

CHAPTER 20

DISPUTE SETTLEMENT

ARTICLE 20.1: COOPERATION

The Parties shall endeavor 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 20.2: SCOPE OF APPLICATION

1. Except as otherwise provided in this Agreement or as the Parties otherwise agree, 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) a measure of the other Party is inconsistent with its obligations under this Agreement;
- (b) the other Party has otherwise failed to carry out its obligations under this Agreement; or
- (c) a benefit the Party could reasonably have expected to accrue to it under Chapter 2 (National Treatment and Market Access for Goods), 3 (Rules of Origin), 8 (Government Procurement), or 10 (Cross-border Trade in Services) is being nullified or impaired as a result of a measure that is not inconsistent with this Agreement.

2. A Party may not invoke paragraph 1(c) with respect to any measure subject to an exception under Article 21.1 (General Exceptions).

ARTICLE 20.3: CHOICE OF FORUM

1. Where a dispute regarding any matter arises under this Agreement and under the WTO Agreement or any other trade agreement to which both Parties are party, the complaining Party may select the forum in which to settle the dispute.

2. Once the complaining Party has requested the establishment of, or referred a matter to, a dispute settlement panel under an agreement referred to in paragraph 1, the forum selected shall be used to the exclusion of other fora.

ARTICLE 20.4: CONSULTATIONS

1. Any Party may request consultations with any other Party with respect to any matter described in Article 20.2 by delivering written notification. The complaining Party shall set

out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint. The other Party shall reply in writing within 10 days of the date of receipt of the request.

2. Consultations shall be held within 30 days of the date of the receipt of the request and take place, unless the Parties agree otherwise, in the territory of the Party complained against. The consultations shall be deemed concluded within 55 days of the date of the receipt of the request, unless the Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.

3. Consultations on matters of urgency, including those regarding perishable or seasonal goods, or goods or services that rapidly lose their trade value, such as certain seasonal goods or services, shall be held within 15 days of the date of the receipt of the request, and shall be deemed concluded within 25 days of the date of the receipt of the request.

4. If consultations are not held within the time frames laid down in paragraphs 2 or 3 respectively, or if consultations have been concluded and no mutually agreed solution has been reached, the complaining Party may request the establishment of a panel in accordance with Article 20.7.

5. Each Party shall:

- (a) provide sufficient information that is reasonably available to it to the other Party during the consultations to enable a full examination of how the matter subject to consultations might affect the operation of this Agreement; and
- (b) treat any confidential information exchanged in the course of consultations on the same basis as the Party providing the information.

6. A Party may request the other Party to make available during consultations under this Article personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations.

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

ARTICLE 20.5: REFERRAL TO THE JOINT COMMITTEE

1. If the Parties fail to resolve a matter within 55 days of the receipt of a request for consultations under Article 20.4 or 25 days where the matter concerns cases of urgency, including those concerning perishable or seasonal goods, or goods or services that rapidly lose their trade value such as certain seasonal goods or services, only the complaining Party may request the intervention of the Joint Committee by delivering written notification to the other Party.

2. The complaining Party shall deliver the request to the other Party and shall set out in the request the reasons thereof, including identification of the measure at issue and an indication of the legal and factual basis for the complaint.

3. Unless it decides otherwise, the Joint Committee shall convene within 10 days of delivery of the request and shall endeavor to resolve the dispute promptly, with the objective to arrive at a mutually satisfactory resolution.

4. The Joint Committee may meet in person or through any other technological means available to the Parties.

ARTICLE 20.6: GOOD OFFICES, CONCILIATION, OR 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.

3. Good offices, conciliation, or mediation may be requested at any time by any Party. Either Party at any time may begin, suspend or terminate proceedings established under this Article. 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 20.7: ESTABLISHMENT OF PANEL

1. The complaining Party may deliver a written request to establish a dispute settlement panel to the other Party, provided that a matter has not been resolved in any of the following cases:

- (a) when the Parties have not settled the dispute through consultations within the 55 day period established in Article 20.4 or 25 days where the matter concerns cases of urgency, including those concerning perishable goods, or goods or services that rapidly lose their trade value such as certain seasonal goods or services, or within any other period that the Parties may agree during consultations;
- (b) within 20 days following the receipt of the request to refer the matter to the Joint Committee, or 10 days where the matter concerns cases of urgency, or any other period agreed by the Parties, or when the meeting has not been held pursuant to the provisions established in Article 20. 5.3; or
- (c) when the complaining Party that referred the matter to the Joint Committee considers, once the period indicated by the Joint Committee has expired, that the measures aimed at complying with the agreement reached pursuant to Article 20.5 were not adopted.

2. The complaining Party shall set out the reasons for the request, including identification of the measure or other matter at issue and a brief summary of the legal basis for the complaint sufficient to present the problem clearly.

3. A panel shall be established upon the date of the appointment of the last panelist.

ARTICLE 20. 8: PANEL APPOINTMENT

1. The panel shall consist of three panelists.

2. Within 30 days of the date of receipt of the notice referred to in Article 20.7, each Party shall notify the other Party of its appointment of a panelist and propose up to four candidates to serve as the chair of the panel whom are not nationals of either Party. If a Party fails to appoint a panelist within this time, the panelist shall be appointed by the other Party from the candidates proposed for the chair by the Party that failed to appoint a panelist, if such list exists or, in the absence of such a list, from the other Party's proposed candidates.

3. The Parties, within 45 days of the date of receipt of the notice referred to in Article 20.7, shall endeavor to agree on a panelist who will serve as chair from among the candidates proposed. If the Parties fail to agree on a chair within this time period, within a further 7 days the chair shall be appointed after selection by lot, from the candidates proposed, in the presence of representatives of both Parties.

4. If a panelist appointed by a Party withdraws, is removed, or becomes unable to serve, a replacement shall be appointed by that Party within 30 days, and in cases of urgency within 15 days, failing which the replacement shall be appointed by the other Party from the candidates proposed for the chair in accordance with the second sentence of paragraph 2.

5. If the chair of the panel withdraws, is removed, or becomes unable to serve, the Parties shall endeavor to agree on the appointment of a replacement within 30 days, and in cases of urgency within 15 days, failing which the replacement shall be appointed in accordance with the second sentence of paragraph 3.

6. If an appointment in paragraph 4 or 5 would require selecting from the list of candidates proposed for chair and there are no remaining candidates, each Party shall propose up to 3 additional candidates within 30 days and, within a further 7 days, the chair shall be appointed after selection by lot from the candidates proposed, in the presence of representatives of both Parties.

7. Any time limit applicable to the proceeding shall be suspended as of the date the panelist or chair withdraws, is removed, or becomes unable to serve, and shall resume on the date the replacement is appointed.

ARTICLE 20 .9: QUALIFICATIONS OF PANELISTS

1. Individuals appointed to a panel pursuant to Article 20.8 (Panel Appointment) shall:

- (a) be chosen strictly on the basis of objectivity, reliability, and sound judgment;
- (b) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
- (c) be a national of states having diplomatic relations with both Parties;
- (d) not have been involved in an alternative dispute settlement proceeding referred to in Article 20.6 regarding the same dispute, unless the Parties agree otherwise;
- (e) be independent of, and not be affiliated with or take instructions from, either Party; and
- (f) comply with the code of conduct established in Annex 20-A.

2. Removal of a panelist shall take place in case of a violation of the Code of Conduct (Annex A) and in accordance with the procedures detailed in Rule 20 of the Rules of Procedures (Annex B).

ARTICLE 20.10: RULES OF PROCEDURE

1. Unless the Parties otherwise agree, the panel shall follow the rules of procedure established in Annex 20-B, which shall ensure:

- (a) a right to at least one hearing before the panel;
- (b) that, subject to subparagraph (d), any hearing before the panel shall be open to the public;
- (c) an opportunity for each Party to provide initial and rebuttal submissions; and
- (d) the protection of information designated by either Party for confidential treatment.

2. Unless the Parties otherwise agree within 20 days of the delivery of the request for the establishment of the panel, the panel's terms of reference shall be:

“To examine, in light of the relevant provisions of this Agreement, the matter referenced in the request for the establishment of the panel; to make findings, determinations, and recommendations as provided in Article 20.11.1 and 20.11.2; and to present the written reports referred to in Article 20.11.1 and 20.11.4.”

3. The decisions of the panel, including the adoption of the report, shall be adopted by a majority of its members. No panel may disclose which panelists are associated with the majority or minority opinions.

4. The venue for the proceedings of the panel shall be decided by mutual agreement between the Parties. If the Parties are unable to reach an agreement, the venue shall be Seoul if the complaining party is Israel and Jerusalem if the complaining party is Korea.

ARTICLE 20.11: PANEL REPORT

1. Unless the Parties otherwise agree, the panel shall, within 90 days after the chair is appointed, present to the Parties an initial report containing findings of fact and its determination as to:

- (a) (i) whether the measure at issue is inconsistent with the obligations of this Agreement;
- (ii) whether a Party has otherwise failed to carry out its obligations under this Agreement; or
- (iii) whether the measure at issue is causing nullification or impairment in the sense of Article 20.2.1(c); and
- (b) any other matter, including recommendations, that the Parties have jointly requested that the panel address, as well as the reasons for its findings and determinations.

2. The panel shall base its report on the relevant provisions of this Agreement and the submissions and arguments of the Parties. The panel shall consider this Agreement in accordance with customary rules of interpretation of public international law.

3. Each Party may submit written comments to the panel on its initial report within 14 days of the presentation of the report. After considering any written comments by the Parties on the initial report, the panel may modify its report and make any further examination it considers appropriate.

4. The panel shall present a final report to the Parties within 30 days of the presentation of the initial report, unless the Parties otherwise agree. The Parties shall make the final report available to the public within 15 days thereafter, subject to the protection of confidential information.

5. The final report of a panel shall be final and binding. The report of the panel shall set out the findings of fact, the applicability of the relevant provisions of this Agreement, and the basic rationale behind any findings and determinations that it makes.

ARTICLE 20.12: SUSPENSION AND TERMINATION OF PROCEEDINGS

1. The Parties may agree that the panel suspend its work at any time for a period not exceeding 12 months from the date of such agreement. Within this period, the suspended panel shall be resumed upon the request of either Party. If the work of the panel has been

continuously suspended for more than 12 months, the authority for establishment of the panel shall lapse unless the Parties otherwise agree.

2. The suspension or termination of the panel's proceedings is without prejudice to the rights of either Party in another proceeding on the same matter under this Chapter.

3. The Parties may agree to terminate the proceedings of a panel in the event that a mutually satisfactory solution to the dispute has been found. In such event the Parties shall jointly notify the chair of the panel.

4. Before the panel provides its final report, it may at any stage of the proceedings propose to the Parties that the dispute be settled amicably.

ARTICLE 20.13: IMPLEMENTATION OF THE FINAL REPORT

1. On receipt of the final report of a panel, the Parties shall decide on the implementation of the final report. Unless the Parties decide otherwise, the implementation shall conform with the determination or recommendation made by the panel.

2. If, in its final report, the panel determines that a Party has not conformed with its obligations under this Agreement or that a Party's measure is causing nullification or impairment in the sense of Article 20.2.1(c), the implementation, whenever possible, shall be the elimination of the non-conformity or the nullification or impairment.

ARTICLE 20.14: NON-IMPLEMENTATION AND SUSPENSION OF BENEFITS

1. If a Panel has made a determination of the type described in Article 20.13.2, and the Parties are unable to reach an agreement on a implementation pursuant to Article 20.13.1, within 30 days of receiving the final report, or such other period as the Parties may agree, the Party complained against shall enter into negotiations with the complaining Party with a view to developing mutually acceptable compensation.

2. If the Parties:

- (a) are unable to agree on compensation within 30 days after the period for developing such compensation has begun; or
- (b) have agreed on compensation or on a resolution pursuant to Article 20.13.1, and the complaining Party considers that the Party complained against has failed to observe the terms of the Agreement.

the complaining Party may at any time thereafter provide written notice to the Party complained against that it intends to suspend the application to the Party complained against of benefits of equivalent effect. The notice shall specify the level of benefits that the complaining Party proposes to suspend. The complaining Party may begin suspending benefits of equivalent effect 15 days after the later of the date on which it provides notice to

the other Party under this paragraph or the panel issues its determination under paragraph 5, as the case may be.

3. In considering which benefits to suspend pursuant to paragraph 2:

- (a) the complaining Party should first seek to suspend benefits or other obligations in the same sector or sectors as those affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Article 20.2.1(c); and
- (b) the complaining Party that considers it is not practicable or effective to suspend benefits or other obligations in the same sector or sectors may suspend benefits in other sectors.

4. 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 under Article 20.2.1(c) has been brought into conformity with this Agreement, or until such time as the Parties have otherwise reached an agreement on a resolution of the dispute.

5. If the Party complained against considers that:

- (a) the level of benefits that the complaining Party has proposed to be suspended is manifestly excessive; or
- (b) it has eliminated the non-conformity or the nullification or impairment that the panel has found,

it may, within 30 days after the complaining Party provides notice under paragraph 2, request that the original panel be reconvened to consider the matter. The panel shall reconvene as soon as possible after delivery of the request and shall present its determination to the Parties within 90 days after it reconvenes to review a request under either subparagraph (a) or (b), or within 120 days for a request under both subparagraphs (a) and (b). If the panel determines that the level of benefits proposed to be suspended is manifestly excessive, it shall determine the level of benefits it considers to be of equivalent effect.

6. The complaining Party may suspend benefits up to the level the panel has determined under paragraph 5 or, if the panel has not determined the level, the level the Party has proposed to suspend under paragraph 2, unless the panel has determined that the Party complained against has eliminated the non-conformity or the nullification or impairment.

ARTICLE 20.15: COMPLIANCE REVIEW

1. Without prejudice to the procedures set out in Article 20.14.5, if the Party complained against considers that it has eliminated the non-conformity or the nullification or impairment that the panel has found, it may refer the matter to the panel by providing written notice to the complaining Party. The panel shall reconvene as soon as possible after delivery of the request

and shall issue its report on the matter within 60 days after the Party complained against provides notice.

2. If the panel decides that the Party complained against has eliminated the non-conformity or the nullification or impairment, the complaining Party shall promptly reinstate any benefits it has suspended under Article 20.14.

ARTICLE 20.16: TIME LIMITS

Any time limit referred to in this Chapter may be reduced, waived, or extended, by mutual agreement of the Parties.

ARTICLE 20.17: EXPENSES

Unless the Parties otherwise agree, the expenses of the panel, the remuneration of the panelists and their assistants, their travel and lodging expenses, and all general expenses shall be borne in equal shares between the Parties, in accordance with Annex 20-B (Rules of Procedure).

ANNEX 20-A CODE OF CONDUCT

Responsibilities to the Process

1. Every panelist shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process are preserved.

Disclosure Obligations

2. Prior to confirmation of his or her selection as a panelist under this Agreement, 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 and shall complete and provide an Undertaking Form to be agreed upon by the Parties that will be based on the form used in dispute settlement proceedings of the WTO.

3. Once appointed, a panelist shall continue to make all reasonable efforts to become aware of any interests, relationships, or matters referred to in paragraph 2, and shall disclose them by communicating them in writing to the Joint Committee for consideration by the Parties. The obligation to disclose is a continuing duty, which requires a panelist to disclose any such interests, relationships, or matters that may arise during any stage of the proceeding.

4. Disclosures made pursuant to this Code of Conduct do not determine whether or under what circumstances the Parties will disqualify a candidate or panelist from being appointed to serve as a member of a panel or an expert or assistant from participating in panel proceedings.

Performance of Duties by Panelists

5. A panelist shall comply with the provisions of this Chapter and the applicable rules of procedure.

6. Upon selection, a panelist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceeding with fairness and diligence.

7. A panelist shall consider only those issues raised in the proceeding and necessary to render a decision and shall not delegate the duty to decide to any other person.

8. A panelist shall take all appropriate steps to ensure that the panelist's assistants, staff, and experts are aware of and comply with this Annex, *mutatis mutandis*.

9. A panelist shall not engage in *ex parte* contacts concerning the proceeding.
10. A panelist shall not communicate matters concerning actual or potential violations of this Annex unless the communication is to both Parties or is necessary to ascertain whether that panelist has violated or may violate this Annex.

Independence and Impartiality of Panelists

11. A panelist shall be independent and impartial. A panelist shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.
12. A panelist shall not be influenced by self-interest, outside pressure, political considerations, public clamor, loyalty to a Party, or fear of criticism.
13. A panelist 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 panelist's duties.
14. A panelist shall not use his or her position on the panel to advance any personal or private interests. A panelist shall avoid actions that may create the impression that others are in a special position to influence the panelist.
15. A panelist shall not allow past or existing financial, business, professional, family or social relationships, or responsibilities to influence the panelist's conduct or judgment.
16. A panelist shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the panelist's impartiality or that might reasonably create an appearance of impropriety or bias.

Duties in Certain Situations

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

Maintenance of Confidentiality

18. A panelist or former panelist shall not at any time disclose or use any non-public information concerning a proceeding or acquired during a 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.
19. A panelist or former panelist shall not disclose a panel report or parts thereof prior to its publication.

20. A panelist or former panelist shall not at any time disclose the deliberations of a panel or any panelist's view except as required by law.

Mediators

21. The provisions described in this code of conduct shall apply, *mutatis mutandis*, to mediators and conciliators.

Definitions

22. For the purposes of this Annex:

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

expert means a person or body from whom the panel seeks information and technical advice pursuant to Rule 30 (Role of Experts) of the Rules of Procedure in Annex 20-B;

panelist means a member of a panel established under Article 20.7;

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

staff, means persons under the direction and control of the panel or of a panelist, other than assistants.

ANNEX 20-B

RULES OF PROCEDURE

Application

1. The following rules of procedure are established under Article 20.8 and shall apply to dispute settlement proceedings under this Chapter unless the Parties otherwise agree.
2. Any reference made in these rules of procedure to an Article is a reference to the appropriate Article in this Chapter.

Administration of Proceedings

3. The Party in whose territory the proceedings take place shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organization of hearings, unless the Parties agree otherwise.

Composition of Panel

4. The date of the appointment of the panelist shall be considered as the date upon which the candidate submits its written acceptance to the Parties. If the candidate fails to communicate its acceptance to the Parties, within 2 days after the candidate was informed of its selection, such candidate shall be deemed not to accept the appointment.

Written Submissions and Other Documents

5. Each Party shall deliver the original and no less than four copies of any written submission to the panel and one copy to the Embassy of the other Party. Delivery of submissions and any other document related to the panel proceeding 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 proceeding, the Party shall deliver at the same time an electronic version of such submissions or other document.
6. The deadlines are counted from the following date of the receipt of such submission or document. The complaining Party shall deliver a complete initial written submission to the Party complained against no later than 10 days after the date on which the last panelist is appointed. The Party complained against shall, in turn, deliver a written counter-submission no later than 30 days following the date of receipt of the initial written submission of the complaining Party.

7. 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.

8. 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.

9. 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

10. A Party asserting that a measure of the other Party is inconsistent with its obligations under this Agreement, or that the other Party has otherwise failed to carry out its obligations under this Agreement, or that a benefit the Party could reasonably have expected to accrue is being nullified or impaired as a result of a measure that is not inconsistent with this Agreement shall have the burden of proving its assertions.

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

Operation of Panels

12. The chair of the panel shall preside at all of its meetings. A panel may delegate to the chair of the panel authority to make administrative decisions regarding the proceedings. Unless the Parties agree otherwise, the panel within seven days of its establishment shall contact the Parties in order to discuss administrative matters.

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

14. Only panelists 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.

15. Where a procedural question arises that is not addressed by these rules, a panel may, in consultation with the Parties, adopt an appropriate procedure that is consistent with this Agreement.

16. The time-period applicable to the panel proceeding shall be suspended for a period that begins on the date on which any member of the panel becomes unable to act and ends on the date on which a successor is appointed.

17. A panel may, upon mutual agreement between 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. A panel, in consultation with the Parties, may, in light of unforeseen developments, modify a time period applicable in the panel proceedings and make other procedural or administrative adjustments required for the fairness or efficiency of the proceeding.

Removal of a Panelist

18. Where a Party considers that a panelist or the chair is not in compliance with the requirements of the Code of Conduct and for this reason must be replaced, that Party shall immediately notify the other Party. Upon receipt of such notice, the Parties shall consult and, if they so decide, shall replace the panelist or the chair and select a replacement.

19. If the Parties fail to decide on the need to replace a panelist, either Party may request that the matter be referred to the chair of the panel, whose decision shall be final. The chair shall render a decision within 10 days of the request.

20. If the panelists cannot reach a decision within 10 days of the request on the need to replace the chair, either Party may request that such matter be referred to one of the remaining candidates of individuals appointed to act as chair under Article 20.8.2. His or her name shall be drawn by lot by the chair or the chair's delegate. The decision by this person on the need to replace the chair shall be final.

Hearings

21. The chair of the panel shall fix the date and time of the initial hearing and any subsequent hearings in consultation with the Parties and the panelists, and then notify the Parties no later than 15 days prior to the hearings in writing of those dates and times.

22. Unless the Parties otherwise agree, the hearings shall be held in the capital of the Party complained against.

23. The panel may convene additional hearings if the Parties so agree.

24. All panelists shall be present during the entirety of any hearing.

25. No later than five days before the date of a hearing, each Party shall deliver to the other Party and the panel a list of the names of those persons who will be present at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.

26. Each 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.

27. Hearings shall be open to the public, unless the Parties decide otherwise. Hearings shall be held in closed session when the submissions and arguments of a Party contain confidential information. The Panel may, in consultation with the Parties, adopt appropriate logistical arrangements and procedures to ensure that hearings are not disrupted by the attendance of the public.

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

Role of Experts

29. 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, relating to the factual or legal issues before it, subject to paragraphs 31 and 32, and such additional terms and conditions as the Parties may agree upon. The requirements set out in Article 20.9 (Qualification of Panelists) shall apply to the experts or bodies, as appropriate.

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

- (a) notify the Parties of its intention to seek information or technical advice pursuant to paragraph 30 and the reasons for seeking it. In addition, the panel shall identify the expert from whom or which the information or technical advice is sought. The panel shall provide the Parties with an adequate period of time to submit comments; and
- (b) provide the Parties with a copy of any information or technical advice received pursuant to paragraph 30 and provide them with an adequate period of time to submit comments.

31. When the panel takes into consideration the information or technical advice received pursuant to paragraph 30 for the preparation of its report, it shall also take into consideration any comments or observations submitted by the disputing Parties with respect to such information or technical advice.

Questions in Writing

32. The panel may at any time during the proceedings address questions in writing to one or both Parties. The Parties shall receive a copy of any questions put forward by the Panel.

33. Each Party shall also provide a copy of its written response to the panel's questions to the other Party. The Parties shall be given the opportunity to provide written comments on the reply of the other Party within five days of the date of delivery.

Ex Parte Contacts

34. Neither Party may 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.

35. No panelist may discuss any aspect of the substantive subject matter of the proceeding with the Parties in the absence of the other panelists.

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 may make available to the public at any time its own written submissions;
- (b) to the extent it considers strictly necessary to protect personal privacy or legitimate commercial interests of particular enterprises, public or private, 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;
- (c) a Party shall treat as confidential any information submitted by the other Party to the panel that the latter Party has designated as confidential pursuant to subparagraph (b); and
- (d) each Party shall take such reasonable steps necessary to ensure that experts, interpreters, translators, court reporters (designated note takers) and other individuals involved in the panel proceedings maintain the confidentiality of the panel proceedings.

Remuneration and Payment of Expenses

37. Unless the Parties otherwise agree, the expenses of the panel, the remuneration of the panelists and their assistants, their travel and lodging expenses, and all general expenses shall be borne in equal shares between the Parties, in accordance with this Annex.

38. Each panelist shall keep a record and render a final account of his or her time and expenses, and those of any assistant, and the panel shall keep a record and render a final account of all general expenses.

Language

39. All proceedings relating to the dispute settlement proceedings shall be conducted in the English language.

40. Any document submitted for use in any proceedings pursuant to this Chapter shall be in the English language. If any original document is not in the English language the Party submitting such document shall provide an English translation of that document.

Time Limits

41. All time limits laid down in this Chapter, including the limits for the panels to issue their rulings, shall be counted in calendar days, the first day being the day following the act or fact to which they refer.

Definitions

42. For the purposes of this Annex:

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

assistant means a person who, under the terms of appointment by a panelist, conducts research or provides other professional assistance to that panelist;

complaining Party means a Party that requests the establishment of a panel under Article 20.7;

court reporter means a designated note-taker;

expert means a person or body from whom the panel seeks information and technical advice pursuant to Rule 30 (Role of Experts) of this Annex (Rules of Procedure);

legal holiday means every Friday and Saturday in Israel, every Saturday and Sunday in Korea and any other day designated by a Party as an official holiday;

panel means a panel established under Article 20.7;

panelist means a member of a panel established under Article 20.7;

Party complained against means a Party that received the request for the establishment of a panel under Article 20.7;

proceedings means a panel proceeding; and

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