

ARTICLE 17: DISPUTE SETTLEMENT

1. (a) The Parties shall make every attempt to arrive at a mutually agreeable resolution through consultations under Article 17, whenever
 - (i) a dispute arises concerning the interpretation of this Agreement;
 - (ii) a Party considers that the other Party has failed to carry out its obligations under this Agreement; or
 - (iii) a Party considers that measures taken by the other Party severely distort the balance of trade benefits accorded by this Agreement, or substantially undermine fundamental objectives of this Agreement.
- (b) A Party seeking consultations pursuant to subparagraph (a) shall submit a request for consultations to the contact point provided for under Article 15.6. If the Parties fail to resolve a matter described in subparagraph (a) through consultations within 60 days of the submission of such request, either Party may refer the matter to the Joint Committee, which shall be convened and shall endeavor to resolve the dispute.
- (c) If a matter referred to the Joint Committee has not been resolved within a period of 90 days after the dispute was referred to it, or within such other period as the Joint Committee has agreed, either Party may refer the matter to a dispute settlement panel. Unless otherwise agreed by the Parties, the panel shall be composed of three members: each Party shall appoint one member, and the two appointees shall choose a third who will serve as the chairman.
- (d) The panel shall, within 90 days after the third member is appointed, present to the Parties a report containing findings of fact and its determination as to whether either Party has failed to carry out its obligations under the Agreement or whether a measure taken by either Party severely distorts the balance of trade benefits accorded by this Agreement or substantially undermines the fundamental objectives of this Agreement. Where the panel finds that a Party has failed to carry out its obligations under this Agreement, it may, at the request of the Parties, make recommendations for resolution of the dispute. The report of the panel shall be non-binding.
- (e)
 - (i) If the dispute settlement panel under this Agreement or any other applicable international dispute settlement mechanism under an agreement to which both Parties are Party has been invoked by either Party with respect to any matter, the mechanism invoked shall have exclusive jurisdiction over that matter.
 - (ii) If a mechanism described in subparagraph (e)(i) fails for procedural or jurisdictional reasons to make findings of law or fact, as necessary, on a claim included in a matter with respect to which a Party has invoked such mechanism,

subparagraph (e)(i) shall not be construed to prevent the Party from invoking another mechanism with respect to such claim.

2. (a) After a dispute has been referred to a dispute settlement panel under this Agreement and the panel has presented its report, the Joint Committee shall endeavor to resolve the dispute, taking the report into account, as appropriate.

(b) If the Joint Committee does not resolve the dispute within a period of 30 days after the presentation of the panel report, the affected Party shall be entitled to take any appropriate and commensurate measure.

3. The Parties, within 180 days after the entry into force of this Agreement, shall enter into discussions with a view to developing rules for the selection and conduct of members of panels and Model Rules of Procedure for panels. The Joint Committee shall adopt such rules. Unless the Parties otherwise agree, a panel established under this Article shall conduct its proceedings in accordance with the Model Rules of Procedure.

4. (a) A Party may invoke a panel under paragraph 1(c) of this Article for claims arising under Article 3 only to the extent that a claim arises with regard to a commitment that is inscribed in the Party's Services Schedule to Annex 3.1 to this Agreement, but is not inscribed in the Party's schedule of specific commitments annexed to the GATS. Such commitment may include a market access or national treatment commitment in a sector, a horizontal commitment applicable to a sector, or additional commitment.

(b) Except as otherwise agreed by the Parties, a Party may invoke a panel under paragraph 1(c) of this Article for claims arising under Article 4 only to the extent that the same claim would not be subject to resolution through the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

(c) If a dispute involves both a claim described in subparagraph (a) or (b) and another claim, subparagraph 1(e) shall not prevent a Party from invoking another international dispute settlement mechanism with regard to such other claim. Nothing in this subparagraph shall allow a Party to invoke the dispute settlement mechanism of both this Article and another international dispute settlement mechanism with regard to the same claim.