FOURTEENTH PROTOCOL OF AMENDMENT

June 14, 2012
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The undersigned, Parties to the Agreement on Internal Trade, hereby agree to make the following additions, revisions and corrections to the Agreement on Internal Trade.

Note: All changes relate to both the English and French versions of the Agreement, except where noted.

A. GENERAL

1. Chapter Two (General Definitions)

1.1 Article 200: Definitions of General Application

After “In this Agreement, except as otherwise provided:” add:

“Agreement means this Agreement on Internal Trade, as amended from time to time.”

B. PROCUREMENT

2. Chapter Five (Procurement)

2.1 Article 513: Complaint Procedures - Provinces

a. In paragraph 6 replace both instances of the use of “Article 1711(2)” with “Article 1713(2)”

b. In paragraph 9 replace “Article 1708 (Publication, Committee Agenda)” with “Article 1730 (Publication and Committee Agenda)”

2.2 Interpretive Note No. 1

Delete Interpretive Note No. 1.

C. INSTITUTIONAL PROVISIONS AND DISPUTE RESOLUTION PROCEDURES

3. Chapter Sixteen (Institutional provisions)

3.1 Article 1603: Secretariat

In paragraph 2 replace “Secretary” with “Executive Director”.

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D. DISPUTE RESOLUTION PROCEDURES

4. Chapter 17 (Dispute Resolution Procedures)

4.1 Replace the Chapter with the new Chapter Seventeen that is found as Attachment 1 to this Protocol of Amendment.

E. FINAL PROVISIONS

5. Chapter Eighteen (Final Provisions)

5.1 Article 1813: Rules of Interpretation

Replace Article 1813 with the following:

“Article 1813: Interpretation of Agreement

1. Subject to paragraph 2, this Agreement shall be interpreted in accordance with the Rules of Interpretation set out in Annex 1813.

2. All of the Parties collectively may, at any time, issue an interpretive note declaring their interpretation of this Agreement. Any such interpretive note shall be considered to conclusively reflect the Parties' intentions regarding the provision that is the subject matter of the interpretive note, and is binding on the Parties and on every Presiding Body as of the date on which it is issued.”

5.2 Annex 1813: Rules of Interpretation

a. Change the title of the annex to “Annex 1813: Interpretation of Agreement”

b. In paragraph 10 add “or a Person” after “A Party...”.
Attachment 1

“CHAPTER SEVENTEEN

Dispute Resolution Procedures

Article 1700: Cooperation

1. The Parties undertake to resolve disputes in a conciliatory, cooperative and harmonious manner.

2. The Parties shall make every attempt through cooperation, consultations and other dispute avoidance and resolution processes available to them to arrive at a mutually satisfactory resolution of any matter that may affect the operation of the Agreement.

3. The Parties shall make every effort to avoid parallel Proceedings regarding the same measure. Should multiplicity of Proceedings become an issue, any Party may refer the matter to the Committee for recommended action.

Article 1701: Application and Enforcement Mechanisms

1. Subject to paragraphs 2 and 3, this Chapter applies to the avoidance and resolution of disputes between Parties, or Persons and Parties, regarding the interpretation or application of the Agreement.

2. This Chapter does not apply to:

   (a) Annex 405.2 (Regulatory Measures and Regulatory Regimes);

   (b) Annex 502.3 (Procurement for Commercial Entities); and

   (c) Annex 502.4 (Procurement for MASH sector).

3. The application of this Chapter is limited in the following specific situations:

   (a) other than Article 1702.1, this Chapter does not apply to any dispute relating to paragraphs 8, 8P8 or 9 of Annex 608.3 (Incentives);

   (b) Articles 1720, 1722, 1723 and 1726, and paragraphs 6 to 14 of Article 1721 do not apply to any Proceeding initiated by a Person under Article 1713 pursuant to Article 513(6) (Complaint Procedures - Provinces);

   (c) Part B of this Chapter does not apply to any complaint falling within the scope of Article 514 (Complaint Procedures - Federal Government); and

   (d) Article 1712 does not apply to any specific procurement falling within the
scope of either Article 513 (Complaint Procedures - Provinces) or Article 514 (Complaint Procedures - Federal Government).

4. By April 7, 2011, each Party shall have taken steps necessary to ensure that:
   (a) any order for Tariff Costs made by a Presiding Body may be enforced in the same manner as an order against the Crown in the Party’s superior courts; and
   (b) any order for Monetary Penalties made by a Compliance Panel may be enforced:
      (i) in the same manner as an order against the Crown in the Party’s superior courts; or
      (ii) through a Standby deposited with the Secretariat.

5. Each Party shall notify the Secretariat and all other Parties of the enforcement mechanism it has put in place pursuant to Article 1701(4).

6. After April 7, 2011, the Secretariat shall begin to report annually to the Committee on the Parties that have not filed a notification pursuant to paragraph 5.

PART A: Government-to-Government Dispute Resolution

Article 1702: Intentionally deleted.

Article 1702.1: Consultations

1. A Party that considers that a measure of another Party is or would be inconsistent with that other Party’s obligations under the Agreement may request consultations with that other Party by delivering written notice to that other Party and, on the same date, to all other Parties and to the Secretariat. The notice shall specify the actual or proposed measure complained of, the relevant provisions of the Agreement and provide a brief summary of the complaint.

2. A Party may not make a request for consultations under Part A in the case of a matter arising under Annex 608.3 (Incentives) if more than two years have elapsed from the date when the Party first acquired, or should have first acquired, knowledge of an incentive and knowledge that the Party had incurred injury.

3. No Party may request consultations under this Article with respect to a measure that is or has been the subject of a request for a Panel pursuant to Article 1703 or Article 1716 until three years after whichever of the following applies:
   (a) the date on which written notice of a mutually satisfactory resolution regarding that measure was filed with the Secretariat pursuant to Article 1707(3) or Article 1721(3);
(b) the date of a Report regarding that measure issued pursuant to Article 1706 or Article 1719 from which no appeal has been taken; or

(c) the date of a final decision regarding that measure following an appeal made pursuant to Article 1706.1(1) or Article 1720(1).

4. Any Party that considers itself to have a substantial interest in the matter, within the meaning of Article 1703(10), may participate in the consultations by delivering written notice of its intention to participate to all other Parties and to the Secretariat within 10 days of the delivery by the Initiating Party to the Replying Party of a request made pursuant to paragraph 1.

5. The Initiating Party and Replying Party may, by agreement, request the assistance of one or more relevant working groups in resolving the dispute. A list of working groups shall be filed by the Parties with the Secretariat.

6. A request for assistance made pursuant to paragraph 5 shall be delivered in writing to each working group being requested to assist, to all Consulting Participants and to the Secretariat.

7. A working group, in giving assistance requested pursuant to paragraph 5, shall consider any matter referred to it as expeditiously as possible, particularly matters regarding perishable goods.

8. Where the matter is not resolved to the satisfaction of the Initiating Party and Replying Party within 60 days of delivery by the Initiating Party to the Replying Party of a request made pursuant to paragraph 1, the Initiating Party and Replying Party may, by agreement, request the assistance of relevant responsible Ministers or members of the Committee whose assistance they consider would be helpful in resolving the dispute.

9. A request for assistance from the Initiating Party and Replying Party made pursuant to paragraph 8 shall be delivered in writing to such Ministers or members of the Committee, to all Consulting Participants and to the Secretariat.

10. In providing assistance requested pursuant to paragraph 8, such Ministers or members of the Committee may seek the advice of technical experts, establish other working groups or fact-finding bodies, facilitate the use of conciliation, mediation and other dispute resolution mechanisms, and make recommendations.

11. Consultations shall be confidential and without prejudice to the rights of the Consulting Parties in any Proceedings.

12. The Consulting Parties shall exchange all information necessary to enable a full examination to be made of how the actual or proposed measure or other matter may affect the operation of the Agreement. In so doing, the Consulting Parties shall treat any confidential information received on the same basis as the Party providing the confidential information treats it.
Article 1703: Request for Panel

1. Where the matter in question has not been resolved to the satisfaction of the Initiating Party or to the satisfaction of a Consulting Participant:
   
   (a) the Initiating Party;
   
   (b) the Consulting Participant; or
   
   (c) the Initiating Party and Consulting Participant jointly, may make a written request to the Secretariat, with a copy to the Committee, to establish a Panel.

2. The request to establish a Panel may not be made sooner than 120 days after the Initiating Party delivered a request for consultations to the Replying Party pursuant to Article 1702.1(1), but shall be made no later than three years after delivery of the request for consultations. If no request to establish a Panel has been made within three years after delivery of the request for consultations, the Initiating Party and Consulting Participants are deemed to have abandoned the matter that was the subject of the complaint.

3. With respect to a dispute arising under Annex 608.3 (Incentives), a request may not be made after two years from the date of delivery by the Initiating Party of a request for consultations to the Replying Party pursuant to Article 1702.1(1) without the consent of the Replying Party.

4. A request to establish a panel shall:
   
   (a) specify the actual or proposed measure complained of;
   
   (b) list the relevant provisions of the Agreement;
   
   (c) provide a brief summary of the complaint;
   
   (d) explain how the measure has impaired or would impair internal trade; and
   
   (e) identify the actual or potential injury or denial of benefit caused by the actual or proposed measure.

5. Where a Complaining Party requests that a Panel be established on behalf of a Person, the Complaining Party shall, at the beginning of the Panel hearing, demonstrate to the satisfaction of the Panel that it has a substantial and direct connection with that Person, within the meaning of paragraphs 6, 7 or 8. If the Complaining Party fails to do so, the Panel shall immediately dismiss the complaint for lack of standing.

6. Where the Complaining Party is a Province, it has a substantial and direct connection with a Person if:
   
   (a) the Person resides or carries on business in the Province;
(b) the Person has suffered an economic injury or denial of benefit; and

(c) the consequences of that economic injury or denial of benefit are being felt in the Province.

7. With respect to disputes arising out of Chapter Seven (Labour Mobility), a Party also has a substantial and direct connection with a Person if the Person holds an occupational or professional certificate from that Party and the Person has suffered an economic injury or denial of benefit.

8. Where the Complaining Party is the Federal Government, it has a substantial and direct connection with a Person if the Person has suffered an economic injury or denial of benefit as a result of being treated inconsistently with the Agreement by reason of:

(a) its status as a federally-constituted entity; or

(b) its carrying on business that is a work, undertaking, business or service that is under federal regulatory authority.

9.1 Any Party that has a substantial interest in the matter in dispute within the meaning of paragraph 10 is entitled to join the Proceeding as an Intervenor on delivery of written notice to all other Parties and to the Secretariat within 15 days after the date of delivery by a Complaining Party to the Secretariat of a request to establish a Panel.

9.2 A Consulting Participant, whether or not it has a substantial interest in the matter in dispute within the meaning of paragraph 10, is entitled to be added as a Complaining Party to a Proceeding on delivery of written notice containing the information set out in Article 1703(4)(a) through (e) to all other Parties and to the Secretariat within 15 days after the date of delivery by a Complaining Party to the Secretariat of a request to establish a Panel. Any other Party may only be added as a Complaining Party to a Proceeding if permitted to do so by the Panel.

10. A Party has a substantial interest in the matter in dispute where:

(a) the Party maintains a measure that is analogous to the one at issue; or

(b) the Party is a Province and has a significant number of Persons carrying on business in the Province who are or will be affected by the actual or proposed measure at issue.

Article 1704: Establishment of Presiding Body

1. Unless inconsistent with, or otherwise required by, provisions in this Chapter, a Presiding Body shall be established in accordance with this Article and shall be composed of three members unless the Disputing Parties agree to a Panel composed of one member.

2. The Parties shall maintain a roster of individuals qualified in accordance with Annex 1704(2) to be panellists. The Parties shall maintain a roster of individuals qualified in
accordance with Annex 1704(2) to be Appellate Panellists.

3. Within 30 days after the date of delivery by the Complaining Party to the Secretariat of a request to establish a Presiding Body, each Disputing Party shall appoint one panellist from the roster. If the Parties have agreed to a Presiding Body composed of one member, they shall agree, within the 30 days, on a panellist from the roster with administrative law experience as identified pursuant to paragraph 4 of Annex 1704(2). Notice of the appointment shall be provided to the Secretariat, which shall then notify the selected panellist, and all other Participating Parties, of the appointment.

4. If a Disputing Party fails to appoint a panellist within the 30 days, or, if the Parties have agreed to a Presiding Body composed of one member and the Parties fail to agree on a panellist within the 30 days, the Secretariat shall select the panellist by lot from the roster.

5. The appointed panellists shall, within 10 days after the last of them has been appointed, select the chairperson of the Presiding Body from the roster. If they are unable to agree within that period, the Secretariat shall select the chairperson by lot from the roster.

6.1 If neither of the panellists appointed or selected pursuant to this Article has administrative law experience as identified pursuant to paragraph 4 of Annex 1704(2), the panellists or the Secretariat, as the case may be, shall select one panellist from the roster with administrative law experience to be the chairperson.

6.2 If a Disputing Party requests that the chairperson of a Presiding Body be bilingual (French and English), the chairperson selected pursuant to the procedures set out in paragraph 5 or 6.1, as the case may be, shall be bilingual.

7. Unless the Disputing Parties otherwise agree, the panellists or the Secretariat, as the case may be, shall not appoint or select as the chairperson of a Presiding Body any roster member who has been appointed to the roster by a Disputing Party, or is resident in a Disputing Party’s Province.

Article 1704.1: Terms of Reference

Unless otherwise specified or unless the Disputing Parties otherwise agree, the terms of reference for a Presiding Body shall be to examine whether the actual or proposed measure or other matter at issue is or would be inconsistent with the Agreement.

Article 1705: Presiding Body Rules of Procedure

1. The Panel, Compliance Panel and Appellate Panel Rules of Procedure in Annex 1705(1) and 1718(1) shall apply to all Proceedings under Part A unless modified, where appropriate, by a Presiding Body.

2. A Presiding Body may seek information and expert advice from any Person or body that it considers appropriate, provided that the Participating Parties so agree and subject to the following and to such other terms and conditions as the Participating Parties may agree:

(a) If a procedural question arises, the Presiding Body shall first seek advice from
the Participating Parties. If the procedural question is not resolved to the satisfaction of the Presiding Body, the Presiding Body may request that the Secretariat obtain independent legal advice on the procedural question.

(b) A request pursuant to paragraph (a) shall be in writing to the Secretariat, with copies to the Participating Parties, and shall outline the procedural question on which advice is sought. The Secretariat shall retain appropriate counsel and transmit the advice immediately to the Presiding Body, with copies to the Participating Parties.

3. All Proceedings before a Presiding Body shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit.

4. Subject to Article 406(7) and to all applicable privileges, protections or requirements provided for by law, the Disputing Parties shall exchange all information in their possession that is relevant to the issues in dispute, and provide copies thereof to all other Participating Parties, so as to ensure that the issues in dispute are fully presented and heard by the Presiding Body. In so doing, the Disputing Parties and Participating Parties shall treat any confidential information received on the same basis as the Disputing Party providing the confidential information treats it.

Article 1706: Report of Panel

1. The Panel shall issue the Report based on the submissions of the Participating Parties and any other evidence received during the course of the Proceeding.

2. If the Panel cannot release the Report within the period stipulated in Rule 39 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participating Parties in writing of the reasons for the delay together with an estimate of the date by which it will issue the Report.

3. The Report shall contain:

(a) findings of fact;

(b) a determination, with reasons, as to whether the measure in question is or would be inconsistent with the Agreement;

(c) if an affirmative determination has been made under (b), a determination, with reasons, as to whether the measure has impaired or would impair internal trade and has caused or would cause injury or denial of benefit;

(d) recommendations, if requested by a Disputing Party, to assist in resolving the dispute;

(e) where applicable, and at the discretion of the Panel, a stipulation of the period within which the Complaint Recipient shall comply with the Agreement, and

(f) a determination as to apportionment of Operational Costs as provided for in
Annex 1734.

4. The Panel retains jurisdiction for the purpose of assessing a cost order after it issues the Report, and may make a cost order at the request of a Disputing Party or on its own initiative.

5. Within 10 days after receipt of the Report, any Participating Party may, with notice to the chairperson of the Panel, the Secretariat and all other Participating Parties, request that the Panel:

(a) clarify one or more aspects of the Report, in which case the Panel shall, within 15 days of receipt of the notice, provide the clarification; or

(b) correct in the Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Panel may, within 15 days of receipt of the notice, make such corrections as it considers appropriate.

Article 1706.1: Appellate Panel: Jurisdiction and Process

1. A Disputing Party may appeal the Report to an Appellate Panel on the grounds that the Panel erred in law, failed to observe a principle of natural justice or acted beyond or refused to exercise its jurisdiction. An Intervenor may not appeal the Report.

2. Where a Disputing Party provides a notice of appeal as provided in Annex 1705(1) and 1718(1), an Appellate Panel shall be established in accordance with Article 1704, except that all members of the Appellate Panel shall be selected from the Appellate Panel Roster established pursuant to Article 1704(2) and Annex 1704(2) and, notwithstanding Articles 1704(1) and (3), shall be composed of three members.

3. Upon receipt by the Secretariat of a notice of appeal, any requirement for a Complaint Recipient to comply with the Agreement within a stipulated time or to pay Operational Costs is suspended until such time as the appeal, and any subsequent re-hearing by the Panel that may be required, are concluded.

4. The Appellate Panel shall issue the Appellate Report with reasons which:

(a) may confirm, vary, rescind, or substitute the Report in whole or in part, or refer the matter back to the Panel for re-hearing; and

(b) shall include an order for of Operational Costs in accordance with Annex 1734, and may include, in the Panel’s discretion, an order for Tariff Costs in accordance with Annex 1734.

5. If the Appellate Panel cannot release the Appellate Report within the period stipulated in Rule 46 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participating Parties in writing of the reasons for the delay together with an estimate of the date by which it will issue the Appellate Report.
6. The Appellate Panel retains jurisdiction for the purpose of assessing a cost order after it issues the Appellate Report, and may make a cost order at the request of a Disputing Party or on its own initiative.

7. If a matter is not referred back for re-hearing, the Appellate Report is deemed to be the Report for purposes of determining compliance under Articles 1707(9) to 1707(14) or matters under Article 1709, together with those parts of the Report which have not been superseded by the Appellate Report.

8. If an Appellate Panel refers a matter back to the Panel for re-hearing, the Secretariat, in consultation with the Participating Parties, shall fix a date to reconvene the Panel forthwith.

9. Within 10 days after receipt of the Appellate Report, any Disputing Party may, with notice to the Secretariat and all other Disputing Parties, request that the Appellate Panel:
   
   (a) clarify one or more aspects of the Appellate Report, in which case the Appellate Panel shall, within 15 days of receipt of the notice, provide the clarification; or

   (b) correct in the Appellate Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Appellate Panel may, within 15 days of receipt of the notice, make such corrections as it considers appropriate.

**Article 1707: Mutually Satisfactory Resolution, Confirmation of Compliance and Request for Compliance Panel**

1. The Parties agree that the prompt resolution of disputes is for the benefit of all Parties.

2. Wherever possible, a dispute shall be resolved by removing, amending or not implementing the measure that is or would be inconsistent with the Agreement.

3. Where the Disputing Parties resolve the dispute at any stage of a Proceeding, written notice of such resolution shall be delivered to the other Parties and to the Secretariat. Upon receipt of such notification by the Secretariat, the Proceeding shall be terminated.

4. Proceedings may be suspended, either at the request of the Disputing Parties or by order of the Presiding Body, in order to continue or resume consultations or to negotiate a mutually satisfactory resolution.

5. Where a Proceeding has been suspended pursuant to paragraph 4, if no Disputing Party has made an application to end the suspension within 36 months of the date of suspension, the complaint that initiated the Proceeding is deemed to have been withdrawn and the Proceeding shall be terminated.

6. If a Panel has determined in a Report that a measure is inconsistent with the Agreement, the Complaint Recipient may notify the Complaining Party that the Complaint
Recipient has complied with the Agreement in respect of the matters addressed in the Report. Such notice shall be in writing, shall include a description of the manner of such compliance, and shall be delivered to the Complaining Party, to all other Participating Parties and to the Secretariat.

7. A Complaining Party may, within 30 days of delivery to it of the notice pursuant to paragraph 6, object to the notice. Such objection shall be in writing, shall include a description of the reasons for its objection, and shall be delivered to the Complaint Recipient, to all other Participating Parties and to the Secretariat.

8. Where no objection has been delivered pursuant to paragraph 7, a Complaint Recipient that provides notice pursuant to paragraph 6 is deemed to have complied with the Agreement in respect of the matters addressed in the Report.

9. Upon the expiry of one year following the issuance of a Report, or, where applicable, upon the expiry of an alternate implementation period stipulated by the Panel in the Report, a Disputing Party may request that the Secretariat reconvene the Panel as a Compliance Panel to make a determination as to whether the Complaint Recipient has complied with the Agreement in respect of the matters addressed in the Report.

10. Notwithstanding paragraph 9, a Complaint Recipient may request a Compliance Panel immediately upon the delivery by the Complaining Party to the Complaint Recipient of an objection made pursuant to paragraph 7.

11. The Compliance Panel shall issue a Compliance Report containing:

   (a) a determination on whether or not the Complaint Recipient has, with regard to the matter in dispute, brought itself into compliance with the Agreement;

   (b) where the determination is that there has not been compliance, a Monetary Penalty order made in accordance with Articles 1707.1(1) and (2), and, where there is more than one Complaining Party, the amount of the Monetary Penalty payable by the Complaint Recipient to each;

   (c) at the discretion of the Compliance Panel, an order apportioning Operational Costs, as provided for in Annex 1734; and

   (d) if an order for a Monetary Penalty has been made, a form of order that

      (i) is enforceable in the same manner as an order against the Crown in the superior courts of the Party against which the order is made; or

      (ii) the Secretariat will rely on when, in accordance with Rule 10 of Annex 1705(1) and 1718(1), it demands payment by the financial institution that issued a Standby on behalf of the Party against whom the order is made.

12. The Compliance Panel retains jurisdiction for the purpose of assessing a cost order after it issues the Compliance Report, and may make a cost order at the request of a Disputing Party or on its own initiative.
13. Within 10 days after receipt of the Compliance Report, a Disputing Party may, with notice to the chairperson of the Compliance Panel, the Secretariat and all other Disputing Parties, request that the Compliance Panel:

(a) clarify one or more aspects of the Compliance Report, in which case the Compliance Panel shall, within 15 days of receipt of the notice, provide the clarification; or

(b) correct in the Compliance Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Compliance Panel may, within 15 days of receipt of the notice, make such corrections as it considers appropriate.

14. If the Compliance Panel cannot release the Compliance Report within the period stipulated in Rule 50.5 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participating Parties in writing of the reasons for the delay together with an estimate of the date by which it will issue the Compliance Report.

Article 1707.1: Monetary Penalty

1. In determining the amount of a Monetary Penalty, the Compliance Panel shall be guided by the primary purpose of a Monetary Penalty which is to encourage compliance with the Agreement. The Compliance Panel shall also consider:

(a) the seriousness of the inconsistency with the Complaint Recipient’s obligations under the Agreement;

(b) the magnitude of the impact of the inconsistency on the market;

(c) where the Complaint Recipient has previously been found by a Presiding Body in a Proceeding not to have been compliant with the Agreement, whether the complaint has been resolved or remains outstanding;

(d) whether the Complaint Recipient has made efforts, in good faith, to comply with the Agreement in respect of the matters addressed in the Report before the Compliance Panel; and

(e) any other factor the Compliance Panel considers relevant.

2. Notwithstanding anything else in this Part, the amount of a Monetary Penalty ordered against a Complaint Recipient shall not exceed the maximum amount set out for such Party in Annex 1707.1(2) and 1722(2). If there are two or more Complaining Parties in a Proceeding, the Monetary Penalty shall be allocated among them in amounts determined by the Compliance Panel.
Article 1707.2: Enforcement of Monetary Penalty Order and Tariff Costs Order

1. Where a Compliance Panel has made an order for a Monetary Penalty under Article 1707(11), the Monetary Penalty is immediately due and payable. The Complaint Recipient shall pay the Complaining Party the amount stated in the order to be paid by the Complaint Recipient to the Complaining Party, and shall confirm in writing to the Secretariat when it has done so.

2. Where the Complaint Recipient is a Party that has implemented the enforcement mechanism for Monetary Penalties referred to in Article 1701(4)(b)(i), a Complaining Party in whose favour a Monetary Penalty has been ordered:

   (a) may promptly take such registration, filing or other action as is required by the legislation or administrative practice of the Complaint Recipient to commence the process of enforcing the Monetary Penalty in the same manner as an order against the Crown in the Party’s superior courts; and

   (b) shall immediately advise the Complaint Recipient that such action has been taken;

but may not take any further action to enforce the order until 60 days after the date of the order unless the Complaint Recipient consents to further action before such time.

3. If a Complaint Recipient that has deposited a Standby with the Secretariat has not paid a Monetary Penalty within 60 days of the issuance of the Compliance Report, the Secretariat shall demand payment in accordance with Rule 10 of Annex 1705(1) and 1718(1).

4. Within 20 days of receiving notice pursuant to Rule 10 of Annex 1705(1) and 1718(1) that its Standby has been drawn upon, a Complaint Recipient shall replenish the Standby and deposit with the Secretariat written confirmation signed by the Complaint Recipient’s financial institution and addressed to the Secretariat that the Standby has been replenished to the amount required under Annex 1707.1(2) and 1722(2).

5. Unless a Party that has filed a Standby has confirmed to the Secretariat and all other Parties that it has taken the steps necessary to ensure enforcement of Monetary Penalties pursuant to Article 1701(4)(b)(i), the Party shall file with the Secretariat no later than 60 days prior to the expiry of its Standby, a new Standby to take effect upon the expiry of the former Standby.

6. Where an Appellate Panel has made an order for Tariff Costs, the Tariff Costs are immediately due and payable. The Party against which the order was made shall pay the amount stated in the order to the Party in whose favour the order was made, and shall confirm in writing to the Secretariat when it has done so.

7. Where the Party against which an order for Tariff Costs has been made is a Party that has implemented the enforcement mechanism for Tariff Costs referred to in Article 1701(4)(a), a Party in whose favour the order was made:
(a) may promptly take such registration, filing or other action as is required by the legislation or administrative practice of the Party against which the order was made to commence the process of enforcing the order in the same manner as an order against the Crown in the Party’s superior courts; and

(b) shall immediately advise the Party against which the order was made that such action has been taken;

but may not take any further action to enforce the order until 60 days after the date of the order unless the Party against which the order was made consents to further action before such time.

Article 1707.3: Intentionally deleted.

Article 1707.4: Intentionally deleted.

Article 1707.5: Intentionally deleted.

Article 1708: Intentionally deleted.

Article 1709: Non-Implementation - Retaliatory Action

1. If, in the Report, a Panel has determined that an actual measure is inconsistent with the Agreement and the matter has not been resolved within one year after the date on which the Panel issued the Report, or if the Panel has stipulated an alternate implementation period, by the end of such alternate period, the Complaining Party may make a written request for a meeting of the Committee.

2. The Committee or a subcommittee thereof shall, within 30 days after the date of delivery of the request for a meeting, convene to discuss with the Complaining Party the option of taking retaliatory action in respect of the Complaint Recipient.

3. Subject to having discussed the matter with the Committee under paragraph 2, the Complaining Party may suspend benefits of equivalent effect or, where this is impracticable, impose retaliatory measures of equivalent effect against the Complaint Recipient until such time as a mutually satisfactory resolution of the dispute is achieved.

4. In considering what benefits to suspend or retaliatory measures to impose, the Complaining Party shall:

   (a) suspend benefits or impose retaliatory measures in the same sector as the measure found to be inconsistent with the Agreement; and

   (b) only if such suspension or imposition would be impracticable or ineffective, suspend benefits or impose retaliatory measures in other sectors covered by the Agreement.

5. On the written request of either Disputing Party delivered to the other Parties and the Secretariat, with a copy to the Committee, the Committee shall convene a panel, composed
of the original panellists, where possible, within 30 days after the date of delivery of the request to the Secretariat, to determine whether the suspension of benefits or the imposition of retaliatory measures by a Complaining Party under paragraph 3 is manifestly excessive.

6. The Parties recognize that any suspension of benefits or imposition of retaliatory measures under paragraph 3 will be temporary and shall only be applied until the Complaint Recipient has amended or removed the inconsistent measure or has otherwise taken action to resolve the dispute.

7. On the written request of either Disputing Party delivered to the other Parties and to the Secretariat, with a copy to the Committee, the Committee shall convene a panel, composed of the original panellists, where possible, within 30 days after the date of delivery of the request to the Secretariat, to determine whether any action taken by the Complaint Recipient to resolve the dispute is sufficient or satisfactory.

8. Where the panel determines that the action taken by the Complaint Recipient to resolve the dispute is sufficient or satisfactory, the Complaining Party shall terminate the suspension of benefits or remove the retaliatory measures.

9. Paragraphs 1 through 8 apply to an Intervenor that has participated in the Panel Proceeding and has been found by the original Panel to be adversely affected by the inconsistent measure.

10. For greater certainty, and in view of Article 300 (Reaffirmation of Constitutional Powers and Responsibilities), the Parties agree that:

   (a) this Article does not allow a Party to take retaliatory action that is inconsistent with the Constitution of Canada; and

   (b) no Party shall be prevented from challenging in a court of competent jurisdiction any retaliatory action on the ground that the action is inconsistent with the Constitution of Canada.

11. No separate Panel shall be established under Article 1709(5) or Article 1709(7) where a Compliance Panel has been established under Article 1707(9) in respect of the Report referred to in Article 1709(1).

12. If a Compliance Panel has been established under Article 1707(9), it shall have the jurisdiction of a panel established under Article 1709(5) or Article 1709(7).

PART B: Person-to-Government Dispute Resolution

Article 1710: Enforcement Mechanisms

1. Within eighteen months of the Effective Date, each Party shall take steps necessary to ensure that any order for Tariff Costs made by a Presiding Body against a Person of that Party may be enforced in the same manner as an order by that Party’s superior courts.
2. Each Party shall notify the Secretariat and all other Parties of the enforcement mechanism it has put in place pursuant to paragraph 1.

3. After the Effective Date the Secretariat shall begin to report annually to the Committee on the Parties that have not filed a notification pursuant to paragraph 2.

**Article 1711: Transitional Provisions - Summary Panel**

1. During the Transition Period, a Complaining Person in a Pre-existing Dispute may request that a Summary Panel be established to determine whether or not the measure that was the subject of a Pre-existing Dispute is inconsistent with the Agreement. If a request for a Summary Panel regarding a measure that was the subject of a Pre-existing Dispute has not been made prior to the expiry of the Transition Period, following that expiry, resolution of that Pre-Existing Dispute can only be pursued through the process established in Articles 1712 to 1717.

2. A Complaint Recipient in a Pre-existing Dispute may continue to participate in Proceedings before a Summary Panel even if it has not complied with Article 1710(1).

3. A Summary Panel shall be established in accordance with procedures set out in Article 1717. Members of the Panel that heard the Pre-existing Dispute shall not be appointed to the Summary Panel.

4. All Summary Panel Proceedings shall be conducted in accordance with the provisions of Annex 1711.

**Article 1712: Initiation of Proceedings by Government on Behalf of Persons**

1. A Person of a Party may request that a Party with which the Person has a substantial and direct connection within the meaning of Articles 1703(6), (7) or (8) initiate, on the Person’s behalf, Proceedings under Part A regarding the actual measure of another Party.

2. The request shall be in writing and shall:
   
   (a) specify the actual measure complained of;
   
   (b) list the relevant provisions of the Agreement;
   
   (c) provide a brief summary of the complaint;
   
   (d) provide a description of the administrative remedies pursued or other steps taken, if any, to attempt to resolve the dispute, and the dates, outcomes and current status of these;
   
   (e) explain how the measure has impaired internal trade; and
   
   (f) identify the actual injury or denial of benefit caused by the measure.
3. Before deciding whether to initiate such Proceedings on behalf of the Person, the Party may require the Person to exhaust all administrative remedies available to the Person by written notice given within 30 days after the date of delivery of the Person's request. If after having exhausted all available administrative remedies, the Person still wishes the Party to pursue Proceedings under Part A on the Person's behalf, it may reissue its request made under paragraphs 1 and 2 by further written notice to the Party.

4. The Party shall decide whether to initiate Proceedings on behalf of the Person:

(a) within 30 days after the date of delivery of the Person's request, where no notice was given to the Party pursuant to paragraph 3; or

(b) within 30 days after the date of delivery of the Person's notice to the Party to reissue its request pursuant to paragraph 3,

and shall, within that period, provide written notice to the Person of the decision. If the Party chooses not to initiate Proceedings, the notice shall include reasons for the decision. Failure to provide such notice to the Person within the 30-day period is deemed to be notice that the Party has chosen not to initiate Proceedings, for the purposes of Article 1713(1)(a).

5. If the Party chooses to initiate Proceedings, it shall request consultations in accordance with Article 1702.1 within 10 days after it has provided notice to the Person of its decision to initiate Proceedings and thereafter, the matter shall be resolved in accordance with Part A of this Chapter.

6. Where the Initiating Party, on behalf of a Person, chooses not to request the establishment of a Panel under Article 1703(1), it shall provide written notice to the Person within 120 days after having delivered a request for consultations pursuant to Article 1702.1(1), setting out reasons for the decision. Failure to provide such notice to the Person within that period is deemed to be notice that the Initiating Party has chosen not to request the establishment of a Panel, for purposes of Article 1713(1)(b).

Article 1713: Initiation of Proceedings by Persons

1. Subject to Article 1701(2) and (3) and paragraphs 5 and 7, a Person of a Party may request that Proceedings be initiated in respect of matters, other than those covered by Chapter Five (Procurement), within 60 days after receiving or being deemed to have received:

(a) notice under Article 1712(4) that a Party will not initiate Proceedings on the Person's behalf; or

(b) notice under Article 1712(6) that a Party will not request the establishment of a Panel.

2. Subject to paragraphs 6 and 7, a Person of a Party may request that Proceedings be initiated in respect of matters covered by Chapter Five (Procurement) within 60 days after receiving or being deemed to have received:
(a) notice under Article 513(5)(a) *(Complaint Procedures - Provinces)* that the contact point of the Province where the Person is located will not make representations on the Person’s behalf; or

(b) notice under Article 513(5)(e) *(Complaint Procedures - Provinces)* that the contact point of the Province where the Person is located will not request the establishment of a Panel.

3. The Person requesting that Proceedings be initiated shall provide such request in writing to the Party of the Person, to the Party complained against and to the Secretariat. The request shall be accompanied by:

   (a) the notice of refusal provided to the Person, or if no such notice was provided, a statement by the Person that no notice of refusal was received;

   (b) a brief summary of the dispute, together with copies of

      (i) the Person’s original request made pursuant to Article 1712; or

      (ii) the Person’s written complaint or concerns made pursuant to Article 513(3) *(Complaint Procedures - Provinces)* to the entity responsible for the procurement and the entity’s response, and the Person’s request to the contact point made pursuant to Article 513(4) *(Complaint Procedures - Provinces)*; whichever is applicable;

   (c) if applicable, any waiver provided to the Person pursuant to paragraph 8; and

   (d) the acknowledgement and consent form referred to in paragraph 4.

4. The request to initiate Proceedings shall be accompanied by a signed acknowledgement and consent, in a form agreed to by the Parties and available from the Secretariat, in which the Person acknowledges its obligation to co-operate and to pay costs, and to post security for such costs, if so ordered by a Presiding Body, and consents to the process set out in this Chapter.

5. No Person is entitled to initiate Proceedings pursuant to paragraph 1 if:

   (a) more than two years have elapsed since the date on which the Person acquired, or should have acquired, knowledge of the alleged inconsistent measure and knowledge that the Person incurred loss or damage or suffered a denial of benefit and no notice was given to the Person pursuant to Article 1712(3); or

   (b) where notice was given to the Person pursuant to Article 1712(3), more than two years have elapsed since the date on which the Person exhausted all available administrative remedies.
6. No Person is entitled to initiate Proceedings pursuant to paragraph 2 if more than two years have elapsed since the date on which the Person acquired, or should have acquired, knowledge of the alleged inconsistent measure that formed the basis for the complaint made pursuant to Article 513(4) (Complaint Procedures - Provinces).

7. No Person is entitled to initiate Proceedings under this Article with respect to a measure that is or has been the subject of a request for a Panel pursuant to Article 1703 or Article 1716 until three years after whichever of the following applies:
   
   (a) the date on which written notice of a mutually satisfactory resolution regarding that measure was filed with the Secretariat pursuant to Article 1707(3) or Article 1721(3);
   
   (b) the date of a Report regarding that measure issued pursuant to Article 1706 or Article 1719 from which no appeal has been taken; or
   
   (c) the date of a final decision regarding that measure following an appeal made pursuant to Article 1706.1(1) or Article 1720(1).

8. A Party or Complaint Recipient may agree to waive any of the time limitations in this Article and allow a Person to initiate Proceedings where otherwise the Person would be prevented from doing so by paragraphs 5, 6 or 7. Any waiver provided pursuant to this paragraph shall be in writing, and shall be provided to the Person wanting to make, or having made, a request pursuant to paragraph 3, with a copy to the Secretariat and to the Party of the Person.

Article 1714: Screening

1. Each Party shall ensure that, at all times, it has appointed a Screener. The Screener shall:
   
   (a) be independent of government and capable of making an independent decision on the merits of the request; and
   
   (b) have expertise in Canadian administrative law or the resolution of disputes arising under Canadian administrative law.

2. Any individual appointed by a Party to one of the rosters pursuant to Annex 1704(2) who meets the requirements of paragraph 1 may also be appointed by that Party to be its Screener.

3. Notice of the appointment shall be delivered to the other Parties and to the Secretariat. A Party shall make details of the requisite expertise of its Screener available to another Party upon request.

4. If a Party has not appointed a Screener as of the day on which the Secretariat receives a request from a Person of that Party under Article 1713(3), the Secretariat shall select an individual to act as that Party’s Screener for purposes of the Person’s request in accordance with the following:
the Secretariat shall select the Screener by lot from those individuals then on the Panel Roster, appointed by that Party, that have expertise in Canadian administrative law or the resolution of disputes arising under Canadian administrative law;

(b) if the Party of that Person has not appointed at least one individual to the Panel Roster with the expertise required under paragraph (a), the Secretariat shall select the Screener by lot from those individuals then on the Appellate Panel Roster, appointed by that Party; and

(c) if the Party of that Person has not appointed at least one individual then on the Appellate Panel Roster, the Secretariat shall select the Screener by lot from all individuals then on the Appellate Panel Roster.

5. The Secretariat shall settle the terms of engagement with the selected Screener, ensuring that the Screener’s compensation is reasonable, and once settled, shall notify the Party of the Person of those terms. All costs of a Screener selected under this Article shall be borne by the Party of the Person. Once determined, the Secretariat shall promptly notify that Party of the total of such costs and, for purposes of Article 1727(2)(c), on the date it is delivered to the Party, that notification is deemed to be an Operational Costs order included in a Report issued against that Party under Article 1719(3)(g).

6. The Screener shall follow the guidelines and process set out in Annex 1714(6).

7. Where a request is provided under Article 1713(3), the Screener of the Party of the Person shall first review the request and accompanying documents to determine whether the Person is prohibited from initiating Proceedings pursuant to Articles 1713(5), (6), (7) or (8), or Article 1727(6) and if not, to determine whether the Person should be permitted to initiate Proceedings.

8. In deciding whether the Person should be permitted to initiate Proceedings, the Screener shall take into account only the following:

(a) whether the complaint is frivolous or vexatious;

(b) whether the complaint has been instituted merely to harass the Complaint Recipient; and

(c) whether there is a reasonable case of injury or denial of benefit to the Person or, in the case of a trade union, injury or denial of benefit to its members.

9. The Screener shall determine whether to approve or reject the Person’s request within 30 days after the date on which the Screener received the request from the Secretariat. If the Screener rejects the Person’s request, the Screener shall, within that 30-day period, provide written notice to the Person, the Party of the Person, the Complaint Recipient and the Secretariat of the Screener’s decision, including the reasons for the decision. If the Screener approves the Person’s request, the Screener shall, within that 30-day period, provide written notice to the Person, the Party of the Person, the Complaint
Recipient and the Secretariat. Failure to provide such notice to the Person within the 30-day period is deemed to be an approval.

10. Where there is more than one Complaint Recipient because the Person’s request relates to measures of more than one Party, the Screener shall consider and determine the complaint about each Complaint Recipient’s measure separately. The Screener may, however, include all of such determinations in one written decision or notice provided under paragraph 9.

11. If the Screener approves or is deemed to have approved the Person’s request under paragraph 9, then the Person and the Complaint Recipient may agree to proceed directly under Article 1716, in which case Article 1715 does not apply.

Article 1715: Consultations

1. A Person that has received approval from the Screener to initiate Proceedings may request consultations with the Complaint Recipient respecting the complaint, by delivering written notice within 60 days after receiving such approval to the Complaint Recipient and, on the same date, to all other Parties and to the Secretariat. The notice shall specify the actual measure complained of, the relevant provisions of the Agreement and provide a brief summary of the complaint.

2. A Person that fails to request consultations in accordance with paragraph 1 is deemed to have abandoned the request made by the Person pursuant to Article 1713(3).

3. Any Party that considers itself to have a substantial interest in the matter, within the meaning of Article 1716.2(3), may participate in the consultations by delivering written notice of its intention to participate to the Person having requested the consultations, to all other Parties and to the Secretariat within 10 days of the delivery by the Person of a request made pursuant to paragraph 1.

4. The Person and Complaint Recipient may, by agreement, request one or more relevant working groups, from the list filed by the Parties with the Secretariat, to assist them in resolving the dispute.

5. A request for assistance made pursuant to paragraph 4 shall be delivered in writing to each working group being requested to assist, to all Consulting Participants and to the Secretariat.

6. A working group, in giving assistance requested pursuant to paragraph 5, shall consider any matter referred to it as expeditiously as possible, particularly matters regarding perishable goods.

7. Where the matter is not resolved to the satisfaction of the Person and Complaint Recipient within 60 days of delivery by the Person of a request made pursuant to paragraph 1, the Person and Complaint Recipient may, by agreement, request the assistance of relevant responsible Ministers or members of the Committee whose assistance they consider would be helpful in resolving the dispute.
8. A request for assistance made pursuant to paragraph 7 shall be delivered in writing to such Ministers or members of the Committee, to all Consulting Participants and to the Secretariat.

9. In providing assistance requested pursuant to paragraph 7, such Ministers or members of the Committee may seek the advice of technical experts, establish other working groups or fact-finding bodies, facilitate the use of conciliation, mediation and other dispute resolution mechanisms, and make recommendations.

10. Consultations shall be confidential and without prejudice to the rights of the Person, the Complaint Recipient and the Consulting Participants in any Proceedings.

11. The Person, the Complaint Recipient and the Consulting Participants shall exchange all information necessary to enable a full examination to be made of how the measure or other matter may affect the operation of the Agreement. In so doing, they shall treat any confidential information received on the same basis as the Person or Party providing the confidential information treats it.

**Article 1716: Request for Panel**

1. Subject to Article 1714(11) and paragraph 2, where the matter in question has not been resolved to the satisfaction of the Person, the Person may make a written request to the Secretariat, with a copy to the Committee, to establish a Panel. A request to establish a Panel shall be made no sooner than 120 days after the Person delivered a request for consultations to the Complaint Recipient that complies with Article 1715(1), and no later than 180 days after delivery of the request for consultations. If a request to establish a Panel has not been made within 180 days after delivery of the request for consultations, the Person is deemed to have abandoned the matter that was the subject of the complaint.

2. Where the Person and Complaint Recipient have agreed to proceed directly under this Article as permitted under Article 1714(11), the Person and the Complaint Recipient may promptly after reaching such agreement make a written request to the Secretariat, with a copy to the Committee, to establish a Panel.

3. A request to establish a Panel shall:

   (a) specify the actual measure complained of;

   (b) list the relevant provisions of the Agreement;

   (c) provide a brief summary of the complaint;

   (d) explain how the measure has impaired internal trade; and

   (e) identify the injury or denial of benefit caused by the measure.
Article 1716.1: Terms of Reference

The terms of reference for a Panel shall be to examine whether the actual measure at issue is inconsistent with the Agreement.

Article 1716.2: Parties Added as Intervenors

1. Subject to paragraph 3, any Party that has a substantial interest in the matter in dispute within the meaning of paragraph 3 is entitled to join the Proceeding as an Intervenor on delivery of written notice to the Complaining Person, to all other Parties and to the Secretariat within 15 days after the date of delivery to the Secretariat of a request to establish a Panel under Article 1716(1).

2. Paragraph 1 does not apply to the Party of the Complaining Person.

3. A Party has a substantial interest in the matter in dispute where:

   (a) the Party maintains a measure that is analogous to the one at issue; or

   (b) the Party is a Province and has a significant number of Persons carrying on business in the Province who are affected by the measure at issue.

Article 1717: Establishment of Presiding Body

1. The Presiding Body shall be composed of three members unless the Disputants agree to a Presiding Body composed of one member.

2. Within 30 days after the date of delivery by the Complaining Person to the Secretariat of a request to establish a Presiding Body, each Disputant shall appoint one panellist to the Presiding Body from the roster of panellists established pursuant to Article 1704(2) and Annex 1704(2). The Complaining Person may not appoint to the Presiding Body the Screener who screened the Complaining Person’s complaint under Article 1714. If the Disputants have agreed to a Presiding Body composed of one member, within the 30 days, they shall appoint, by consensus, one panellist from the roster of panellists having administrative law experience as identified pursuant to paragraph 4 of Annex 1704(2). Notice of the appointments shall be provided by each Disputant to the Secretariat, and the Secretariat shall then notify the selected panellists, and all other Participants, of the appointments.

3. If a Disputant fails to appoint a panellist within the 30 days, or, if the Disputants have agreed to a Presiding Body composed of one member and the Disputants fail to agree on the panellist within the 30 days, the Secretariat shall select the panellist by lot.

4. The appointed panellists shall, within 10 days after the last of them has been appointed, select the chairperson of the Presiding Body from the roster. If they are unable to agree on the chairperson within that period, the Secretariat shall select the chairperson by lot.
5. If neither of the panellists appointed or selected pursuant to paragraph 2 has administrative law experience as identified pursuant to paragraph 4 of Annex 1704(2), the panellists or the Secretariat, as the case may be, shall select an individual with administrative law experience to be the chairperson.

6. If a Disputant requests that the chairperson be bilingual (French and English), the chairperson selected pursuant to the procedures set out in paragraph 3 or 4, as the case may be, shall be bilingual.

7. Unless the Disputants otherwise agree, the panellists or the Secretariat, as the case may be, shall not appoint or select as the chairperson any individual who has been appointed to the roster of panellists by the Complaint Recipient, or who is resident in a Complaint Recipient’s Province.

Article 1718: Presiding Body Rules of Procedure

1. The Panel, Compliance Panel and Appellate Panel Rules of Procedure in Annex 1705(1) and 1718(1) shall apply to all Proceedings under Part B, unless modified, where appropriate, by a Presiding Body.

2. A Presiding Body may seek information and expert advice from any Person or body that it considers appropriate, provided that the Participants so agree and subject to the following and to such other terms and conditions as the Participants may agree:

   (a) If a procedural question arises, the Presiding Body shall first seek advice from the Participants. If the procedural question is not resolved to the satisfaction of the Presiding Body, the Presiding Body may request that the Secretariat obtain independent legal advice on the procedural question.

   (b) A request pursuant to paragraph (a) shall be in writing to the Secretariat, with copies to the Participants, and shall outline the procedural question on which advice is sought. The Secretariat shall retain appropriate counsel and transmit the advice immediately to the Presiding Body, with copies to the Participants.

3. All Proceedings before a Presiding Body shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit.

4. Subject to Article 406(7) (Transparency) and to all applicable privileges, protections or requirements provided for by law, the Disputants shall exchange all information in their possession that is relevant to the issues in dispute with each other, and provide copies thereof to all other Participants, so as to ensure that the issues in dispute are fully presented and heard by the Presiding Body. In so doing, the Disputants and Participants shall treat any confidential information received on the same basis as the Disputant providing the confidential information treats it.
Article 1719: Report of Panel

1. The Panel shall issue a Report based on the submissions of the Participants and any other evidence received during the course of the Proceeding.

2. If the Panel cannot release the Report within the period stipulated in Rule 39 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participants in writing of the reasons for the delay together with an estimate of the date by which it will issue the Report.

3. The Report shall contain:

(a) findings of fact;

(b) a determination, with reasons, as to whether the measure in question is inconsistent with the Agreement;

(c) if an affirmative determination has been made under (b), a determination, with reasons, as to whether the measure has impaired internal trade and has caused injury or denied a benefit;

(d) recommendations, if requested by a Disputant, to assist in resolving the dispute;

(e) where applicable, and at the discretion of the Panel, a stipulation of the period within which the Complaint Recipient shall comply with the Agreement;

(f) where applicable, and at the discretion of the Panel, an order awarding Tariff Costs to the Complaining Person, as provided for in Annex 1734; and

(g) a determination as to apportionment of Operational Costs as provided for in Annex 1734.

4. The Panel retains jurisdiction for the purpose of assessing a cost order after it issues the Report, and may make a cost order at the request of a Disputant or on its own initiative.

5. Within 10 days after the receipt of the Report, any Participant may, with notice to the chairperson of the Panel, the Secretariat and all other Participants, request that the Panel:

(a) clarify one or more aspects of the Report, in which case the Panel shall, within 15 days of receipt of the notice, provide the clarification; or

(b) correct in the Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Panel may, within 15 days of receipt of the notice, make such corrections as it considers appropriate.
Article 1720:  Appellate Panel: Jurisdiction and Process

1. Subject to Article 1701(3)(b), a Disputant may appeal a Report to an Appellate Panel on the grounds that the Panel erred in law, failed to observe a principle of natural justice or acted beyond or refused to exercise its jurisdiction. An Intervenor may not appeal a Report.

2. Where a Disputant provides a notice of appeal as provided for in Annex 1705(1) and 1718(1), an Appellate Panel shall be established in accordance with Article 1717, except that all members of the Appellate Panel shall be selected from the Appellate Panel Roster established pursuant to Article 1704(2) and Annex 1704(2) and, notwithstanding Article 1717(1), shall be composed of three members.

3. Upon receipt by the Secretariat of a notice of appeal, any requirement for a Complaint Recipient to comply with the Agreement within a stipulated time or to pay Tariff Costs or for a Participant to pay Operational Costs is suspended until such time as the appeal, and any subsequent re-hearing by the Panel that may be required, are concluded.

4. The Appellate Panel shall issue the Appellate Report with reasons which:

   (a) may confirm, vary, rescind, or substitute the Report in whole or in part, or refer the matter back to the Panel for re-hearing; and

   (b) shall include an order for Operational Costs in accordance with Annex 1734, and may include, in the Panel’s discretion, an order for Tariff Costs in accordance with Annex 1734.

5. If the Appellate Panel cannot release the Appellate Report within the period stipulated in Rule 46 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participants in writing of the reasons for the delay together with an estimate of the date by which it will issue the Appellate Report.

6. The Appellate Panel retains jurisdiction for the purposes of assessing a cost order after it issues the Appellate Report, and may make a cost order at the request of a Disputant or on its own initiative.

7. If a matter is not referred back for re-hearing, the Appellate Report is deemed to be the Report for purposes of determining compliance under Articles 1721(9) to 1721(14), together with those parts of the Report which have not been superseded by the Appellate Report.

8. If an Appellate Panel refers a matter back to the Panel for re-hearing, the Secretariat, in consultation with the Participants, shall fix a date to reconvene the Panel forthwith.

9. Within 10 days after receipt of the Appellate Report, any Disputant may, with notice to the Secretariat and all other Disputants, request that the Appellate Panel:

   (a) clarify one or more aspects of the Appellate Report, in which case the Appellate Panel shall, within 15 days of receipt of the notice, provide the
clarification; or

(b) correct in the Appellate Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Appellate Panel may, within 15 days of receipt of the notice, make such corrections as it considers appropriate.

Article 1721: Mutually Satisfactory Resolution, Confirmation of Compliance and Request for Compliance Panel

1. The Parties agree that the prompt resolution of disputes is for the benefit of all Disputants.

2. Wherever possible, a dispute shall be resolved by removing or amending the measure that was determined to be inconsistent with the Agreement.

3. Where the Disputants resolve the dispute at any stage of a Proceeding, written notice of such resolution shall be delivered to the other Parties, to the Secretariat, and to the Presiding Body, if any. Upon receipt of such notification by the Secretariat, the Proceeding shall be terminated.

4. Proceedings may be suspended, either at the request of the Disputants or by order of the Presiding Body, in order to continue or resume consultations or to negotiate a mutually satisfactory resolution.

5. Where a Proceeding has been suspended pursuant to paragraph 4, if neither Disputant has made an application to end the suspension within 36 months of the date of suspension, the complaint that initiated the Proceeding is deemed to have been withdrawn and the Proceeding shall be terminated.

6. Subject to Article 1701(3)(b), if a Panel has determined in a Report that a measure is inconsistent with the Agreement, the Complaint Recipient may notify the Complaining Person that the Complaint Recipient has complied with the Agreement in respect of the matters addressed in the Report. Such notice shall be in writing, shall include a description of the manner of such compliance, and shall be delivered to the Complaining Person, to all other Participants and to the Secretariat.

7. A Complaining Person may, within 30 days of delivery to it of the notice pursuant to paragraph 6, object to the notice. Such objection shall be in writing, shall include a description of the reasons for its objection, and shall be delivered to the Complaint Recipient, to all other Participants and to the Secretariat.

8. Where no objection has been delivered pursuant to paragraph 7, the Complaint Recipient is deemed to have complied with the Agreement in respect of the matters addressed in the Report.

9. Upon the expiry of one year following the issuance of a Report, or, where applicable, upon the expiry of an alternate implementation period stipulated by the Panel in the Report, either of the Disputants may request that the Secretariat reconvene the Panel as a
Compliance Panel to make a determination as to whether the Complaint Recipient has complied with the Agreement in respect of the matters addressed in the Report.

10. Notwithstanding paragraph 9, a Complaint Recipient may request a Compliance Panel immediately upon the delivery by the Complaining Person to the Complaint Recipient of an objection made pursuant to paragraph 7.

11. The Compliance Panel shall issue a Compliance Report containing:

   (a) a determination on whether or not the Complaint Recipient has, with regard to the matter in dispute, brought itself into compliance with the Agreement;

   (b) where the determination is that there has not been compliance, a Monetary Penalty order made in accordance with Article 1722;

   (c) at the discretion of the Compliance Panel, an order apportioning Operational Costs, as provided for in Annex 1734;

   (d) at the discretion of the Compliance Panel, an order awarding Tariff Costs, as provided for in Annex 1734;

   (e) at the discretion of the Compliance Panel, an order awarding Additional Costs, as provided for in Annex 1734; and

   (f) if an order for a Monetary Penalty has been made, a form of order that

      (i) is enforceable in the same manner as an order against the Crown in the superior courts of the Party against which the order is made; or

      (ii) the Secretariat will rely on when, in accordance with Rule 10 of Annex 1705(1) and 1718(1), it demands payment by the financial institution that issued a Standby on behalf of the Party against whom the order is made.

12. The Compliance Panel retains jurisdiction for the purpose of assessing a cost order after it issues the Compliance Report, and may make a cost order at the request of a Disputant or on its own initiative.

13. Within 10 days after receipt of the Compliance Report, a Disputant, with notice to the chairperson of the Compliance Panel and the Secretariat, may request that the Compliance Panel:

   (a) clarify one or more aspects of the Compliance Report, in which case the Compliance Panel shall, within 15 days of receipt of the notice, provide the clarification; or

   (b) correct in the Compliance Report any errors in computation or translation, any clerical or typographical errors, or any errors of a similar nature, in which case the Compliance Panel may, within 15 days of receipt of the notice, make such
corrections as it considers appropriate.

14. If the Compliance Panel cannot release the Compliance Report within the period stipulated in Rule 50.5 of Annex 1705(1) and 1718(1), it does not lose jurisdiction and shall inform the Participants in writing of the reasons for the delay together with an estimate of the date by which it will issue the Compliance Report.

**Article 1722: Monetary Penalty**

1. In determining the amount of a Monetary Penalty, the Compliance Panel shall be guided by the primary purpose of a Monetary Penalty which is to encourage compliance with the Agreement. The Compliance Panel shall also consider:

   - (a) the seriousness of the inconsistency with the Complaint Recipient’s obligations under the Agreement;
   - (b) the magnitude of the impact of the inconsistency on the market;
   - (c) where the Complaint Recipient has previously been found by a Presiding Body in a Proceeding not to have been compliant with the Agreement, whether the complaint has been resolved or remains outstanding;
   - (d) whether the Complaint Recipient has made efforts, in good faith, to comply with the Agreement in respect of the matters addressed in the Report before the Compliance Panel; and
   - (e) subject to paragraph 3, any other factor the Compliance Panel considers relevant.

2. Notwithstanding anything else in Part B, the amount of a Monetary Penalty ordered against a Complaint Recipient shall not exceed the maximum amount set out for such Party in Annex 1707.1(2) and 1722(2).

3. When determining the amount of any Monetary Penalty payable by a Complaint Recipient, a Compliance Panel shall not take into account whether:

   - (a) any Presiding Body in the matter has ordered the Complaint Recipient to pay Tariff Costs to the Complaining Person, or the amount of any such Tariff Costs; or
   - (b) the Compliance Panel has ordered or intends to order that the Complaint Recipient pay Additional Costs to the Complaining Person, or the amount of any such Additional Costs.

**Article 1723: Enforcement of Monetary Penalty Orders**

1. Where a Compliance Panel has made an order for a Monetary Penalty under Article 1721(11), the Monetary Penalty is immediately due and payable.
2. Notwithstanding anything else in Part B, in no case is a Party required to pay more in respect of Total Ordered Costs and Monetary Penalties than the maximum Monetary Penalty provided for that Party in Annex 1707.1(2) and 1722(2). If in any Proceeding the Total Ordered Costs and Monetary Penalties exceed that maximum, the amount that the Party is required to pay into the Fund pursuant to paragraph 3 is automatically reduced by the total amount of the excess.

3. The amount of the Monetary Penalty, or of the Monetary Penalty remaining after the application of paragraph 2, is payable to “Internal Trade Secretariat Corporation”. Payment shall be forwarded to the Secretariat, which shall deposit it into the Fund promptly after receipt.

4. A Party shall pay all Tariff Costs and Additional Costs it has been ordered to pay to a Complaining Person before it pays the Monetary Penalty pursuant to paragraph 3, and shall confirm in writing to the Secretariat when it has done so.

5. If a Party that has deposited a Standby with the Secretariat has not paid a Monetary Penalty ordered under Article 1721(11) within 60 days of the issuance of the Compliance Report, the Secretariat shall demand payment in accordance with Rule 10 of Annex 1705(1) and 1718(1).

6. Within 20 days of receiving notice pursuant to Rule 10 of Annex 1705(1) and 1718(1) that its Standby has been drawn upon, a Party shall replenish the Standby and deposit with the Secretariat written confirmation signed by the Party’s financial institution and addressed to the Secretariat that the Standby has been replenished to the amount required under Annex 1707.1(2) and 1722(2).

7. Unless a Party that has filed a Standby has confirmed to the Secretariat and all other Parties that it has taken the steps necessary to ensure enforcement of Monetary Penalties pursuant to Article 1701(4)(b)(i), the Party shall file with the Secretariat no later than 60 days prior to the expiry of its Standby, a new Standby to take effect upon the expiry of the former Standby.

**Article 1724: Enforcement of Tariff Costs Orders**

1. Where a Panel, Summary Panel or Compliance Panel has made an order for Tariff Costs in favour of a Complaining Person, or where an Appellate Panel has made an order for Tariff Costs against a Disputant, the Tariff Costs are immediately due and payable.

2. The Party against which the Panel, Summary Panel or Compliance Panel made an order for Tariff Costs shall pay the amount stated in the order to the Complaining Person and shall confirm in writing to the Secretariat when it has done so.

3. Where an Appellate Panel has made an order for Tariff Costs against a Disputant, the Disputant against whom the order was made shall pay the amount stated in the order to the Disputant in whose favour the order was made, and shall confirm in writing to the Secretariat when it has done so.
4. Where a Party against which an order for Tariff Costs has been made is a Party that has implemented the enforcement mechanism for Tariff Costs referred to in Article 1701(4)(a), a Person in whose favour the order was made:

   (a) may promptly take such registration, filing or other action as is required by the legislation or administrative practice of the Party against which the order was made to commence the process of enforcing the order in the same manner as an order against the Crown in the Party’s superior courts; and

   (b) shall immediately advise the Party against which the order was made that such action has been taken,

but may not take any further action to enforce the order until 60 days after the date of the order unless the Party against which the order was made consents to further action before such time.

5. Where a Disputant against whom an order for Tariff Costs has been made is a Person, a Party in whose favour the order was made:

   (a) may promptly take such registration, filing or other action as is required to commence the process of enforcing the order; and

   (b) shall immediately advise the Complaining Person against which or whom the order was made that such action has been taken,

but the Party may not take any further action to enforce the order until 60 days after the date of the order unless the Person against which or whom the order was made consents to further action before such time.

Article 1725: Additional Costs Orders

1. An order of a Compliance Panel to pay Additional Costs is deemed to be an order against a Party to pay Tariff Costs, for purposes of enforcing the Additional Costs order.

2. Where a Compliance Panel has made an order for Additional Costs, the Additional Costs are immediately due and payable. The Party against which the order has been made shall pay the amount stated in the order to the Complaining Person, and shall confirm in writing to the Secretariat when it has done so.

3. Where the Party against which an order for Additional Costs has been made has implemented the enforcement mechanism for Tariff Costs referred to in Article 1701(4)(a), the Complaining Person:

   (a) may promptly take such registration, filing or other action as is required by the legislation or administrative practice of the Party to commence the process of enforcing the order in the same manner as an order against the Crown in the Party’s superior courts; and

   (b) immediately advise the Party that such action has been taken;
but may not take any further action to enforce the order until 60 days after the date of the order unless the Party consents to further action before such time.

Article 1726: Internal Trade Advancement Fund

1. Pursuant to Article 1723(3), the Secretariat shall establish the Fund as a separate account.

2. All disbursements made out of the Fund, other than disbursements required for the administration of the account, shall be made by direction of the Committee and used solely to support special pan-Canadian research, education or strategic initiatives that advance internal trade in Canada.

3. Fund monies shall not be used to compensate Parties for expenses incurred as a consequence of the use or administration of the Agreement, or otherwise be allocated as general revenue among the Parties.

PART C: - General

Article 1727: Removal of Access to Dispute Resolution for Non-Compliance

1. This Article applies notwithstanding anything else in this Chapter.

Parties

2. A Party is prohibited from initiating or participating in any consultations or Proceedings under this Chapter in any capacity other than as a Replying Party, Complaint Recipient or Respondent where:

   (a) the Party has failed to meet any of its obligations under Article 1701(4), Article 1707.2(4), Article 1707.2(5) or Article 1710(1), until the Party fully complies with those obligations;

   (b) a Compliance Panel has determined that the Party has not complied with the Agreement and the Party has not brought itself into compliance with the Agreement within 180 days of the issuance of the Compliance Report, until the Party brings itself into compliance with the Agreement, and notwithstanding that the Party has paid all Monetary Penalties, Operational Costs, Tariff Costs and Additional Costs ordered against it or that the Party also has had benefits suspended or retaliatory measures imposed against it under Article 1709; or

   (c) subject to paragraph 3, the Party has failed to pay all Monetary Penalties, Tariff Costs, Operational Costs or Additional Costs that have been ordered against it, within any applicable time period specified in this Chapter, until the Party pays all such Monetary Penalties and costs, or payment is otherwise obtained.
3. Where, pursuant to Article 1701(4) and Article 1710(1), a Party has provided that any Monetary Penalty or Tariff Costs or Additional Costs order issued against it may be enforced in the same manner as an order against the Crown in the Party’s superior courts, and the Party’s payment process requires the Presiding Body order to be filed with such courts before the Party is able to pay such Monetary Penalty or cost order:

   (a) within 10 days of the issuance of a Monetary Penalty or cost order against it, the Party shall advise the Party or Person in whose favour the Monetary Penalty or cost order has been issued that the Party requires that Party or Person to take the steps necessary to file the Presiding Body order with the Party’s superior courts to enable the order to be enforced in the same manner as an order against the Crown in those courts; and

   (b) provided that the requirements of paragraph (a) are met, the prohibition under paragraph 2(c) shall not take effect until 60 days after the date of the Presiding Body order.

4. Any ongoing consultations or Proceedings that have been initiated by a Party shall be suspended during any period a prohibition under paragraph 2 is in effect against the Party.

5. Where the prohibition under paragraph 2(b) or (c) is in effect against a Party, that Party may, at any time, request the Secretariat to reconvene the Presiding Body that originally determined the Party’s non-compliance or that issued the Monetary Penalty or cost order at issue. The reconvened Presiding Body shall determine whether the Party has brought itself into compliance with the Agreement and paid the Monetary Penalty or cost order and, if so, the prohibition under paragraph 2 shall be immediately lifted.

Persons

6. Subject to paragraph 7, if a Party is subject to the prohibition in paragraph 2, that Party’s Persons are also prohibited from initiating or participating in any consultations or Proceedings under Part B except that:

   (a) a Person who is a Person of two Parties, one of which is suspended, may proceed under the other Party; and

   (b) where the Party is the Federal Government, only Persons of the Federal Government that are federally-constituted entities are prohibited.

7. A Proceeding initiated by a Complaining Person under Article 1713 before the Party of that Complaining Person became subject to the prohibition in paragraph 2 shall not be suspended by the operation of paragraph 6.

8. Subject to Article 1711, a Person is prohibited from initiating or participating in any consultations or Proceedings under Part B if that Person has failed to pay any Tariff Costs or Operational Costs previously ordered against it, within the time period specified in this Chapter. That prohibition continues until the Person has paid all such costs or until payment is otherwise obtained.
9. For greater certainty, the Party of the Person is not prohibited from initiating or participating in any consultations or Proceedings on its own behalf if a Person of that Party is subject to the prohibition in paragraph 8.

Article 1728: Limiting Judicial Review

1. Unless appealed pursuant to Article 1706.1(1) or Article 1720, a Report is final and is not subject to judicial review.

2. A Report of a Compliance Panel or Appellate Panel is final and is not subject to judicial review.

Article 1729: Failure to Participate/Discontinuance

The failure of any Disputing Party or Disputant to participate, or to continue its participation, in any Proceedings shall not affect the jurisdiction of a Presiding Body which may proceed in that Disputing Party’s or Disputant’s absence to fulfill all responsibilities assigned to it by the Agreement, including issuing orders for costs.

Article 1730: Publication and Committee Agenda

1. The Secretariat shall make public any report issued by a Presiding Body under this Chapter 30 days after the date on which it was issued, or sooner if the Disputing Parties or the Disputants agree.

2. A Disputing Party or a Disputant may request the Secretariat to add an unresolved dispute which was the subject of a Report to the Committee’s agenda for its next annual meeting. However, such a request may not be made sooner than 30 days after the date on which the Report was issued. The dispute shall remain on the agenda for every annual Committee meeting thereafter until the matter is resolved.

3. Where an unresolved dispute has been added to the Committee’s agenda pursuant to paragraph 2, the Complaint Recipient shall, at least 10 days before each annual Committee meeting whose agenda includes the dispute, provide the Committee with a written status report on the Complaint Recipient’s progress in implementing the Panel’s recommendations in the Report or in arriving at a resolution of the dispute.

Article 1731: Code of Conduct

Members, including prospective and former members, of a Presiding Body shall conduct themselves in accordance with Annex 1731.

Article 1732: Limit on Jurisdiction

For greater certainty, a Presiding Body has no jurisdiction to rule on any constitutional issue.
Article 1733: Contact Points

1. Where this Chapter requires a notice, request, Report or other document to be sent to a Party, it shall be sent to that person identified to the Secretariat by the Party as being responsible for the Chapter of Part IV of the Agreement that is relevant to the notice, request, Report or other document. Where no such Person is identified, the notice, request, Report or other document shall be sent to that Party’s Internal Trade Representative.

2. Where this Chapter requires a notice, request, Report or other document to be sent to the Committee, a Presiding Body or a working group, it shall be sent to the chairperson of the Committee, Presiding Body or working group, as the case may be. Where a Presiding Body consists of only one individual, the notice, request, Report or other document shall be sent to that individual.

Article 1734: Definitions

In this Chapter:

Additional Costs means reasonable costs incurred by a Person in a Compliance Panel Proceeding in respect of:

- (a) counsel or agent's fees to prepare for the hearing;
- (b) counsel or agent's fees to attend the hearing;
- (c) fees and disbursements of experts; and
- (d) charges for postage, courier services and disbursements, including travel expenses,

to the extent that they exceed Tariff Costs.

Appellant means the Disputing Party appealing a Panel decision pursuant to Article 1706.1(1) or the Disputant appealing a Panel decision pursuant to Article 1720(1).

Appellate Panel means a panel established pursuant to Article 1706.1(2) or Article 1720(2).

Appellate Report means a report issued by an Appellate Panel pursuant to Article 1706.1(4) or Article 1720(4), including any clarifications or corrections made to that report pursuant to Article 1706.1(9) or Article 1720(9).

Complaining Party means the Party that has requested a Panel pursuant to Article 1703(1), or a Party added to a Proceeding as a Complaining Party at the discretion of a Presiding Body pursuant to Rule 3.5.3 of Annex 1705(1) and 1718(1).

Complaining Person means:

- (a) a Person who or that has requested a Panel pursuant to Article 1716(1); or
- (b) for purposes of Article 1711, a Person of a Party in a Pre-existing Dispute; or
(c) a Person added to a Panel Proceeding as a Complaining Person at the
discretion of a Panel pursuant to Rule 3.5.4 of Annex 1705(1) and 1718(1).

**Complaint Recipient** means the Party complained against by a Complaining Party
pursuant to Article 1703(1) or by a Person of a Party pursuant to Article 1713(3).

**Compliance Panel** means a panel convened pursuant to a request made in accordance
with Article 1707(9) or Article 1721(9).

**Compliance Report** means a report issued by a Compliance Panel pursuant to Article
1707(11) or Article 1721(11), including any clarifications or corrections made to that report
pursuant to Article 1707(13) or Article 1721(13).

**Consulting Participant** means a Party that has given notice of its intention to participate in
consultations in accordance with Article 1702.1(4) or Article 1715(3).

**Consulting Parties** means the Initiating Party, Replying Party and Consulting Participant.

**Disputants** means the Complaining Person and the Complaint Recipient in a Proceeding
under Part B (**Person-to-Government Dispute Resolution**).

**Disputing Parties** means the Complaining Party and the Complaint Recipient in a
Proceeding under Part A (**Government-to-Government Dispute Resolution**).

**Effective Date** means the date on which the last Party signs the Fourteenth Protocol of
Amendment to the Agreement.

**Fund** means the Internal Trade Advancement Fund established under Article 1726.

**Initiating Party** means a Party that has requested consultations pursuant to Article
1702.1(1).

**Intervenor** means:

(a) a Party that has joined a Proceeding as an intervenor in accordance with
Article 1703(9.1) or 1716.2, or at the discretion of a Panel pursuant to Rule
3.5.1 of Annex 1705(1) and 1718(1); or

(b) a Party that has joined any other Proceeding as an intervenor at the
discretion of a Presiding Body pursuant to Rule 3.5.2 of Annex 1705(1) and
1718(1); or

(c) a Person who or that has joined a Proceeding as an intervenor at the
discretion of a Panel pursuant to Rule 3.5.4 of Annex 1705(1) and 1718(1).

**Monetary Penalty** means the penalty ordered by a Compliance Panel in the Compliance
Report mentioned in Articles 1707(11) and 1721(11).
Operational Costs means

(a) all per diem fees and other disbursements payable to Presiding Body members for the performance of their duties as Presiding Body members;

(b) fees and disbursements of experts retained by the Presiding Body;

(c) costs of third party facilities and equipment used for meetings or hearings involving the Presiding Body; and

(d) costs of a Screener that are included in an Operational Costs order deemed to have been made pursuant to Article 1714(4).

Panel means a panel established pursuant to Article 1704 or Article 1717.

Party of the Person means the Party that refused to initiate Proceedings on the Person’s behalf or request a Panel pursuant to Article 1712(4) or Article 1712(6), or the Party of the contact point that refused to make representations on the Person’s behalf or request a Panel pursuant to Article 513(6) (Complaint Procedures – Provinces), as the case may be.

Participating Parties means the Disputing Parties and all Intervenors (if any) in a Proceeding under Part A (Government-to-Government Dispute Resolution).

Participants means the Disputants and all Intervenors (if any) in a Proceeding under Part B (Person-to-Government Dispute Resolution).

Person, means a natural person or enterprise including a trade union as recognized by the applicable legislation of a Party.

Pre-existing Dispute means a dispute for which a Report has been issued pursuant to a Proceeding under Part B (Person-to-Government Dispute Resolution) and which remains unresolved as of the Effective Date within the meaning of Article 1711.

Presiding Body means, as the case may be, a Panel, Summary Panel, Compliance Panel or Appellate Panel.

Proceeding means a dispute resolution proceeding before a Panel, Summary Panel, Compliance Panel or Appellate Panel, as the case may be.

Report means a report issued by a Panel pursuant to Article 1706(1), Article 1719(1), or which is deemed to be a report under Article 1706.1(7) or 1720(7), including any clarifications or corrections made to that report pursuant to Article 1706(5), Article 1706.1(9), Article 1719(5) or Article 1720(9);

Replying Party means the Party with which an Initiating Party has requested consultations pursuant to Article 1702.1(1).
**Respondent** means the Disputing Party against which an appeal of a Panel decision is taken pursuant to Article 1706.1(1) or the Disputant against which an appeal of a Panel decision is taken pursuant to Article 1720(1).

**Screener** means an individual appointed by a Party under Article 1714(1), or by the Secretariat under Article 1714(4), to review requests made by Persons under Article 1713(3).

**Standby** means an irrevocable standby letter of credit issued by a Canadian chartered bank or credit union at the request of a Party and for the benefit of the Secretariat acting as trustee for the Parties to the Agreement, and containing the terms set out in Annex 1701(4)(b)(ii).

**Summary Panel** means the panel convened pursuant to Article 1711(3).

**Tariff Costs** means reasonable costs incurred by a Party or Person in a Proceeding in respect of:

(a) counsel or agent's fees to prepare for the hearing, to a maximum of $14,301;

(b) counsel or agent's fees to attend the hearing for each of the first five days, to a maximum per day of: $2,288; and thereafter for each day up to 10 days, to a maximum per day of $1,717;

(c) fees and disbursements of experts, to a maximum of $14,301; and

(d) charges for postage, courier services and disbursements, including travel expenses.

These maximum allowable amounts are the Tariff Costs that may be awarded in the calendar year in which the Effective Date falls. Beginning in the following calendar year and in each calendar year thereafter, the Secretariat will increase such amounts by that percentage by which the Consumer Price Index (published by Statistics Canada) has increased between January 1 and December 31 of the previous calendar year. If there has been no increase or if there has been a decrease in that period, the amounts will remain the same for the following calendar year.

**Total Ordered Costs and Monetary Penalties** means the total sum of all Tariff Costs, Additional Costs and any Monetary Penalty that a Complaint Recipient has been ordered to pay by Presiding Bodies over the entire course of a Proceeding commencing with the request for a Panel under Article 1716, and ending with a Compliance Report issued under Article 1721.

**Transition Period** is the period that commences upon the Effective Date and terminates 180 days after that date.
ANNEX 1701(4)(b)(ii)

Irrevocable Standby Letter of Credit

(To be printed on Bank letterhead)
Month xx, 20__

TO: Internal Trade Secretariat Corporation (“ITSC”), Trustee for the beneficiaries

Re: Irrevocable Standby Letter of Credit No. X.

At the request of the PROVINCE of ___________ (name and address of the bank or financial institution) (the “Bank”) hereby issues in favour of the Internal Trade Secretariat Corporation (“ITSC”), acting as trustee for the Signatories listed in Exhibit “A” (the “Signatories”) to the Agreement on Internal Trade dated July 18, 1994, as amended from time to time (“AIT”), this irrevocable Standby Letter of Credit No._________ (the “Standby”) in the total amount of ______________ (the maximum amount for the Province set out in AIT Annex 1707.1(2) and 1722) (the “Available Amount”) which is available upon receipt by the Bank of:

(a) a written demand from the ITSC for payment addressed to the Bank bearing the clause "drawn under irrevocable Standby Letter of Credit No.________, issued by the Bank";

(b) a certified copy of the Compliance Panel Order for a Monetary Penalty in the form attached in Exhibit “B”;

(c) a Certificate of the Executive Director of ITSC stating that it has the right to present a demand for payment in accordance with the AIT; and

(d) a Direction executed by the Executive Director of ITSC instructing the Bank to pay the amount or amounts drawn therein to the Beneficiaries in accordance with the Certificate of Penalty.

The Bank agrees to pay to the Signatories identified as the Complaining Party or Parties in the aforementioned Certificate of Penalty and in the Direction an amount up to ______________ (Available Amount), and to provide the ITSC written confirmation and details of payment.

The Bank will honour any demand for payment under this Standby without any enquiry on its part as to whether ITSC is entitled to make such demand and notwithstanding any disputes or objections between the Province of ___________ and/or ITSC and/or any of the Signatories. ITSC shall not have any obligation to institute legal Proceedings against the Province before presenting a demand for payment pursuant to this Standby.

EXPIRY DATE

This Standby shall expire at _____ on ______________ (insert date corresponding to five years from the date of its issuance) (the “Expiry Date”).
IRREVOCABILITY

This Standby shall remain in full force and effect until the earlier of the Expiry Date or the date on which the Bank receives:

(a) from ITSC, a written notice confirming
   (i) that the Province of ____________ has withdrawn from the AIT in accordance with Article 1811 or
   (ii) that the Standby is no longer required, or

(b) from ITSC solely or from the Province of ____________ and at least one other Signatory, notice confirming that the AIT has been terminated.

DRAWS

Partial and multiple draws are permitted under this Standby and with each such draw, the Bank will, concurrently, with the payment requested by ITSC, note on this Standby the amount of such draw, and this Standby with such annotation thereon shall be returned afterwards to ITSC except if the draw is effected by facsimile as described below.

All correspondence and/or drawing documents shall be presented to the Bank at (address) between 08:30 and 17:00 (local time) on or before the Expiry Date and shall refer to its Standby No._______. If drawing documents are presented by facsimile, the Bank shall solely consider and examine the drawing documents so transmitted. ITSC is not to further present any original drawing document. Payment shall be made in Canadian currency by wire transfer to the account designated for such purpose by ITSC in its demand for payment.

This Standby is not transferable. ITSC may not assign all or part of the proceeds of any draws hereunder without the prior consent of the Bank.

Any disputes related to this Standby will be decided in accordance with the laws of the Province of ____________. This Standby is subject to the "International Standby Practices ISP98" (1 January 1999) of the International Chamber of Commerce, Publication Number 590 (the “Publication”) and for all issues not covered by the Publication, the laws applicable in the Province of ________ shall apply. In case of conflict, the Publication shall prevail. The courts of the Province of ____________ shall have exclusive jurisdiction over any dispute arising from this Standby.

THIS CREDIT IS NON-TRANSFERABLE.

THE BANK    INTERNAL TRADE SECRETARIAT CORPORATION

_________________    ______________________
Executive Vice President    Executive Director

_________________
Vice President
EXHIBIT "A"

The signatories of the Agreement on Internal Trade are the following:

Government of Alberta
Government of British Columbia
Government of Canada
Government of Manitoba
Government of New Brunswick
Government of Newfoundland and Labrador
Government of Northwest Territories
Government of Nova Scotia
Government of Ontario
Government of Prince Edward Island
Government of Quebec
Government of Saskatchewan
Government of Yukon
EXHIBIT "B"

(Form of Certification of Order for Monetary Penalty)

{At the end of a copy of a Compliance Panel Order, the Executive Director of the Secretariat will add the following certification:}

I, _____________________, Executive Director of Internal Trade Secretariat Corporation, certify that I have compared this document with the original Compliance Panel Order dated ________________ and certify that it is a true copy thereof.

Signed in _________________ (city), in ______________ (province or territory) on ________________ (date of signing).

____________________
Executive Director

Internal Trade Secretariat Corporation
Suite 850
444 St. Mary Ave
Winnipeg MB
R3C 3T1
Annex 1704(2)

Panel, Summary Panel, Compliance Panel and Appellate Panel Rosters

1. Rules 2 to 6 apply to the Panel, Summary Panel and Compliance Panel roster only.

2. Each Party shall be entitled to appoint up to five members to the roster.

3. Roster members shall:

   (a) have expertise or experience in matters covered by the Agreement;

   (b) be independent of and not take instructions from any Party; and

   (c) serve for a term of five years, with the possibility of reappointment.

4.1 At least one member of each Party’s roster shall have expertise in Canadian administrative law or the resolution of disputes arising under Canadian administrative law. Each Party shall identify which of its members have this experience and shall make available details of that experience upon request of another Party or a Person.

4.2 Each Party shall endeavour to appoint at least one bilingual (English and French) member to the roster. Each Party shall identify which of its roster members are bilingual.

5. If there are fewer than 18 bilingual (French and English) roster members appointed by the Parties to the Panel, Summary Panel, and Compliance Panel roster, the Secretariat shall develop a supplementary list of bilingual individuals qualified to be Panel, Summary Panel or Compliance Panel roster members. The Secretariat shall submit such list to the Internal Trade Representatives for approval, and those individuals approved by the Internal Trade Representatives will be added to, and form part of, the Panel, Summary Panel or Compliance Panel roster. The Secretariat may add Panel, Summary Panel and Compliance Panel roster members in this manner whenever there are fewer than 18 bilingual roster members appointed to the Panel, Summary Panel and Compliance Panel roster by the Parties.

6. Where a roster member becomes unable to sit on the roster or a roster member’s term expires, the Party that appointed the member shall appoint a replacement member to the roster.

Appellate Panel Roster

7. Rules 8 to 11 apply to Appellate Panels only.

8. Each Party shall be entitled to appoint up to 5 members to the Appellate Panel roster.
9. Appellate Panel Roster members shall:

(a) have expertise in Canadian administrative law or the resolution of disputes arising under Canadian administrative law;

(b) be independent of and not take instructions from any Party; and

(c) serve for a term of five years, with the possibility of reappointment.

10.1 Each Party shall endeavour to appoint at least one bilingual (English and French) member to the Appellate Panel roster. Each Party shall identify which of its Appellate Panel roster members are bilingual.

10.2 If there are fewer than 18 bilingual Appellate Panel Roster members appointed by the Parties to the Appellate Panel roster, the Secretariat shall develop a supplementary list of bilingual individuals qualified to be Appellate Panel roster members. The Secretariat shall submit such list to the Internal Trade Representatives for approval, and those individuals approved by the Internal Trade Representatives will be added to, and form part of, the Appellate Panel roster. The Secretariat may add Appellate Panel roster members in this manner whenever there are fewer than 18 bilingual roster members appointed to the Appellate Panel roster by the Parties.

11. Where an Appellate Panel roster member becomes unable to sit on the Appellate Panel or such member’s term expires, the Party that appointed the member shall appoint a replacement member to the Appellate Panel roster.
Annex 1705(1) and 1718(1)

Panel, Compliance Panel and Appellate Panel Rules of Procedure

These rules are intended to give effect to the provisions of Chapter Seventeen with respect to Panel, Compliance Panel and Appellate Panel Proceedings conducted pursuant to that Chapter. These rules should not be construed to extend or limit the jurisdiction of Presiding Bodies.

Application

1. These rules are established under Article 1705 and Article 1718 and shall apply to Proceedings under Chapter Seventeen.

2. Intentionally deleted.

General Rules

3. Subject to these rules, the Presiding Body is to conduct Proceedings in such manner as it considers appropriate, provided that the Proceedings are as transparent as possible, that the Participating Parties or Participants are treated with equality and that at any stage of the Proceedings each Participating Party or Participant is given a full opportunity to present its case.

Interpretation

3.1 These Rules shall be liberally construed to secure the fairest, most transparent, least expensive and most expeditious determination of every Proceeding.

Directions on Procedure

3.2 Subject to Article 1705(2) and Article 1718(2), where in any Proceeding, a question of procedure arises to which these rules do not provide an answer, or the answer they do provide is incomplete, the question shall be disposed of in such manner as the Presiding Body decides is reasonable in the circumstances and consistent with principles of fairness.

3.3 Subject to Article 1705(2) and Article 1718(2), to provide for a more expeditious process in a manner that is reasonable in the circumstances and consistent with principles of fairness, the Presiding Body may vary or supplement any of these rules if it is fair and equitable to do so.

Combining Proceedings

3.4 The Panel may, on the written request of a Disputing Party or Disputant, and after hearing the submissions of all Disputing Parties or Disputants, combine two or more Proceedings to provide for a more expeditious process, if it is reasonable in the circumstances and consistent with principles of fairness to do so.
Adding Parties or Persons to a Proceeding

Parties as Intervenors – Panel Proceeding

3.5.1 The Panel may, on the written request of a Party that has not provided the written notice as required pursuant to Article 1703(9.1) or Article 1716.2, add the Party as an Intervenor to the Panel Proceeding if:

   (a) the Party has a substantial interest in the matter in dispute within the meaning of Article 1703(10) or Article 1716.2; and
   (b) it is reasonable in the circumstances and consistent with principles of fairness to do so.

Parties as Intervenors – Other Proceedings

3.5.2 A Presiding Body may, on the written request of a Party, add the Party as an Intervenor to any other Proceeding if it is reasonable in the circumstances and consistent with principles of fairness to do so.

Complaining Parties – Panel Proceeding

3.5.3 The Panel may, on the written request of a Consulting Participant that has not provided the written notice as required pursuant to Article 1703(9.2), add the Consulting Participant as a Complaining Party to the Proceeding if it is reasonable in the circumstances and consistent with principles of fairness to do so.

Persons – Panel Proceeding

3.5.4 The Panel may, on the written request of a Person, add the Person as an Intervenor or a Complaining Person to a Proceeding if it is reasonable in the circumstances and consistent with principles of fairness to do so.

Extending or Abridging Time Limits

3.6 If it is fair and equitable to do so, and after having afforded the Participating Parties or Participants, as the case may be, the opportunity to provide comments, the Presiding Body may extend or abridge the time limits fixed by these rules or otherwise fixed by the Presiding Body, either before or after their expiry.

Defect in Form and Irregularity

4. No Proceeding is invalid by reason of a defect in form or a technical irregularity.
Responsibilities of the Secretariat

5. The Secretariat shall provide administrative support for all Proceedings, including making arrangements necessary for all pre-hearing conferences and oral hearings set by the Presiding Body in conjunction with the Participating Parties or Participants, and for meetings of the Presiding Body.

6. The Secretariat shall maintain the record of each Proceeding, comprised of all relevant documents, including originals or copies, filed in that Proceeding. Where necessary, the Secretariat may certify copies as true copies of the original. All documents filed shall be stamped by the Secretariat to show the file identification number and date and time of receipt.

7.1 The Secretariat shall forward copies of any request for a Panel pursuant to Article 1703(1) or Article 1716(1), request for a Summary Panel pursuant to Article 1711(1), request for a Compliance Panel pursuant to Article 1707(9) or Article 1721(9), and Notice of Appeal pursuant to Article 1706.1(2) or Article 1720(2), to those Parties and those Participants that are Persons that did not make the request or provide the Notice of Appeal promptly after receiving such request or notice.

7.2 The Secretariat shall forward copies of all other documents and submissions filed with the Secretariat in a Proceeding, and reports, decisions, orders, and directions or other written communications (whether on procedural or other matters) issued by the Presiding Body, to the Participating Parties or Participants, as the case may be, promptly after receiving such documents, submissions, reports, decisions, orders, directions or other written communications. Where an order for a Monetary Penalty has been made by a Compliance Panel, or an order for Tariff Costs or Additional Costs has been made by a Presiding Body, the Secretariat shall forward a certified copy of the order to each Participating Party or Participant affected by the order.

8. The Secretariat shall advise Participating Parties or Participants, in a timely manner, of the time, date and location (or dial-in co-ordinates, if applicable) of all pre-hearing conferences, oral hearings or other meetings before the Presiding Body, set by the Presiding Body in conjunction with the Participating Parties or Participants.

9. The Secretariat shall enter into the record all reports, decisions, orders, directions and written communications issued by the Presiding Body.

10. Where the Complaint Recipient has filed a Standby pursuant to Article 1701(4)(b)(ii) and fails to comply with the Monetary Penalty order within the time specified in Article 1707.2(3) or Article 1723(5), the Secretariat shall, within seven days after such time, demand payment in accordance with the procedure set out in the Standby. The Secretariat shall provide notice to the Complaint Recipient that its Standby has been presented to the financial institution for payment.
Translation and Interpretation

11. Written documents and submissions filed by a Participating Party or Participant in connection with or during a Proceeding, and oral hearings, may be in either official language.

12. The Secretariat shall provide for interpretation and translation, as the case may be, of written documents and submissions, oral hearings and reports of Presiding Bodies, if a Participating Party, Participant or a member of the Presiding Body so requests. Participating Parties and Participants are encouraged to provide documents and submissions in both official languages whenever feasible.

13. When a report of a Presiding Body is made public, it shall be issued in both official languages simultaneously. Each version shall be equally authentic.

Operation of a Presiding Body

14. The chairperson of a Presiding Body shall take the chair at all its meetings.

15.1 The chairperson of a Presiding Body shall fix the date and hour of its hearings in accordance with these rules following consultations with other Presiding Body members, the Participating Parties or Participants (as the case may be) and the Secretariat.

15.2 Except to the extent that a Presiding Body otherwise directs, hearings shall be public.

15.3 Where the report of a Presiding Body is not unanimous, the members supporting each opinion shall be identified.

16. Meetings of a Presiding Body and pre-hearing conferences before a Presiding Body, but not hearings, may be conducted by telephone conference call or other electronic means.

17. A Presiding Body may adopt its own internal procedures for routine administrative matters.

Confidentiality

18. Where a Participating Party or Participant indicates that any information contained in documents filed with the Secretariat or forwarded to other Participating Parties or Participants, in connection with a Proceeding, is to be treated confidentially:

(a) because the information is commercially sensitive or otherwise protected by law; or

(b) because its disclosure could impair intergovernmental relations or obligations;

the Secretariat, the Presiding Body and all other Participating Parties or Participants shall
take all necessary steps to protect the confidentiality of the information and may enter into pre-hearing agreements regarding the protection of such information.

19. A Participating Party or Participant may disclose to other Persons such information in connection with a Proceeding as it considers necessary to prepare its case, but it shall take all necessary steps to ensure that such other Persons maintain the confidentiality of the information.

20. The Secretariat shall take all necessary steps to ensure that experts, interpreters, translators, court reporters and other individuals retained by the Secretariat maintain the confidentiality of any information designated as confidential.

21. On request of another Participating Party or Participant, a Participating Party or Participant shall promptly deliver to the other Participating Parties or Participants and the Secretariat a non-confidential summary of its written submissions.

22. The Presiding Body shall make the Participating Parties’ or Participants’ written submissions available to the public no later than at the beginning of the hearing before it, except those parts of the written submissions that contain proprietary or confidential information as specified in Rule 18.

Prior Contact with Presiding Body Member Prohibited

23. A Person or Party intending to appoint a Presiding Body member pursuant to any provision of Chapter Seventeen shall not contact the proposed Presiding Body member regarding his or her appointment or regarding any other matter related to the dispute or to any issue to be decided by the Presiding Body.

24. Intentionally deleted.

25. Intentionally deleted.

26. Intentionally deleted.

Panel Proceedings: Written submissions

27. A Disputing Party or Disputant that has requested a Panel shall file a written submission with the Secretariat within 45 days after the date on which it delivered the request to the Secretariat and the Secretariat shall forward copies of the submission to the other Participating Parties or Participants. The Disputing Party or Disputant shall include in its submission any documentary evidence, including witness statements and experts’ reports, on which it is relying to support its complaint.

28. The written submissions of the other Participating Parties or Participants shall be filed with the Secretariat,

(a) in the case of a Party that has provided written notice under Article 1703(9.1) or Article 1716.2(1) that it intends to join the Panel Proceeding as Intervenor, within 21 days after the initial written submission has been filed with the
(b) in the case of a Consulting Participant that has provided written notice under Article 1703(9.2) that it wishes to be added to the Panel Proceeding as a Complaining Party, within 21 days after the initial written submission has been filed with the Secretariat; and

(c) in the case of the Complaint Recipient, within 45 days after the initial written submission has been filed by a Disputing Party or Disputant with the Secretariat,

and the Secretariat shall forward copies of the written submissions to each of the Participating Parties or Participants. The Participating Parties or Participants shall include in their submissions any documentary evidence, including witness statements and experts’ reports, on which they intend to rely to support their respective positions.

29.1 The Panel may allow further written submissions and shall fix the date for their filing. Participating Parties or Participants permitted to make further written submissions shall include in such submissions any further documentary evidence, including witness statements and experts’ reports, on which they intend to rely.

29.2 Documentary evidence not included in a Participating Parties’ or Participants’ submission may not be introduced without the permission of the Presiding Body. Where a Presiding Body grants such permission, the Presiding Body shall also, where it considers appropriate, allow the other Participating Parties or Participants to submit brief replies to the newly-introduced evidence.

30.1 The Panel shall convene a pre-hearing conference of Participating Parties or Participants to:

(a) determine the date of the hearing, which shall be fixed within 30 days after the date on which the last written submission was received by the Secretariat, and shall, to the extent reasonably and practicably possible, accommodate the schedules of the Participating Parties or Participants and their representatives;

(b) determine the place and location of the hearing;

(c) identify, to the extent possible, the Participating Parties or Participants in the Panel Proceeding;

(d) determine how many individuals, including counsel and observers, the Participating Parties or Participants know or expect will attend the hearing;

(e) establish how much time will be allotted for the hearing as a whole, after receiving an estimate of time required for oral submissions from each Participating Party or Participant.

(f) address what steps are to be taken or pre-hearing agreements are required
to protect the confidentiality of information that a Participating Party or Participant has indicated shall be treated as confidential pursuant to Rule 18 of this Annex.

30.2 The Panel may convene one or more pre-hearing conferences to determine:

(a) whether a Complaining Party has a substantial and direct connection with a Person within the meaning of Article 1703(6), (7) or (8);

(b) whether a Party has a substantial interest in the matter in dispute within the meaning of Article 1703(10) or Article 1716.2(3);

(c) whether a Party should be permitted to be added as Intervenor to the Panel Proceeding pursuant to Rule 3.5.1;

(d) whether a Consulting Participant should be permitted to be added as a Complaining Party to a Panel Proceeding pursuant to Rule 3.5.3;

(e) whether a Person that has requested permission to join the Panel Proceeding as an Intervenor or Complaining Person pursuant to Rule 3.5.4 should be permitted to do so;

(f) who will be making oral submissions on behalf of the Participating Parties or Participants and what their roles will be;

(g) the order in which the Participating Parties or Participants will be heard at the hearing;

(h) subject to Rule 31, whether an issue in the Proceeding is within the scope of the Agreement;

(i) whether to permit further written submissions and if so, to fix the date for their filing;

(j) any issues regarding the exchange of information or evidence by Participating Parties or Participants; and

(k) any other matter relevant to the Proceeding.

30.3 If a procedural matter is raised by a Participating Party or Participant before the hearing, the Panel shall promptly convene a pre-hearing conference to address the matter in consultation with all Participating Parties or Participants.

30.4 The Secretariat shall create and maintain a transcript of each pre-hearing conference. The Presiding Body shall issue a written record of all determinations made by it during the pre-hearing conference, or after the pre-hearing conference as they relate to matters raised in such pre-hearing conference. The Secretariat shall promptly distribute such pre-hearing conference record to all Participating Parties or Participants.
31. For the purposes of paragraph (h) of Rule 30, “scope” means the range of rights and obligations encompassed by the Agreement. The Panel may refuse to make such a determination at a pre-hearing conference and instead decide to deal with the issue at the Panel hearing.

Panel Proceedings: Hearing

32. Intentionally deleted.

33. The hearing shall, unless the Participating Parties or Participants otherwise agree, be held in the capital city of the Complaint Recipient.

34.1 Members of the Presiding Body shall be present during the hearing. Participating Parties or Disputants who have not filed submissions may not present oral arguments without the consent of the Panel and all other Participating Parties or Disputants.

34.2 Participation by an Intervenor in a Panel Proceeding under Part B (Person-to-Government Dispute Resolution) is limited to the written submission set out in Rule 28(a).

35. Except to the extent that a Presiding Body otherwise directs, the hearing shall be conducted in the following manner:

(a) argument of the Complaining Party or Complaining Person;

(b) presentation of any Intervenor that has joined a Panel Proceeding pursuant to Article 1703(9.1) Article 1716.2, Rule 3.5.1 or Rule 3.5.2 (with permission pursuant to Rule 44.3, if applicable);

(c) argument of the Complaint Recipient;

(d) reply of the Complaining Party or Complaining Person.

36.1 Oral arguments shall be limited to the issues in dispute.

36.2 Where interpretation or translation services are used during a hearing, a Presiding Body shall ensure that Participating Parties or Participants requiring such services are afforded sufficient additional time to make their arguments, presentations or replies and to allow them to follow the arguments, presentations or replies of other Participating Parties or Participants.

Panel Proceedings: Supplementary written submissions

37. The Panel may at any time during a Proceeding address questions in writing to one or more of the Participating Parties or Participants. The Panel shall deliver the written questions to the Participating Party or Participant to whom the questions are addressed through the Secretariat, which shall also provide for delivery of copies of the questions to all other Participating Parties or Participants.
38. A Participating Party or Participant to whom the Panel addresses written questions shall deliver a copy of any written reply to the Secretariat, which in turn shall provide for the delivery of copies of the reply to all other Participating Parties or Participants. Each other Participating Party or Participant shall be given the opportunity to provide written comments on the reply within five days after the date of delivery.

Panel Proceedings: Report of Panel

39. The Report shall be issued within 45 days after the date the hearing was completed or such other period of time as the Disputing Parties or Disputants may agree.

40. Intentionally deleted.

41. Intentionally deleted.

Notice of Suspension and Negotiation of Mutually Satisfactory Resolution

42.1 Where the Disputing Parties or Disputants, or some of them, at any time prior to the issuance of the Report of the Presiding Body, agree to suspend the Proceedings for the purposes of negotiating or achieving a mutually satisfactory resolution of the dispute, they shall provide written notification of their agreement to suspend the Proceedings to the Secretariat and to any other Disputing Party or Disputant.

42.2 Where a Disputing Party or Disputant does not agree to the suspension, that Disputing Party or Disputant shall, within 7 days of receiving the notification made pursuant to Rule 42.1, provide written notice of its opposition to the other Disputing Parties or Disputants that agree with the suspension shall apply to the Presiding Body for an order to suspend the Proceeding.

42.3 Where an application is made pursuant to Rule 42.2, the Presiding Body shall determine whether to order a suspension of the Proceedings under Article 1707(4) or Article 1721(4).

42.4 Where the Proceedings have been suspended by consent of all Disputing Parties or Disputants, any Disputing Party or Disputant may withdraw its consent and resume the Proceedings at any time subject to procedural direction by the Presiding Body.

42.5 Where the Proceedings have been suspended pursuant to an order of the Presiding Body under Rule 42.3, any Disputing Party or Disputant subject to the order may, on written notice to the other Disputing Parties or Disputants and to the Secretariat, apply to the Presiding Body to terminate the suspension within 36 months of the date of suspension.

Appellate Panel Proceedings: Notice of Appeal

43.1 A Disputing Party or Disputant that decides to appeal shall provide to the Secretariat and the other Participating Parties or Participants a notice of appeal that briefly outlines its grounds of appeal and the relief sought.
43.2 No appeal may be taken if a notice of appeal has not been provided to the Secretariat within 30 days of the issuance of the Report.

Appellate Panel Proceedings: Written Submissions

44.1 Within 75 days of the date of the Report, the Appellant shall provide a written submission in support of its appeal to the Respondent, to the other Participating Parties or Participants and to the Secretariat.

44.2 Within 45 days of receipt of the Appellant's submission, the Respondent shall, and an Intervenor may, provide a written response to the Appellant, to the other Participating Parties or Participants and to the Secretariat.

44.3 Participation in the appeal process by an Intervenor is limited to the written response set out in Rule 44.2 unless an Intervenor requests, and the Appellate Panel permits, an Intervenor to participate orally in the hearing.

Appellate Panel Proceedings: Hearing

45.1 Upon receipt of the notice of appeal by the Secretariat, a hearing before the Appellate Panel shall be convened forthwith.

45.2 Except to the extent the Appellate Panel otherwise directs,

(a) the hearing shall be held in the capital city of the Respondent to the appeal, and

(b) the hearing shall be conducted in the following manner:

(i) Oral argument of the Appellant followed by

(ii) Oral argument of the Respondent.

Appellate Panel Proceedings: Appellate Report

46. The Appellate Panel shall issue the Appellate Report within 90 days of the completion of the hearing.

Rules 47.1 to 49 intentionally deleted. Costs provisions now found in Annex 1734.

Compliance Panel Proceedings: Written Submission and Hearing (Optional)

50.1 A Disputing Party or Disputant making a request for a Compliance Panel shall do so in writing and shall deliver it to the other Disputing Parties or Disputants and to the Secretariat and shall include written submissions supporting its position.

50.2 Roster members who served on the Panel will also comprise the Compliance Panel. Where one or more members of the Panel are no longer available to serve on the Compliance Panel, members will be appointed in accordance with the procedure set out in Rule 53.
50.3 A Disputing Party or Disputant notified of a request for a Compliance Panel may, within 60 days of receipt of such notice, provide a written reply to submissions delivered pursuant to Rule 50.1 and shall deliver it to any other Disputing Party or Disputant and to the Secretariat.

**Compliance Panel Proceedings: Compliance Report**

50.4 The Compliance Panel shall consider submissions of the Disputing Parties or Disputants and may seek further written clarification from them. The Compliance Panel may also, at its discretion, convene a hearing with Disputing Parties or Disputants.

50.5 The Compliance Panel shall issue a Compliance Report within 45 days of the expiry of the deadline for submissions by Disputing Parties or Disputants under Rule 50.3 or, where a compliance hearing is held, within 45 days of the conclusion of the hearing.

**Discontinuance**

51. A Disputing Party or Disputant that desires to discontinue its participation in a Proceeding shall file with the Secretariat a notice of discontinuance, and on the same date provide a copy of it to the other Disputing Parties or Disputants.

**Convening of Panel under Article 1709**

52.1 Where a panel is convened by the Committee:

(a) under Article 1709(5) to determine whether the suspension of benefits or the imposition of retaliatory measures by a Complaining Party or Party of the Complaining Person is manifestly excessive; or

(b) under Article 1709(7) to determine whether any action taken by the Complaint Recipient to resolve the dispute is sufficient or satisfactory,

the Panel shall issue its decision within 45 days after the matter is referred to it.

52.2 The Panel shall, as soon as possible after being convened under Article 1709(5) or Article 1709(7), determine the manner in which it intends to proceed and shall, through the Secretariat, notify the Participating Parties or Participants thereof.

**Unavailability of Panellist**

53. Where a Presiding Body has been convened or reconvened pursuant to any provision of Chapter Seventeen, and, for any reason, a member of that Presiding Body is unable to further participate, a replacement member shall be appointed using the same process that was used to appoint the original member.

**Rules 54 to 57 intentionally deleted. Costs provisions now found in Annex 1734.**
Annex 1707.1(2) and 1722(2)

Monetary Penalty Tiers

The following tiers, based on the population of a Party from time to time determined by the most recent version of the Census of Canada, published by Statistics Canada, represent the maximum Monetary Penalties, on a per case basis, that a Compliance Panel may order against non-compliant Parties:

- Population not exceeding 550,000, maximum penalty $250,000
- Population exceeding 550,000, but not exceeding 750,000, maximum penalty $750,000
- Population exceeding 750,000, but not exceeding 1,500,000, maximum penalty $1,500,000
- Population exceeding 1,500,000, maximum penalty $5,000,000
Summary Panel Proceeding

1. Once a Summary Panel has been established, the Secretariat shall provide each Summary Panel member with a copy of the record of the Pre-existing Dispute.

2. The record of the Pre-existing Dispute is admissible in a Summary Panel Proceeding.

3. In a Summary Panel Proceeding, the onus is on the Complaint Recipient to demonstrate that the measure is not inconsistent with its obligations under the Agreement.

4. The Summary Panel shall endeavour to issue the Report of the Summary Panel within 90 days of the conclusion of the hearing. In the Report, it shall include the following:

   (a) findings of fact;

   (b) where the Pre-existing Dispute emanated out of a Panel Proceeding under Part B of this Chapter, a determination, with reasons, as to whether the measure in question is inconsistent with the Agreement;

   (c) if an affirmative determination has been made in (b), a determination, with reasons, as to whether the measure has impaired internal trade and has caused injury or denied a benefit;

   (d) recommendations, if requested by a Disputing Party or Disputant, to assist in resolving the dispute;

   (e) a determination as to apportionment of Operational Costs in accordance with Annex 1734; and

   (f) where applicable, and at the discretion of the Summary Panel, an order awarding Tariff Costs to a Complaining Person, as provided for in Annex 1734.

The Report of the Summary Panel shall be delivered to the Secretariat for distribution according to Rule 9 of Annex 1705(1) and 1718(1).

5. Except as otherwise provided in this Annex, the provisions of Chapter Seventeen, including the Rules of Procedure in Annex 1705(1) and 1718(1), apply, with such modifications as may be required, to a Summary Panel Proceeding.

6. For the purposes of applying Article 1707(9) or Article 1721(9), a Disputing Party or Disputant may request that the Secretariat reconvene the Summary Panel as a Compliance Panel 60 days after the date on which the Report of the Summary Panel is issued, or, where an alternate implementation period has been ordered or permitted by the Summary Panel, on the expiry of such alternate implementation period.
7. A Report of the Summary Panel under this Annex is final and is not subject to judicial review or to appeal pursuant to Article 1706.1(1) or 1720(1).

8. For purposes of applying Rule 50.5 of Annex 1705(1) and 1718(1), the Summary Panel, when acting as a Compliance Panel, shall issue the Compliance Report no later than 45 days from the conclusion of the hearing.
Responsibilities of Screener

1. The Screener is responsible for reviewing requests made by Persons pursuant to Article 1713(3) and provided to the Screener by the Secretariat. The Screener has no authority to review any other requests. Upon receipt, the Screener shall review a request and accompanying documents without delay to determine whether the request is accompanied by all of the documents required pursuant to Article 1713(3), and whether the request and accompanying documents are sufficiently complete and clear for the Screener to:

   (a) identify the measure which is the subject-matter of the dispute;

   (b) identify the provisions of the Agreement that are relevant to the dispute;

   (c) establish what requests were made by the Person and what responses were given by the Party of the Person pursuant to Article 1712, or what requests were made by the Person and what responses were given by the contact point of the Party of the Person pursuant to Article 513, and when they were made and given;

   (d) confirm whether the Party of the Person provided or failed to provide a notice of refusal to the Person pursuant to Article 1712(4) or (6), or whether the contact point of the Party of the Person provided or failed to provide a notice of refusal pursuant to Article 513(5) or (6) (Complaint Procedures – Provinces);

   (e) establish whether the Person is prohibited from initiating Proceedings pursuant to Articles 1713(5), (6), (7) or (8) and Article 1727.

2. Where the request is not accompanied by all of the requisite documents or where the request and accompanying documents are not sufficiently complete or clear, in the Screener’s view, to identify, establish or confirm the details listed in paragraphs 1(a) through (e), the Screener may request the Person or the Party of the Person, the Complaint Recipient or any other entity or individual the Screener thinks may provide relevant information, to provide further documents, information or clarification. The Screener may require such additional information or clarification to be submitted in writing only. The Screener may also require the Person, the Party of the Person, the Complaint Recipient or other entity or individual from whom the additional information or clarification is being sought, to meet with the Screener.

3. Where the Screener cannot establish whether the Person is prohibited from initiating Proceedings pursuant to Articles 1713(5), (6), (7) or (8) and Article 1727, the
Screener shall assume that the Person is not so prohibited, and shall state such assumption and the basis for it in the Screener's decision.

4. Where the Screener has determined that the Person is not prohibited from initiating Proceedings pursuant to Articles 1713(5), (6), (7) or (8) and Article 1727, or where the Screener has assumed that the Person is not so prohibited pursuant to paragraph 3, the Screener shall determine, based on the factors in Article 1714(8), whether the Person should be permitted to initiate Proceedings.

5. In reviewing the complaint and in the written decision, the Screener is to conduct a review of the facts in accordance with Article 1714(8). The Screener shall not pronounce, conclude or speculate on the merits of the complaint, including whether the measure is or is not consistent with the Agreement and the arguments that may support or detract from such a finding, the extent of injury or denial of benefit caused or claimed to be caused by the measure, or the outcome of any further dispute resolution process.

6. The Complaint Recipient may be consulted by the Screener to ensure greater consistency and fairness in the screening process.

7. The Screener shall render its decision in accordance with and within the time provided for in Article 1714(9). The Screener shall make the decision personally, independently and with impartiality.

Responsibilities of Secretariat

8. The Secretariat shall distribute a copy of the request made under Article 1713(3) and accompanying documents to the Screener of the Party of the Person, to the Party of the Person and to all other Parties.

9. The Secretariat shall make the Screener's decision public within seven days after it receives notice thereof.
Annex 1731

Code of Conduct for Panellists

PREAMBLE

The Parties place importance on the integrity and impartiality of Proceedings conducted pursuant to the provisions of Chapter Seventeen of the Agreement on Internal Trade. This Code of Conduct is hereby established to ensure that these principles are respected.

This Code of Conduct is intended to assist the Committee, the Secretariat and Presiding Body members in the operation of dispute resolution procedures involving Presiding Bodies under Chapter Seventeen.

The governing principle of this Code of Conduct is that a candidate or member shall disclose the existence of any interest, relationship or matter that is likely to affect the candidate’s or member’s independence or impartiality, that is, which creates a reasonable apprehension of bias or an appearance of impropriety.

A reasonable apprehension of bias is created where a reasonable Person, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, would reasonably conclude that a candidate or member has an interest, relationship or matter that might have an influence on the exercise of the candidate’s or member’s public duties.

The disclosure obligation, however, should not be interpreted so that the burden of detailed disclosure makes it impractical for Persons to serve as members, thereby depriving the Parties and Participants of the services of those who might be best qualified to serve as members. Thus, candidates and members should not be called upon to disclose interests, relationships or matters whose bearing on their role in the Proceeding would be trivial.

Throughout the Proceeding, candidates and members have a continuing obligation to disclose, in writing, any interest, relationship or matter that may bear on the integrity or impartiality of the dispute settlement process.

This Code of Conduct does not determine whether or under what circumstances the Parties will disqualify a candidate or member from being appointed to, or serving as a Presiding Body member on the basis of disclosures made.
Part 1: Interpretation

1.1 Capitalized terms in this Code of Conduct have the same meanings given to them in Chapter Two or Chapter Seventeen of the Agreement.

1.2 In this Code of Conduct:

candidate means

(a) an individual whose name appears on a roster established under Annex 1704(2), or

(b) an individual who is under consideration for appointment as a member of a Presiding Body pursuant to Annex 1704(2);

family means two or more individuals related to each other by reason of blood relationships, marriage or adoption;

member means a member of a Presiding Body established pursuant to the Agreement;

staff, in respect of a member, means individuals under the direction and control of the member.

2. Any reference made in this Code of Conduct to an Article, Annex or Chapter is a reference to the appropriate Article, Annex or Chapter of the Agreement.

Part 2: Responsibilities to the Process

3. Every candidate, member and former member has the responsibility to avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.

Part 3: Disclosure Obligations

Initial Disclosure Obligation

(Conflict of Relationships)

4. A candidate shall disclose any interest, relationship or matter that is likely to affect the candidate’s independence or impartiality or that might create a reasonable apprehension of bias or appearance of impropriety in the Proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

Upon consideration for membership on a Presiding Body and at the request of the Secretariat, the candidate shall disclose such interests, relationships and matters by
completing an Initial Disclosure Statement provided by the Secretariat and sending it to the Secretariat.

Without limiting the generality of the foregoing, candidates shall disclose the following interests, relationships and matters:

(a) any financial or personal interest of the candidate

   (i) arising out of any personal, professional or other relationship with Persons associated with the Proceeding or who may benefit from its outcome, and

   (ii) arising out of any issue, that may be decided in the Proceeding for which the candidate is under consideration, or in another Proceeding, or in an administrative or domestic court Proceeding, that involves similar issues;

(b) any financial interest of the candidate's employer, partner, business associate or member of my family

   (i) arising out of any personal, professional or other relationship with Persons associated with the Proceeding or who may benefit from its outcome, and

   (ii) arising out of any issue that may be decided in the Proceeding for which the candidate is under consideration, or in another Proceeding, or in an administrative or domestic court Proceeding, that involves similar issues;

(c) any past or existing financial, business, professional, family or social relationship with any Participating Parties or Participants in the Proceeding, or their representatives or counsel, or any such relationship involving a candidate's employer, partner, business associate or member of my family; and

(d) public advocacy or legal or other representation concerning an issue in dispute in the Proceeding or involving the same goods or services.

Supplemental Disclosure Obligation

(Issue Conflicts)

5. A member in a Proceeding shall, after receiving the written submissions and counter submissions of the Participating Parties or Participants, disclose any interests, advocacy or representation, particularly as referred to in subparagraph 4(a)(ii) or (b)(ii) or paragraph 4(d), by completing a Supplementary Disclosure Statement provided by the Secretariat and sending it to the Secretariat.
Continuing disclosure Obligation

6. Once appointed, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in section 4 and shall disclose them. 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.

   The member shall disclose in writing such interests, relationships and matters by communicating them to the Secretariat for consideration by the appropriate Parties.

Part 4: The Performance of Duties by Candidates and Members

7. A candidate who accepts an appointment as a member shall be available to perform, and shall perform, a member's duties thoroughly and expeditiously throughout the course of the Proceeding.

8. A member shall carry out all duties fairly and diligently and comply with the provisions of Chapter Seventeen, the applicable rules and the Code of Conduct.

9. A member shall not deny other members the opportunity to participate in all aspects of the Proceeding.

10. A member shall consider only those issues raised in the Proceeding and necessary to make a decision and shall not delegate the duty to decide to any other individual, except as provided in the applicable rules. A member shall make his or her decision based solely on the official record.

11. A member shall take all reasonable steps to ensure that the member's staff comply with Parts 2, 3 and 7 of this Code of Conduct.

12. A member shall not make any communication concerning the Proceeding outside the scope of Presiding Body review. A member shall not have any communication with a Participating Party or Participant except in the presence of all other members and Participating Parties or Participants.

13. A candidate or member shall not communicate matters concerning actual or potential violations of this Code of Conduct unless the communication is to the Secretariat and is necessary to ascertain whether that candidate or member has violated or may violate the Code.

Part 5: Independence and Impartiality of Members

14. A member shall be independent and impartial. A member shall act in a fair manner and shall avoid creating a reasonable apprehension of bias or an appearance of impropriety.
15. A member shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.

16. 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.

17. A member shall not use the member's position on the Presiding Body 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.

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

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

Part 6: post Proceeding Conduct

20. For a period of one year after the completion of a Proceeding, a former member shall not personally advise or represent any Participating Party or Participant in the Proceeding with respect to any issues which arose in the Proceeding.

21. A member or former member shall not represent a Participating Party or Participant in a Proceeding involving the issues in dispute before the Presiding Body, or in an administrative or domestic court Proceeding involving similar issues.

22. A 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 of the Presiding Body.

Part 7: Maintenance of Confidentiality

23. 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, nor disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of another.

24. A member shall not disclose a Presiding Body Report or Presiding Body decision prior to its release by the Secretariat.

25. A member or former member shall not disclose the ongoing deliberations of a Presiding Body, except as required by law.
Part 8: Responsibilities of Staff

26. Parts 2 (Responsibilities to the Process) and 7 (Maintenance of Confidentiality) of this Code of Conduct apply also to staff. Part 3 (Disclosure Obligations) apply to staff to the extent that they are not obliged to submit disclosure statements but do have an initial and continuing obligation to disclose to Presiding Body members any interests, relationships or matters that may bear in the integrity or impartiality of the dispute settlement process.

Part 9: Responsibilities of the Secretariat and Breaches of the Code of Conduct

27. The Secretariat shall take all necessary steps to protect the confidentiality of disclosure statements and any subsequent disclosures.

28. Any communication to the Secretariat regarding a conflict of interest, a reasonable apprehension of bias or an appearance of impropriety shall be conveyed to the Participating Parties or Participants for the purposes of determining whether there has been a breach of this Code of Conduct.

29. Where a Disputing Party or Disputant believes that there has been a breach of this Code of Conduct by a member of a Presiding Body before which the Disputing Party or Disputant has appeared or will appear, the Disputing Party or Disputant may submit a written complaint to the Secretariat as soon as possible after discovering the breach. The Secretariat shall immediately distribute the complaint to the other Participating Parties or Participants and to the Presiding Body. The Presiding Body member who is the subject of the complaint may respond to the complaint in writing, by submitting such response to the Secretariat within 10 days after being notified of the complaint. The Secretariat shall distribute any written response to all Participating Parties or Participants and to the other members of the Presiding Body.

30. Where the Presiding Body has only one member, in the event the Disputing Parties or Disputants are unable to agree as to whether there has been a breach of this Code of Conduct, the matter shall be decided by an individual from the Appellate Panel roster selected by lot by the Secretariat, excluding any individual appointed to such roster by a Disputing Party or Disputant, or resident in the territory of a Disputing Party or Disputant.

31. The Appellate roster member shall issue his or her decision, with reasons, to the Secretariat, which shall forward it to all of the Participating Parties or Participants. Where the Appellate roster member decides that there has been a breach, the Presiding Body member found to be in breach shall resign and a replacement shall be appointed in accordance with Rule 53 of Annex 1704(2).

32. Where the Presiding Body has three members, in the event the Disputing Parties or Disputants are unable to agree as to whether there has been a breach of this Code of Conduct, the matter shall be decided by the remaining members of the Presiding Body.

33. If the remaining members of the Presiding Body cannot agree that there has been a breach of this Code of Conduct, the Presiding Body member alleged to have breached the Code shall continue to be a member of the Presiding Body. The remaining members of the
Presiding Body shall issue their decision, with reasons, to the Secretariat, which shall forward it to all of the Participating Parties or Participants, without disclosing the position taken by any such Presiding Body member.

34. If the remaining members of the Presiding Body agree that there has been a breach of this Code of Conduct, the Presiding Body member found to be in breach shall resign and a replacement shall be appointed by the remaining members of the Presiding Body from the applicable roster within 10 days after having reached such agreement. If they are unable to agree on a replacement within that period, the Secretariat shall select a replacement by lot from the applicable roster.

35. If the Presiding Body member required to be replaced under paragraph 34 was the only member of the Presiding Body with administrative law experience, the remaining members of the Presiding Body or the Secretariat, as the case may be, shall select a replacement with administrative law experience.

36. The Presiding Body shall determine, in consultation with the Participating Parties or Participants, all procedural matters associated with the resignation of a Presiding Body member and appointment of his or her replacement, including the point from which Proceedings shall resume.
AGREEMENT ON INTERNAL TRADE

IN THE MATTER OF

(Secretariat file number)

(title of Proceeding)

INITIAL DISCLOSURE STATEMENT

I have read the Code of Conduct for Presiding Body Members (Code of Conduct) and the Panel, Compliance Panel and Appellate Panel Rules of Procedure under Chapter Seventeen of the Agreement on Internal Trade and understand them. I am fully aware that Part 3 of the Code of Conduct requires that I disclose any interests, relationships and matters that are likely to affect my independence or impartiality or that might create a reasonable apprehension of bias or an appearance of impropriety in the Proceeding cited above.

I have read the request for Presiding Body review filed in the Proceeding cited above and have made all reasonable efforts to determine whether there are any such interests, relationships or matters. I make the following statement fully aware of my duties and obligations under the Code of Conduct.

1. I do not have any financial or personal interest in the Proceeding cited above or in its outcome, except as follows:

2. I do not have any financial or personal interest in another Proceeding, or in an administrative or domestic court proceeding, that involves issues similar to those that may be decided in the Proceeding cited above, except as follows:

3. Neither my employer, partner, business associate or member of my family has a financial interest in the Proceeding cited above or in its outcome, except as follows:

4. Neither my employer, partner, business associate or member of my family has a financial interest in another Proceeding, or in an administrative or domestic court proceeding, that involves issues similar to those that may be decided in the Proceeding cited above, except as follows:

5. I do not have any past or existing financial, business, professional, family or social relationship with any Participating Parties or Participants in the Proceeding cited above, or their representatives or counsel, nor am I aware of any such relationship involving my employer, partner, business associate or member of my family, except as follows:

6. I have not publicly advocated, nor have I provided legal or other representation, concerning any issue in dispute in the Proceeding cited above or involving the same goods or services, except as follows:

7. I do not have any interests or relationships, other than those described above, nor
am I aware of any matters, that are likely to affect my independence or impartiality or that might create a reasonable apprehension of bias or an appearance of impropriety, except as follows:

I recognize that, once appointed, I have a continuing duty to make all reasonable efforts to become aware of any interest, relationship or matter within the scope of Part 3 of the Code of Conduct that may arise during any stage of the Proceeding cited above and to disclose it in writing to the Secretariat, as and when I become aware of it.

Signature

Name of Signatory

Date
PART A: Government-to-Government Proceedings

Panel, Summary Panel and Compliance Panel Proceedings

1. Rules 1, 2, 3 and 4 apply to a Panel, Summary Panel or Compliance Panel Proceeding initiated under Part A of Chapter Seventeen.

2. Operational Costs

2.1 Operational Costs shall be paid by one or more of the Participating Parties. Subject to Rule 2.3, a Presiding Body shall apportion Operational Costs among the Participating Parties in such amounts as it considers appropriate.

2.2 In exercising its discretion, the Presiding Body may consider:

(a) whether the Participating Parties complied with Article 1700;

(b) the outcome of the Proceeding; and

(c) other relevant considerations that may justify all or a major part of the responsibility for Operational Costs being borne by one of the Participating Parties.

2.3 If there are one or more Intervenors in a Proceeding, Operational Costs may also be apportioned among Intervenors, but in no instance shall Intervenors be collectively responsible for more than one-third of Operational Costs.

3. Tariff Costs

Tariff Costs are not available to a Participating Party in a Proceeding to which this Rule applies.

4. Additional Costs

Additional Costs are not available to a Participating Party in a Proceeding to which this Rule applies.

Appellate Panel Proceedings

5. Rules 5, 6, 7 and 8 apply to Appellate Panel Proceedings initiated under Part A of Chapter Seventeen.
6. Operational Costs

6.1 Operational Costs shall be paid by the Appellant or Respondent or both, or by any one or both of the foregoing together with one or more Intervenors. Subject to Rules 6.2 to 6.5, an Appellate Panel shall apportion Operational Costs with a view to discouraging non-meritorious appeals.

6.2 In exercising its discretion, the Appellate Panel shall ordinarily order:

(a) that Operational Costs be borne by the Appellant where an appeal is unsuccessful; or

(b) that Operational Costs be borne equally by the Appellant and Respondent where an appeal is successful.

6.3 The Appellate Panel may apportion Operational Costs between the Appellant and Respondent differently than provided in Rule 6.2 where justified by other relevant considerations, including:

(a) the conduct of an Appellant or Respondent; and

(b) the extent of an Appellant’s or Respondent’s success.

6.4 If there are one or more Intervenors in an appeal, Operational Costs may also be apportioned among Intervenors commensurate with the Operational Costs incurred as a result of their participation, but in no instance shall Intervenors collectively be responsible for more than one-third of Operational Costs.

6.5 For greater certainty, an Appellate Panel retains the jurisdiction to issue an order respecting Operational Costs where an Appellate Panel Proceeding is discontinued.

7. Tariff Costs

7.1 Subject to Rules 7.2 to 7.7, an Appellate Panel may order Tariff Costs to be paid in such amount, up to but not exceeding the maximum allowable amounts for the calendar year in which the order is made, as it considers appropriate.

7.2 The primary objective of an order of Tariff Costs is to discourage non-meritorious appeals.

7.3 Where an appeal is unsuccessful, the Appellate Panel shall ordinarily order the Appellant to pay the Tariff Costs of the Respondent.

7.4 Where an appeal is successful, the Appellate Panel shall ordinarily make no order respecting Tariff Costs.
7.5 Notwithstanding Rules 7.3 and 7.4, the Appellate Panel may make a different order respecting Tariff Costs where justified by other relevant considerations, including:

(a) the conduct of the Appellant or Respondent during the Proceeding;
(b) the extent of the Appellant's or Respondent's success; and
(c) the reasonableness of the costs based on the complexity of the complaint and the duration of the Proceeding.

7.6 The Appellate Panel shall make no order respecting the Tariff Costs of an Intervenor. An Intervenor shall bear its own Tariff Costs.

7.7 For greater certainty, the Appellate Panel retains the jurisdiction to issue an order respecting Tariff Costs where an appeal is discontinued.

8. Additional Costs

Additional Costs are not available to an Appellant, Respondent or Intervenor in an Appellate Panel Proceeding.

**PART B: Person-to-Government Proceedings**

**Panel, Summary Panel and Compliance Panel Proceedings**

9. Rules 9, 10, 11, 12 and 13 apply to a Panel, Summary Panel or Compliance Panel Proceeding initiated under Part B of Chapter Seventeen.

10. Operational Costs

10.1 Operational Costs shall be paid by one or more of the Participants. Subject to Rule 10.3, a Presiding Body shall apportion Operational Costs among the Participants in such amounts as it considers appropriate.

10.2 In exercising its discretion, the Presiding Body may consider:

(a) the outcome of the Proceedings; and
(b) other relevant considerations that may justify all or a major part of the responsibility for Operational Costs being borne by one of the Participants.

10.3 If there are one or more Intervenors in a Proceeding, Operational Costs may also be apportioned among Intervenors, but in no instance shall Intervenors be collectively responsible for more than one-third of Operational Costs.

10.4 A Presiding Body may, at the request of a Participant or on its own initiative, require a Participant that is a Complaining Person to post security for Operational Costs that may be apportioned to such Participant.
10.5 Notwithstanding anything else in this Rule, a Party may, in its discretion, assume full or partial responsibility for paying Operational Costs (if any) that have been apportioned to a Person of that Party under this Rule.

11. Tariff Costs

11.1 Subject to Rules 11.2 to 11.5, a Presiding Body may order Tariff Costs to be paid by a Party in such amount not exceeding the maximum allowable amounts for the calendar year in which the order is made, as it considers appropriate.

11.2 A Presiding Body may only make an order respecting Tariff Costs in favour of the successful Complaining Person in a Proceeding.

11.3 In exercising its discretion, the Presiding Body shall consider:

   (a) the conduct of the Complaining Person during the Proceeding; and

   (b) the reasonableness of the costs based on the complexity of the complaint and the duration of the Proceeding.

11.4 When determining the amount of Tariff Costs to be paid to a Complaining Person, a Presiding Body shall not take into account:

   (a) whether or not it has ordered a Party to pay a Monetary Penalty; or

   (b) the amount of any Monetary Penalty it has ordered a Party to pay.

11.5 When determining the amount of Tariff Costs to be paid to a Complaining Person, the Presiding Body shall ensure that the limitation in Article 1723(2) will not be exceeded.

12. Additional Costs – Panel or Summary Panel Proceeding

Additional Costs are not available to a Participant in a Panel or Summary Panel Proceeding to which this Rule applies.

13. Additional Costs – Compliance Panel Proceeding

13.1 Subject to Rules 13.2 to 13.5, a Compliance Panel may order Additional Costs to be paid by a Party in such amount as it considers appropriate.

13.2 A Compliance Panel may only make an order respecting Additional Costs in favour of the successful Complaining Person in a Compliance Panel Proceeding.

13.3 In exercising its discretion, the Compliance Panel shall consider:

   (a) the conduct of the Complaining Person during the Proceeding; and
(b) the reasonableness of the costs based on the complexity of the complaint and the duration of the Proceeding.

13.4 When determining the amount of Additional Costs to be paid to a Complaining Person, a Compliance Panel shall not take into account:

(a) whether or not it has ordered a Party to pay a Monetary Penalty; or

(b) the amount of any Monetary Penalty it has ordered a Party to pay.

13.5 When determining the amount of Additional Costs to be paid to a Complaining Person, the Compliance Panel shall ensure that the limitation in Article 1723(2) will not be exceeded.

Appellate Panel Proceedings


15. Operational Costs

15.1 Operational Costs of an Appellate Panel Proceeding shall be paid by the Appellant or Respondent or both, or by any one or both of the foregoing together with one or more Intervenors. Subject to Rule 15.4, an Appellate Panel shall apportion Operational Costs with a view to discouraging non-meritorious appeals.

15.2 In exercising its discretion, the Appellate Panel shall ordinarily order:

(a) that Operational Costs be borne by the Appellant where an appeal is unsuccessful; or

(b) that Operational Costs be borne equally by the Appellant and Respondent where an appeal is successful.

15.3 The Appellate Panel may apportion Operational Costs between the Appellant and Respondent differently than provided in Rule 15.2 where justified by other relevant considerations, including:

(a) the conduct of an Appellant or Respondent; and

(b) the extent of an Appellant’s or Respondent’s success.

15.4 If there are one or more Intervenors in an appeal, Operational Costs may also be allocated to Intervenors commensurate with the Operational Costs incurred as a result of their participation, but in no instance shall Intervenors collectively be responsible for more than one-third of Operational Costs.

15.5 An Appellate Panel may, at the request of an Appellant or Respondent or on its own initiative, require an Appellant or Respondent that is a Complaining Person to post security for Operational Costs that may be apportioned to such Appellant or
15.6 For greater certainty, an Appellate Panel retains the jurisdiction to issue an order respecting Operational Costs where an Appellate Panel Proceeding is discontinued.

16. Tariff Costs

16.1 Subject to Rules 16.2 to 16.10, an Appellate Panel may order Tariff Costs to be paid in such amount, up to but not exceeding the maximum allowable amounts for the calendar year in which the order is made, as it considers appropriate.

16.2 The primary objective of an order of Tariff Costs is to discourage non-meritorious appeals.

16.3 Where an appeal is unsuccessful, the Appellate Panel shall ordinarily order the Appellant to pay the Tariff Costs of the Respondent.

16.4 Where an appeal is successful, the Appellate Panel shall ordinarily make no order respecting Tariff Costs.

16.5 Notwithstanding Rules 16.3 and 16.4, the Appellate Panel may make a different order respecting Tariff Costs where justified by other relevant considerations, including:

(a) the conduct of the Appellant or Respondent during the Proceeding;

(b) the extent of the Appellant’s or Respondent’s success;

(c) the reasonableness of the costs based on the complexity of the complaint and the duration of the Proceeding.

16.6 When determining the amount of Tariff Costs to be paid to a Complaining Person, the Appellate Panel shall not take into account:

(a) whether or not it has ordered a Party to pay a Monetary Penalty; or

(b) the amount of any Monetary Penalty it has ordered a Party to pay.

16.7 When determining the amount of Tariff Costs to be paid to a Complaining Person, the Appellate Panel shall ensure that the limitation in Article 1723(2) will not be exceeded.

16.8 The Appellate Panel shall make no order respecting the Tariff Costs of an Intervenor. An Intervenor shall bear its own Tariff Costs.

16.9 An Appellate Panel may, at the request of an Appellant or Respondent or on its own initiative, require an Appellant or Respondent that is a Complaining Person to
post security for Tariff Costs that may be apportioned to such Appellant or Respondent.

16.10 For greater certainty, the Appellate Panel retains the jurisdiction to issue an order respecting Tariff Costs where an appeal is discontinued.

17. Additional Costs

Additional Costs are not available to an Appellant, Respondent or Intervenor in an Appellate Panel Proceeding.

18. Effect of Interpretive Notes on Costs

A request under this Rule may be made in any Proceeding initiated under Part B of Chapter Seventeen.

If an interpretive note is issued by the Parties under Article 1813 (Rules of Interpretation) before all possible Proceedings with respect to a measure that is or has been the subject of a request for a Panel under Article 1716 have been completed, a Presiding Body may, if reasonable in the circumstances and consistent with principles of fairness, do one or more of the following upon the Complaining Person’s request:

(a) cause the security for costs posted by the Complaining Person or any monies realized therefrom to be returned to the Complaining Person or otherwise released to the Complaining Person;

(b) cause the Complaining Person to be reimbursed for any expenses incurred in the course of posting such security;

(c) cause the Complaining Person to be reimbursed for any Operational Costs or Tariff Costs the Complaining Person has paid;

(d) direct one or more Participants that are Parties or any other Parties to fund the payments or reimbursements referred to in paragraphs (a) through (c); or

(e) repeal any order of a Presiding Body pursuant to which the Complaining Person has been ordered to pay Operational Costs or Tariff Costs.

PART C: General Rules

All Proceedings

19. Rules 19, 20, 21 and 22 apply in all Proceedings initiated under Chapter Seventeen.

20. Claimant shall Submit Statement

The Party or Person claiming Tariff Costs or Additional Costs shall submit a
statement of such costs to the Presiding Body within such time as required by the
Presiding Body, and shall provide a copy thereof to all other Disputing Parties or
Disputants.

21. Payment of Operational Costs

Operational Costs are immediately due and payable to the Internal Trade Secretariat
Corporation.

22. Conduct of the Disputing Parties or Disputants and the Apportionment of Costs

When considering the conduct of the Disputing Parties or Disputants in apportioning
costs, the Panel, Summary Panel, Appellate Panel or Compliance Panel shall
consider whether the conduct of the Disputing Party or Disputant contributed to
efficient and expeditious Proceedings or unnecessarily increased the length and
costs of the Proceedings. Relevant considerations include whether the Disputing
Party or Disputant:

(a) complied with the Panel, Summary Panel, Compliance Panel or Appellate
Panel Rules of Procedure;

(b) complied with decisions, directions and orders of the Presiding Body,
including those made in respect of procedural matters;

(c) co-operated with the other Participating Parties or Participants, the Presiding
Body and the Secretariat, and acted in good faith throughout the
Proceedings, including in the timely exchange of information; and

(d) participated in any pre-hearing conferences and hearings in an informed and
responsible manner."