisions of this Chapter.
2. The panel shall base its reports on: the provisions of this Agreement, applied and interpreted in accordance with the rules of interpretation of public international law; the submissions and arguments of the Parties; and any information and technical advice put before it pursuant to the provisions of this Chapter.
3. The panel shall, within 90 days after the appointment or selection of the panel members is completed, present to the Parties an initial report containing its findings of fact and its determinations as to:
 - (a) whether the measure at issue is inconsistent with a Party's obligations under this Agreement; or
 - (b) any other issue included in the terms of reference.
4. On request by a Party, the panel shall include in its initial report recommendations for resolution of the dispute.
5. A Party may submit written comments to the panel on its initial report. After considering any such comments, the panel, on its own initiative or on the request of either Party, may:
 - (a) request the views of either Party;
 - (b) reconsider its report; and
 - (c) make any further examination that it considers appropriate.
6. The panel shall present to the Parties a final report within 60 days of presentation of the initial report.
7. Notwithstanding any other provision of this Article, the initial report of the panel shall be confidential. The final report of the panel may be published by either Party or the panel 15 days after it is presented to the Parties, or such longer period as the Parties may agree, subject to the protection of confidential information.

Article 14-11: Clarification of panel report

1. Within 10 days after the presentation of the final report, a Party may submit a written request to the panel for clarification of any determinations or recommendations in the report that the Party considers ambiguous. The panel shall respond to the request within 10 days after the presentation of such request.
2. The submission of a request pursuant to paragraph 1 shall affect the time periods referred to in paragraphs 3 and 4 of Article 14-12 and paragraph 1 of Article 14-13, unless the panel decides otherwise.

Article 14-12: Implementation of the Final Report

1. On receipt of the final report of the panel, the Parties shall mutually agree on the resolution of the dispute, which shall be in conformity with the determinations and recommendations, if any, of the panel, unless the Parties otherwise reach a mutually satisfactory solution.
2. Wherever possible, the resolution shall be removal of any measure found to be inconsistent with the obligations of this Agreement or removal of the nullification or impairment in the sense of subparagraph 1(c) of Article 14-2.
3. If the Parties are unable to reach a mutually satisfactory solution within 60 days of presentation of the final report, or such other period as the Parties may agree, the Party complained against shall, with the consent of the complaining Party, propose an action plan to bring the Party complained against into compliance with the obligations in this Agreement. If the complaining Party accepts the proposed action plan, the Party complained against shall comply with the plan.
4. If the Parties are unable to agree to a mutually satisfactory solution or an action plan within 90 days of presentation of the final report, or such other period as the Parties may determine, the Party complained against shall, if so requested by the complaining Party, enter into negotiations regarding compensation.

Article 14-13: Non-Implementation – Suspension of Benefits

1. The complaining Party may suspend the application of the benefits of the Party complained against of equivalent effect, following notice to that Party specifying the level of benefits that the complaining Party proposes to suspend and until such time as they have reached a mutually satisfactory solution of the dispute, if:
 - (a) no satisfactory compensation has been agreed pursuant to paragraph 4 of Article 14-12 within 30 days from the date of the complaining Party's request;
 - (b) ninety days have passed since the presentation of the final report, where compensation is not requested pursuant to paragraph 4 of Article 14-12; or

(c) the Parties have agreed to a mutually satisfactory solution of the dispute, an action plan, or compensation, and the complaining Party considers that the Party complained against has failed to observe the terms of such an agreement.

2. The suspension of benefits shall be temporary and be applied by the complaining Party only until the measure found to be inconsistent with the obligations of this Agreement or otherwise nullifying or impairing benefits in the sense of subparagraph 1(c) of Article 14-2 has been withdrawn or amended so as to bring it into conformity with this Agreement, including as a result of the panel process described in Article 14-14, or until such time as the Parties have otherwise reached agreement on a resolution of the dispute.

Article 14-14: Compliance and Suspension of Benefits

1. A Party may, by a written notice to the other Party, request that the panel established under Article 14-6 be reconvened to make a determination with respect to:

(a) whether the level of benefits suspended by a Party pursuant to paragraph 1 of Article 14-12 is manifestly excessive; or

(b) any disagreement as to the existence or consistency with this Agreement of measures taken to comply with the determinations or recommendations of the panel made pursuant to Article 14-10.

2. In interpreting the terms “the existence or consistency with” and “measures taken to comply”, the panel acting pursuant to paragraph 1 shall take into account the relevant jurisprudence under the Dispute Settlement Understanding of the WTO Agreement.

3. A complaining Party may continue to suspend benefits during proceedings under paragraph 1.

4. In the written notice referred to in paragraph 1, a Party shall identify the matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

5. The panel shall be reconvened either:

(a) upon receipt by the other Party of a written notice referred to in paragraph 1; or

(b) in the event that any original panel member is unable to serve on the panel, on the date on which a replacement panel member is appointed in accordance with the provisions of Article 14-8.

6. The provisions of Articles 14-9 and 14-10 apply to procedures adopted and reports issued by the panel reconvened under this Article, with the exception that the panel shall:

(a) present a final report within 45 days of being reconvened where the request concerns subparagraph 1(a) only, and otherwise within 90 days; and

(b) present an interim report 15 days prior to presenting a final report.

7. A panel reconvened under this Article may include in its final report a recommendation, where appropriate, that any suspension of benefits be terminated or that the amount of benefits suspended be modified.

Article 14–15: Referrals of Matters from Judicial or

Administrative Proceedings

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

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

3. If the Joint Commission is unable to act, each Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

Article 14–16: Private Rights

No Party may provide for a right of action under its domestic law against another Party on the ground that a measure of the other Party is inconsistent with this Agreement.

Annex 14–9

Detailed Rules Pertaining to Dispute Settlement Proceedings

Application

1. The following detailed rules shall apply to dispute settlement proceedings under Chapter 14 (Dispute Settlement).

Definitions

2. For the purposes of this Annex:

- (a) adviser means a person retained by a Party to advise or assist that Party in connection with the panel proceeding;
- (b) complaining Party means a Party that refers a matter to a panel under Article 14-6;
- (c) legal holiday means every day designated by a Party as a holiday for the purposes of these rules;
- (d) panel means the panel established under Article 14-8;
- (e) Party complained against means the Party that has received the notice of referral to the panel pursuant to Article 14-6;
- (f) representative means an employee of a government department or agency or of any other government entity of a Party; and
- (g) court reporter means a designated note-taker.

3. Any reference made in these rules to an Article is a reference to the appropriate Article in Chapter 14 (Dispute Settlement).

Written Submissions and Other Documents

4. Each Party shall deliver the original and no less than four (4) copies of any written submission to the panel and one (1) copy to the Embassy of the other Party. Delivery of submissions and any other document related to the panel proceedings may be made by facsimile or other means of electronic transmission if the Parties so agree. Where a Party delivers physical copies of written submissions or any other document related to the panel proceedings, that Party shall deliver at the same time an electronic version of such submissions or other document.

5. The complaining Party shall deliver an initial written submission no later than ten- (10) days after the date on which the last panel member is appointed. The Party complained against shall, in turn, deliver a written counter-submission no later than twenty (20) days after the date on which the initial written submission of the complaining Party is due.

6. The panel shall establish, in consultation with the Parties, dates for the delivery of the subsequent written rebuttal submissions of the Parties and any other written submissions that the panel and the Parties agree are appropriate.

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

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

Burden of Proof

9. A 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.

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

Written Submission by a Non-Governmental Person

11. A panel may, on application, grant leave to a non-governmental person to file a written submission. In making its decision to grant leave, the panel shall consider, inter alia:

- (a) whether there is a public interest in the proceeding;
- (b) whether the non-governmental person has a substantial interest in the proceeding;
- (c) whether a written submission from that non-governmental person would assist the panel in the determination of a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the Parties; and
- (d) any submissions by the Parties on the application for leave.

12. An interest in the development of trade law jurisprudence, the interpretation of the Agreement, or in the subject matter of the dispute does not alone suffice in establishing the presence of a substantial interest in the proceeding by a Non-Governmental Person.

13. Where the panel has granted leave to a non-governmental person to file a written submission, it shall ensure that:

- (a) the written submission does not introduce new issues to the dispute and is within the terms of reference of the dispute as defined by the Parties;
- (b) the non-governmental person follows any rules adopted by the Commission for the filing of such written submissions;
- (c) the written submission avoids disrupting the proceeding and preserves the equality of the Parties; and
- (d) the Parties have the opportunity to respond to the written submission in the proceedings.

Role of Experts

14. On request of a disputing party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate subject to paragraphs 15 and 16 and such additional terms and conditions as the disputing Parties may agree upon. The requirements set out in paragraph 6 of Article 14-9 shall apply to the experts or bodies, as appropriate.

15. Before the panel seeks information or technical advice, it shall:

(a) notify the disputing Parties of its intention to seek information or technical advice under paragraph 14 and provide them with an adequate period of time to submit comments; and

(b) provide the Parties with a copy of any information or technical advice received under paragraph 14 and provide them with an adequate period of time to submit comments.

16. When the panel takes into consideration the information or technical advice received under paragraph 14 for the preparation of its report, it shall also take into consideration any comments or observations submitted by the Parties with respect to such information or technical advice.

Operation of Panels

17. The chair of the panel shall preside at all of its meetings.

18. The panel may conduct its business by any appropriate means, including by telephone, facsimile transmission and video or computer links.

19. Only panel members may take part in the deliberations of the panel. The panel may, in consultation with the Parties, employ such number of assistants, interpreters or translators, or court reporters as may be required for the proceeding and permit them to be present during such deliberations. The panel member and the persons employed by the panel shall maintain the confidentiality of the panel's deliberations and any information that is protected pursuant to subparagraph 2(f) of Article 14-9.

20. The panel may, in consultation with the Parties, modify any time-period applicable in the panel proceedings and make other procedural or administrative adjustments as may be required in the proceeding.

Hearings

21. The chair of the panel shall fix the date and time of any hearing in consultation with the Parties and the other panel members, and then notify the Parties in writing of such date and time.

22. The location of hearings shall alternate between the territories of the Parties with the first hearing to take place in the territory of the Party complained against.

23. No later than five (5) days before the date of a hearing, each Party shall deliver to the other Party and the panel a list of the names of representatives or advisers who will be attending the hearing.

24. A hearing shall be conducted by the panel in a manner that ensures that the complaining Party and the Party complained against are afforded equal time for arguments, replies and counter-replies.

25. Further to subparagraph 2(c) of Article 14-9, the panel shall, in consultation with the Parties, adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public. Such procedures may include, inter alia, the use of live web-broadcasting or of closed-circuit television.

26. The panel shall arrange the preparation of transcripts of the hearing, if any, and shall, as soon as possible after any such transcripts are prepared, deliver a copy to each Party.

Ex Parte Contacts

27. No Party shall communicate with the panel without notifying the other Party. The panel shall not communicate with a Party in the absence of, or without notifying, the other Party.

28. No panel member may discuss any aspect of the substantive subject matter of the proceeding with the Parties in the absence of the other panel members.

Remuneration and Payment of Expenses

29. The panel shall keep a record and render to the Parties a final account of all general expenses incurred in connection with the proceedings, including those paid to the assistants, court reporters or other individuals that it retains in a panel proceeding, in consultation with the Parties.

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Chapter 15: Exceptions

Article 15-1: General Exceptions