

**CHAPTER 23**  
**DISPUTE SETTLEMENT**

**Article 23.1: Definitions**

For the purposes of this Chapter:

**complaining Party** means a Party that requests the establishment of a Panel pursuant to Article 23.8.1;

**consulting Party** means the Party that requests consultations pursuant to Article 23.6.1 or the Party to which the request for consultations is made;

**disputing Party** means a complaining Party or a responding Party;

**Panel** means a panel established under Article 23.8;

**perishable goods** means perishable agricultural and fish goods classified in HS Chapters 1 through 24;

**responding Party** means a Party that has been complained against under Article 23.8;

**Rules of Procedure** means the rules referred to in Article 23.15 and established in accordance with Article 22.3 (Functions of the Free Trade Commission); and

**third Party** means a Party to the Pacific Alliance, other than a consulting Party or a disputing Party, that participates in the consultations in accordance with Article 23.6.9 or in the proceedings before the Panel in accordance with Article 23.9.

**Article 23.2: General Provisions**

1. The Parties shall endeavour to agree on the interpretation and application of this Agreement and shall make every effort through cooperation and consultations to reach a mutually satisfactory resolution of any matter that may affect its operation or application.

2. The objective of this Chapter is to provide an effective, efficient and transparent process for consultations and settlement of disputes arising under this Agreement.

**Article 23.3: Scope**

Unless otherwise provided for in this Agreement, the provisions of this Chapter shall apply:

- (a) with respect to the avoidance or settlement of any dispute that arises between the Parties with regard to the interpretation or application of the provisions of this Agreement;
- (b) when a Party considers that an actual or proposed measure of the other Party is or would be inconsistent with an obligation set out in this Agreement or that the other Party has otherwise failed to carry out an obligation under this Agreement; or
- (c) when a Party considers that a benefit it could reasonably have expected to accrue to it under Chapter 3 (National Treatment and Market Access for Goods), Chapter 4 (Rules of Origin and Origin Procedures), Chapter 6 (Sanitary and Phytosanitary Measures), Chapter 7 (Technical Barriers to Trade), Chapter 9 (Cross-Border Trade in Services) or Chapter 14 (Government Procurement) is being nullified or impaired as a result of the application of a measure of the other Party that is not inconsistent with this Agreement.

#### **Article 23.4: Urgent Circumstances**

1. In urgent circumstances,<sup>1</sup> unless otherwise provided in this Chapter the timeframes established in this Chapter shall be halved.
2. Notwithstanding the provisions of Article 23.17.2, the Panel shall apply the timeframe established in Article 23.17.1, where the complaining Party indicates this in the request for establishment of the Panel.

#### **Article 23.5: Choice of Forum**

1. If a dispute regarding any matter arises under this Agreement and under another international trade agreement to which the disputing Parties are party, including the WTO Agreement, the complaining Party may select the forum in which to settle the dispute
2. Once a complaining Party has requested the establishment of a Panel under this Chapter or under one of the agreements referred to in paragraph 1, the forum selected shall be used to the exclusion of other fora.

#### **Article 23.6: Consultations**

1. A Party may request consultations with the other Party with regard to a matter referred to in Article 23.3. The Party making the request for consultations shall do so in writing, explaining the

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<sup>1</sup> For the purposes of this Chapter, it is understood that disputes related to perishable goods are urgent circumstances.

reasons for its request, including identification of the actual or proposed measure<sup>2</sup> or other matter at issue and indication of the legal basis for the complaint. The requesting Party shall circulate the request simultaneously to the other Parties to the Pacific Alliance through the overall contact points designated under Article 22.4 (Contact Points).

2. The Party to which a request for consultations is made shall, unless otherwise mutually agreed, reply in writing to the request for consultations, no later than 10 days after the date of receipt of the request.<sup>3</sup> That Party shall circulate its reply simultaneously to the other Parties to the Pacific Alliance through the overall contact points.

3. The consultations shall be entered into in good faith.

4. The consulting Parties shall enter into consultations no later than 30 days after the date of receipt of the request, unless the consulting Parties agree otherwise.

5. The consulting Party which requested consultations may request the consulting Party to which the request for consultation was made to make available for the consultations personnel from their government agencies or other regulatory bodies with expertise in the subject matter of the consultations.

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

- (a) shall provide sufficient information to enable a full examination of how the actual or proposed measure or subject matter of the consultations might affect the operation or application of this Agreement, and
- (b) shall treat any information exchanged in the course of the consultations that is designated as confidential on the same basis as the Party providing the information.

7. The consultations shall be confidential and without prejudice to the rights of the consulting Parties in any other proceedings.

8. The consultations may be carried out in person or by any other technological means agreed by the consulting Parties. If the consultations are held in person, they shall be carried out in the territory of the consulting Party to which the request for consultations was made, unless the consulting Parties agree otherwise.

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<sup>2</sup> The consulting Parties shall, in the case of a proposed measure, make every effort to make the request for consultation under this provision within 60 days of the date the proposed measure is made available to the public, without prejudice to the right to make such request at any time.

<sup>3</sup> For greater certainty, if the consulting Party to which a request for consultations is made does not reply within the time period specified in this paragraph, it shall be deemed to have received the request ten days after the date on which the Party making the request for consultations transmitted that request.

9. A third Party that considers itself to have a substantial interest in the subject matter of the consultations may participate, if it informs the consulting Parties in writing within eight days after the date of receipt of the request for consultations. The third Party shall include in its notice an explanation of its substantial interest in the matter of consultations.

10. A third Party may express its opinions during consultations and its involvement shall not affect the capacity of the consulting Parties for achieving a mutually satisfactory solution.

#### **Article 23.7: Good Offices, Conciliation and Mediation**

1. The disputing Parties may agree at any time to the use of an alternative dispute resolution mechanism such as good offices, conciliation or mediation.

2. The disputing Parties shall agree on the procedures to implement the alternative dispute resolution mechanism.

3. If the disputing Parties agree, the alternative dispute resolution mechanism may continue while the dispute proceeds for resolution before a Panel established under Article 23.8.

4. Such alternative dispute resolution mechanisms are confidential and without prejudice to the rights of the disputing Parties in any other proceedings.

5. Any of the disputing Parties may at any time suspend or terminate the proceedings established under this Article.

#### **Article 23.8: Establishment of a Panel**

1. The complaining Party may make a written request to the responding Party for the establishment of a Panel if the consultations fail to resolve a matter within:

- (a) 60 days after the date of receipt of the request for consultations under Article 23.6; or
- (b) another period as the consulting Parties may agree.

2. The complaining Party shall deliver the written request for the establishment of a Panel to the responding Party. The complaining Party shall indicate the reasons for its request, including identification of the measure or other matter at issue and the indication of the legal basis for the complaint. A copy of the request shall be simultaneously sent to the other Parties to the Pacific Alliance through the overall contact points designated under Article 22.4 (Contact Points).

3. A Panel shall be established upon delivery of the request.

4. Unless the disputing Parties agree otherwise, the Panel shall be composed in a manner consistent with this Chapter and the Rules of Procedure.

5. A Panel shall not be established to review a proposed measure.

### **Article 23.9: Participation of a Third Party**

1. A Party that is not a disputing Party and that considers it has a substantial interest in the matter before the Panel may participate in the dispute resolution proceedings as a third Party, upon delivery of a written notice to the disputing Parties no later than 10 days after the date of receipt of the request for establishment of a Panel. In the event that a Party delivers such written notice after this timeframe has elapsed, the Panel may authorise its participation as a third Party.

2. Subject to the protection of confidential information, the disputing Parties shall provide to each third Party its written submissions, written versions of its oral statements to the Panel and its written responses to questions, other than those made subsequent to the issuance of the initial report, at the time such submissions, statements and responses are filed.

3. A third Party has the right to:

- (a) make written submissions to and respond to questions from the Panel; and
- (b) attend and submit oral arguments in all hearings of the Panel subject to the protection of confidential information.

4. Any submissions or other documents submitted by third Parties shall be simultaneously provided to the disputing Parties and other third Parties.

### **Article 23.10: Consolidation of Proceedings**

1. If a Panel has been established regarding a matter and a Party to the Pacific Alliance or Singapore requests the establishment of a Panel related to the same matter, a single Panel should be established to examine those requests whenever feasible.

2. The single Panel shall organise its examination and present its findings to the disputing Parties to the disputes in a manner that the rights which the disputing Parties would have enjoyed had separate panels examined the complaints are in no way impaired.

3. If more than one Panel is established to examine the complaints related to the same matter, the disputing Parties shall endeavour to ensure that the same persons serve as panellists for each Panel. The Panels shall consult with each other and all disputing Parties to ensure, to the extent possible, that the timetables for the Panels' processes are harmonised.

### **Article 23.11: Terms of Reference of the Panel**

1. Unless the disputing Parties agree otherwise no later than 15 days after the date of receipt of the request for the establishment of a Panel, the terms of reference for the Panel shall be:

*“To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of the panel under Article 23.8 (Establishment of a Panel), and to make findings, determinations and recommendations, together with its reasons therefor, pursuant to the provisions of Articles 23.14 (Functions of Panels) and 23.16 (Suspension and Termination of Proceedings).”*

2. If the complaining Party claims in the request for establishment of the Panel that a matter nullifies or impairs benefits pursuant to Article 23.3(c), the terms of reference shall so indicate.

### **Article 23.12: Requirements of the Panellist**

1. Each panellist shall:

- (a) have expertise or experience in law, international trade, other matters covered by this Agreement, or in the resolution of disputes arising under international trade agreements;
- (b) be selected strictly on the basis of objectivity, impartiality, reliability and sound judgement;
- (c) be independent of, and not be affiliated with or take instructions from any Party; and
- (d) comply with the Code of Conduct established by the Free Trade Commission under Article 22.3.1(d) (Functions of the Free Trade Commission).

2. Persons that have participated in any of the alternative dispute resolution mechanisms referred to in Article 23.7 may not serve as panellists in the same dispute.

### **Article 23.13: Selection of the Panel**

1. The Panel shall comprise three members.

2. Unless the disputing Parties agree otherwise, they shall apply the procedures set forth in paragraphs 3 to 5 to compose a Panel.

3. Within 30 days of the receipt of request for the establishment of the Panel under Article 23.8, the panellists of the Panel must be appointed. If the disputing Parties consist of Singapore and one

Party to the Pacific Alliance, each disputing Party shall appoint a panellist who may be its national and propose up to four candidates to serve as chair of the Panel. If the disputing Parties consist of Singapore and two or more Parties to the Pacific Alliance, Singapore shall appoint a panellist who may be a Singapore national and propose up to four candidates to serve as chair of the Panel, and the Parties to the Pacific Alliance shall collectively appoint a panellist who may be a national of one of the Parties to the Pacific Alliance involved in the dispute and propose up to four candidates to serve as chair of the Panel. The chair of the Panel shall not be a national of the disputing Parties nor have his or her usual place of residence in the territory of the disputing Parties, nor be employed by any of the disputing Parties, nor have dealt with the dispute in any capacity. Each disputing Party shall notify in writing to the other disputing Parties the identities of their appointed panellist and candidates for chair of the Panel.

4. Within 20 days of the deadline established in paragraph 3, the disputing Parties shall endeavour to agree on the appointment of the chair of the Panel from among the proposed candidates.

5. If a disputing Party does not appoint a panellist within the timeframe stipulated in paragraph 3, or if the disputing Parties have not appointed a chair in the timeframe stipulated in paragraph 4, a disputing Party may request the Director-General of the WTO to appoint any remaining Member of the Panel. The Director-General shall appoint the panellist or the chair, as the case may be, in accordance with Article 23.12 and the conditions set forth in paragraph 3, after consulting with the disputing Parties or as agreed by the disputing Parties. Any lists of proposed candidates which were provided under paragraph 3 shall also be provided to the Director-General.

6. If a panellist cannot fulfil his or her role, resigns or is removed, either during the course of the proceeding or when the Panel is reconvened under Article 23.21 or Article 23.22 a successor shall be selected in accordance with this Article. Any procedural timeframe shall be suspended from the date on which the panellist cannot fulfil his or her role, resigns or is removed, until the date the successor is selected. The successor shall assume the role and responsibilities of the original panellist.

7. When a Panel is re-convened under Article 23.21 or Article 23.22, the reconvened Panel shall, if possible, have the same panellists as the original Panel. If this is not possible, the replacement panellist(s) shall be appointed in the same manner as prescribed for the appointment of the original panellist(s), and shall have all the powers and duties of the original panellist(s).

#### **Article 23.14: Function of Panels**

1. A Panel's function is to make an objective assessment of the matter before it, which includes an examination of the facts and the applicability of and conformity with this Agreement, and to make the findings, determinations and recommendations as are called for in its terms of reference and necessary for the resolution of the dispute.

2. The Panel shall consider this Agreement in accordance with the rules of interpretation under

international law as reflected in Articles 31 and 32 of the *Vienna Convention on the Law of Treaties* (1969). With respect to any provision of the WTO Agreement that has been incorporated into this Agreement, the Panel shall also consider relevant interpretations in reports of panels and the WTO Appellate Body adopted by the WTO Dispute Settlement Body. The findings, determinations and recommendations of the Panel shall not add to or diminish the rights and obligations of the Parties under this Agreement.

3. A Panel shall take its decisions by consensus, except that, if a Panel is unable to reach consensus, it may take its decisions by majority vote.

### **Article 23.15: Rules of Procedure of the Panel**

1. The Free Trade Commission shall approve the Rules of Procedure at its first meeting.

2. Unless the disputing Parties agree otherwise, a Panel established in accordance with this Chapter shall comply with the Rules of Procedure. A Panel may, after consulting the disputing Parties, adopt supplementary rules of procedure that do not conflict with the provisions of this Agreement and with the Rules of Procedure.

3. The Rules of Procedure shall ensure:

- (a) that each disputing Party has the opportunity to provide at least initial and rebuttal written submissions;
- (b) subject to subparagraph (g), any hearing before the Panel shall be open to the public, unless the disputing Parties agree otherwise;
- (c) that the disputing Parties have the right to at least one hearing before the Panel, at which each disputing Party may make and listen to oral arguments;
- (d) that written submissions and oral arguments shall be made either in English or Spanish;
- (e) that the Panel shall consider requests from non-governmental entities located in the territory of a disputing Party to provide written views regarding the dispute that may assist the Panel in evaluating the submissions and arguments of the disputing Parties;
- (f) that confidential information is protected; and
- (g) unless the disputing Parties agree otherwise, hearings shall be held in the capital of the responding Party.

4. When a disputing Party submits information, documents or papers qualified as confidential, that Party shall also, upon request by the other disputing Party, submit a non-confidential summary of the information, documents or papers that may be made available to the public, no later than 30

days after the date of receipt of the request by the other disputing Party.

5. Subject to the protection of confidential information, each disputing Party shall:

- (a) make its best efforts to release or make available to the public its written submissions, written version of oral statements and written responses to requests or questions from the Panel, if any, as soon as possible after those documents are filed; and
- (b) if not already released, release or make available to the public all these documents by the time the final report of the Panel is issued.

6. After notifying the disputing Parties, the Panel may, at the request of a disputing Party, or on its own initiative, compile information and seek technical advice from a person or entity it deems appropriate pursuant to the Rules of Procedure. The disputing Parties shall have an opportunity to comment on any information or advice obtained under this paragraph.

7. Unless the disputing Parties otherwise agree, each disputing Party shall bear the cost of the panellist it appoints, as well as the panellist's expenses. The cost of the chair of the Panel and other expenses associated with proceedings shall be borne by the disputing Parties in equal parts, in accordance with the Rules of Procedure.

#### **Article 23.16: Suspension and Termination of Proceedings**

1. The Panel may suspend the proceedings at any time at the request of the complaining Party or, if there is more than one complaining Party, at the joint request of the complaining Parties, for a period of no more than 12 months following the date of the request. The Panel shall suspend its work at any time if the disputing Parties request it to do so. If the proceedings of the Panel have been suspended for more than 12 months, the authority for establishment of the Panel shall lapse, unless the disputing Parties agree otherwise.

2. The disputing Parties may terminate the proceedings before a Panel at any time before the notification of the final report by jointly notifying the chair of the Panel.

#### **Article 23.17: Initial Report of the Panel**

1. The Panel shall present its initial report to the disputing Parties no later than 90 days after the date of appointment of the last panellist, unless the disputing Parties agree on a different timeframe.

2. In urgent circumstances, the Panel shall present the initial report to the disputing Parties no later than 60 days after the date of appointment of the last panellist, unless the disputing Parties agree on a different timeframe.

3. In exceptional cases, should the Panel find that it cannot issue the initial report within 90

days or 60 days in urgent circumstances, it must inform the disputing Parties in writing of the reasons for the delay together with an estimate of when the initial report shall be issued. Any delay shall not exceed 30 days, unless the disputing Parties agree on a different timeframe.

4. The Panel shall base its initial report on the relevant provisions of this Agreement, interpretations issued by the Free Trade Commission, the arguments and submissions of the disputing Parties, and any information and technical advice that it has received in accordance with this Agreement.

5. The initial report shall include:

- (a) a summary of the written and oral submissions;
- (b) findings of fact;
- (c) the determination of the Panel as to whether:
  - (i) the measure at issue is inconsistent with obligations in this Agreement;
  - (ii) a Party has otherwise failed to carry out its obligations in this Agreement; or
  - (iii) the measure at issue is causing nullification or impairment within the meaning of Article 23.3.
- (d) any other determination requested in the terms of reference;
- (e) recommendations, if any of the disputing Parties has requested them for the resolution of the dispute; and
- (f) the reasons for the findings and determinations.

6. Panellists may present separate opinions on matters not unanimously agreed.

7. Any of the disputing Parties may submit written comments on the initial report to the Panel within 15 days following the disputing Party's receipt of the initial report, or within any other timeframe established by the Panel.

8. After considering any written comments by the disputing Parties on the initial report, the Panel may modify its report and make any further examination it considers appropriate.

#### **Article 23.18: Final Report of the Panel**

1. The Panel shall present the final report to the disputing Parties, including any separate opinions on matters on which the decision was not unanimous, no later than 30 days after the date

of the presentation of the initial report, unless the disputing Parties agree on a different timeframe.

2. Unless the disputing Parties agree otherwise, any of them may publish the final report of the Panel 15 days after the date the final report is presented, subject to the protection of confidential information.
3. The Panel may not reveal the identity of the panellists that voted with the majority or the minority.

#### **Article 23.19: Request for Clarification by the Panel**

1. Within 10 days following a disputing Party's receipt of the final report, the disputing Party may make a written request for the Panel to clarify any conclusion, decision or recommendation of the final report that it considers ambiguous. The Panel shall reply to such request within 10 days following its submission.
2. Clarification by the Panel shall not affect its findings, determinations and recommendations.
3. The submission of a request as described in paragraph 1 of this Article shall not affect the timeframes referred to in Article 23.21.

#### **Article 23.20: Compliance with the Final Report of the Panel**

1. The findings and determinations of the Panel shall be final and binding on the disputing Parties. The responding Party shall:
  - (a) if the Panel makes a determination that the measure at issue is not in conformity with the obligations of this Agreement, bring the measure into conformity;
  - (b) if the Panel makes a determination that the responding Party has otherwise failed to carry out its obligations under this Agreement, carry out those obligations; or
  - (c) if the Panel makes a determination that the measure at issue is causing nullification or impairment as described in Article 23.3(c), eliminate the nullification or impairment or reach a mutually satisfactory solution with the complaining Party.
2. Within 30 days of the date of the presentation of the Panel's final report to the disputing Parties, the responding Party shall notify the complaining Party of its intentions with respect to implementation and:
  - (a) if the responding Party considers it has fully complied with the obligation in paragraph 1, the responding Party shall notify the complaining Party without delay and provide a description of any measure that it had taken to comply with that obligation; or

- (b) if it is impracticable to comply immediately with the obligation in paragraph 1, the responding Party shall notify the complaining Party of the reasonable period of time the responding Party considers it would need to comply with the obligation in paragraph 1, along with an indication of possible actions it may take for such compliance.

3. If the responding Party makes a notification under paragraph 2(b) that it is impracticable for it to comply immediately with the obligation in paragraph 1, it shall have a reasonable period of time to comply with that obligation.

4. The disputing Parties shall endeavour to agree on the reasonable period of time referred to in paragraphs 2(b) and 3. If the disputing Parties fail to agree on the reasonable period of time within a period of 45 days after the presentation of the final report under Article 23.18, any disputing Party may, no later than 60 days after the presentation of the final report under Article 23.18, refer the matter to the chair of the Panel to determine the reasonable period of time through arbitration.

5. The chair shall take into consideration as a guideline that the reasonable period of time should not exceed 15 months from the presentation of the final report under Article 23.18. However, that time may be shorter or longer, depending upon the particular circumstances.

6. The chair shall determine the reasonable period of time no later than 90 days after the date of referral to the chair under paragraph 4.

7. The disputing Parties may agree to vary the procedures set out in paragraphs 4 through 6 for the determination of the reasonable period of time referred to in paragraphs 2(b) and 3.

#### **Article 23.21: Non-Implementation – Compensation and Suspension of Benefits**

1. The responding Party shall, if requested by the complaining Party or Parties, enter into negotiations with the complaining Party or Parties no later than 15 days after receipt of that request, with a view to developing mutually acceptable compensation, if:

- (a) the responding Party has notified the complaining Party or Parties that it does not intend to eliminate the non-conformity or the nullification or impairment; or
- (b) following the expiry of the reasonable period of time established in accordance with Article 23.20, there is disagreement between the disputing Parties as to whether the responding Party has eliminated the non-conformity or the nullification or impairment.

2. A complaining Party may suspend benefits in accordance with paragraph 3 if that complaining Party and the responding Party have:

- (a) been unable to agree on compensation within a period of 30 days after the period for developing compensation has begun; or
- (b) agreed on compensation but the relevant complaining Party considers that the responding Party has failed to observe the terms of the agreement.

3. A complaining Party may, at any time after the conditions set out in paragraph 2 are met in relation to that complaining Party, provide written notice to the responding Party that it intends to suspend benefits of equivalent effect. The notice shall specify the level of benefits that the Party proposes to suspend.<sup>4</sup> The complaining Party may begin suspending benefits 30 days after the later of the date on which it provides notice under this paragraph or the date that the Panel issues its determination under paragraph 5, as the case may be.

4. In considering what benefits to suspend under paragraph 3, the complaining Party shall apply the following principles and procedures:

- (a) it should first seek to suspend benefits in the same subject matter as that in which the Panel has determined non-conformity or nullification or impairment to exist;
- (b) if it considers that it is not practicable or effective to suspend benefits in the same subject matter, and that the circumstances are serious enough, it may suspend benefits in a different subject matter. In the written notice referred to in paragraph 3, the complaining Party shall indicate the reasons on which its decision to suspend benefits in a different subject matter is based; and
- (c) in applying the principles set out in subparagraphs (a) and (b), it shall take into account:
  - (i) the trade in the good, the supply of the service or other subject matter in which the Panel has found the non-conformity or nullification or impairment, and the importance of that trade to the complaining Party;
  - (ii) that goods and services, other than financial services<sup>5</sup> are each distinct subject matters; and
  - (iii) the broader economic elements related to the nullification or impairment and the broader economic consequences of the suspension of benefits.

5. If the responding Party considers that:

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<sup>4</sup> For greater certainty, the phrase “the level of benefits that the Party proposes to suspend” refers to the level of concessions under this Agreement, the suspension of which a complaining Party considers will have an effect equivalent to that of the non-conformity, or nullification or impairment in the sense of Article 23.3(c), determined to exist by the Panel in its final report issued under Article 23.18.1.

<sup>5</sup> For greater certainty, “services” does not include financial services as defined in paragraph 5(a) of the Annex of Financial Services of GATS.

- (a) the level of benefits proposed to be suspended is manifestly excessive or the complaining Party has failed to follow the principles and procedures set out in paragraph 4; or
- (b) it has eliminated the non-conformity or the nullification or impairment that the Panel has determined to exist,

it may, within 30 days of the date of delivery of the written notice provided by the complaining Party under paragraph 3, request that the Panel be reconvened to consider the matter. The responding Party shall deliver its request in writing to the complaining Party. The Panel shall reconvene as soon as possible after the date of delivery of the request and shall present its determination to the disputing Parties no later than 90 days after it reconvenes to review a request under subparagraph (a) or (b), or 120 days after it reconvenes for a request under both subparagraphs (a) and (b). If the Panel determines that the level of benefits the complaining Party proposes to suspend is manifestly excessive, it shall determine the level of benefits it considers to be of equivalent effect.

6. Unless the Panel has determined that the responding Party has eliminated the non-conformity or the nullification or impairment, the complaining Party may suspend benefits up to the level the Panel has determined under paragraph 5 or, if the Panel has not determined the level, the level the complaining Party has proposed to suspend under paragraph 3. If the Panel determines that the complaining Party has not followed the principles and procedures set out in paragraph 4, the Panel shall set out in its determination the extent to which the complaining Party may suspend benefits in which subject matter in order to ensure full compliance with the principles and procedures set out in paragraph 4. The complaining Party may suspend benefits only in a manner consistent with the Panel's determination.

#### **Article 23.22: Compliance Review**

1. Without prejudice to the procedures in Article 23.21, if a responding Party considers that it has eliminated the non-conformity or the nullification or impairment found by the Panel, it may refer the matter to the Panel by providing a written notice to the complaining Party or Parties. The Panel shall issue its report on the matter no later than 90 days after the responding Party provides written notice.

2. If the Panel determines that the responding Party has eliminated the non-conformity or the nullification or impairment, the complaining Party or Parties shall promptly reinstate any benefits suspended under Article 23.21.

#### **Article 23.23: Administration of Dispute Settlement Proceedings**

1. Each Party shall:

- (a) designate an office to provide administrative support to a Panel covered by this Chapter, in accordance with the Rules of Procedure; and
  - (b) notify the other Parties of the location of its designated office.
2. Each Party shall be responsible for the operation of its designated office.

#### **Article 23.24: Private Rights**

No Party shall provide for a right of action under its law against the other Party on the ground that a measure of that other Party is inconsistent with its obligations under this Agreement, or that the other Party has otherwise failed to carry out its obligations under this Agreement.

#### **Article 23.25: Alternative Dispute Resolution**

1. The Parties shall, to the extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.
2. To this end, the Parties shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in those disputes.
3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to, and is in compliance with, the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards* done at New York on 10 June 1958.