

**DISCLAIMER:** *The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.*

## CHAPTER 24

### DISPUTE SETTLEMENT

#### SECTION A

#### OBJECTIVE AND SCOPE

##### ARTICLE 24.1

###### Objective

The objective of this Chapter is to establish an effective, efficient and transparent mechanism for avoiding and settling any dispute between the Parties concerning the interpretation and application of this Agreement with a view to reaching, where possible, a mutually agreed solution.

##### ARTICLE 24.2

###### Scope

Unless otherwise provided in this Agreement, this Chapter applies with respect to any dispute between the Parties concerning the interpretation and application of the provisions of this Agreement (hereinafter referred to as "covered provisions"), when a Party considers that a measure of the other Party is inconsistent with an obligation under this Agreement.

## ARTICLE 24.3

### Definitions

For the purposes of this Chapter, the following definitions apply:

- (a) "administrative staff", in respect of a panellist or a mediator, means individuals under the direction and control of a panellist or a mediator, other than assistants;
- (b) "adviser" means an individual retained by a Party to advise or assist that Party in connection with the panel proceedings;
- (c) "assistant" means an individual who, under the terms of appointment and under the direction and control of a panellist or a mediator, conducts research or provides assistance to that panellist or mediator;
- (d) "candidate" means an individual whose name is on the list of panellists referred to in Article 24.7 (Lists of panellists) and who is under consideration for selection as a panellist under Article 24.6 (Establishment of a panel);
- (e) "cases of urgency" and "matters of urgency" include cases and matters which concern goods or services that rapidly lose their quality, current condition or commercial value in a short period of time;
- (f) "complaining Party" means any Party that requests the establishment of a panel under Article 24.5 (Initiation of panel procedures);
- (g) "DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement;
- (h) "mediator" means an individual who has been selected as a mediator in accordance with Section D (Mediation mechanism);
- (i) "panel" means a panel established under Article 24.6 (Establishment of a panel);

- (j) "panellist" means a member of a panel;
- (k) "Party complained against" means the Party that is alleged to be in violation of the covered provisions; and
- (l) "representative of a Party" means an employee or any individual appointed by a government department, agency or any other public entity of a Party who represents the Party for the purposes of a dispute under this Agreement.

## SECTION B

### CONSULTATIONS

#### ARTICLE 24.4

##### Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 24.3 (Scope) by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.
2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the measure at issue and the covered provisions that it considers applicable.
3. The Party to which the request for consultations is made shall reply to the request for consultations promptly, but no later than 10 days after the date of its delivery. Unless the Parties agree otherwise, consultations shall be held within 30 days after the date of delivery of the request and take place in the territory of the Party complained against. The consultations shall be deemed concluded within 40 days after the date of delivery of the request, or within 90 days after that date if the dispute concerns Chapter 17 (Trade and sustainable development), unless the Parties agree to continue consultations.

4. Consultations on matters of urgency shall be held within 15 days after the date of delivery of the request for consultations. The consultations shall be deemed concluded within 15 days after the date of delivery of the request, unless the Parties agree to continue consultations.

5. During consultations, each Party shall provide sufficient factual information so as to allow a complete examination of the manner in which the measure at issue could affect the application of this Agreement. Each Party shall endeavour to ensure the participation of personnel of its competent authorities or agencies who have expertise in the matter subject to the consultations.

6. If the dispute concerns Articles 18.3 (Multilateral labour standards and agreements – Trade and sustainable development Chapter), 18.4 (Trade and gender equality – Trade and sustainable development Chapter), 18.5 (Multilateral environmental agreements – Trade and sustainable development Chapter) or 17.6 (Trade and climate change – Trade and sustainable development Chapter), the Parties shall take into account any information from the International Labour Organization (hereinafter referred to as "ILO") or from other relevant organisations or bodies established under multilateral agreements or instruments referred to in those Articles, that is available to them and relevant to the consultations, with a view to promoting coherence between the work of the Parties and that of such organisations or bodies. If relevant, the Parties should seek advice from such organisations or bodies, or from any other expert or body they deem appropriate.

7. If the dispute concerns Chapter 18 (Trade and sustainable development), each Party may also seek, if appropriate, the views of its domestic advisory group referred to in Article 21.7 (Domestic advisory groups).

8. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of either Party in any further proceedings.<sup>1</sup>

9. The Party that sought consultations may have recourse to Article 24.5 (Initiation of panel procedures) if:

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<sup>1</sup> For greater certainty, this paragraph applies to any advice or views sought pursuant to paragraphs 6 or 7.

- (a) the Party to which the request is made does not respond to the request for consultations within 10 days after the date of its delivery;
- (b) the consultations have not been held within the time periods laid down in paragraphs 3 or 4, as applicable;
- (c) the consultations have been concluded and no mutually agreed solution has been reached; or
- (d) the Parties agree not to have consultations.

## SECTION C

### PANEL PROCEDURES

#### ARTICLE 24.5

##### Initiation of panel procedures

1. If the Parties fail to resolve the dispute through recourse to consultations as provided for in Article 24.4 (Consultations), the Party that sought consultations may request the establishment of a panel (hereinafter referred to as "panel request").
2. The panel request shall be made in writing and delivered to the other Party. The complaining Party shall identify the measure at issue in its request and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.
3. The complaining Party shall release to the public a copy of the panel request promptly after it makes that request to the other Party.
4. If a panel request is made, a panel shall be established in accordance with Article 24.6 (Establishment of a panel).

5. The Trade Committee may decide to entrust an external body to provide assistance to panels established under this Chapter, including administrative and legal support. Such decision shall address the conditions of the entrustment, including the costs arising from the entrustment. Where applicable, any panel request shall also be delivered to the external body.

## ARTICLE 24.6

### Establishment of a panel

1. A panel shall be composed of three panellists.
2. Within 10 days after the date of delivery of the panel request, the Parties shall consult with a view to agree on the composition of the panel.
3. If the Parties do not agree on the composition of the panel within the time period provided for in paragraph 2, each Party shall, within five days after the expiry of the time period established in paragraph 2, appoint a panellist:
  - (a) from the sub-list of that Party established pursuant to Article 24.7 (Lists of panellists); or
  - (b) if the dispute concerns Chapter 18 (Trade and sustainable development), from the sub-list of that Party in the TSD list established pursuant to Article 24.7 (Lists of panellists).

If a Party does not appoint a panellist from its sub-list within the time period provided for in paragraph 3, the co-chair of the Trade Committee from the complaining Party shall select by lot, within five days after the expiry of the time period provided for in paragraph 3, the panellist from the sub-list of that Party. The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot of the panellist.

4. If the Parties do not agree on the chairperson of the panel within the time period established in paragraph 2, the co-chair of the Trade Committee from the complaining Party shall select by lot, within five days after the expiry of that time period, the chairperson of the panel:
  - (a) from the sub-list of chairpersons established pursuant to Article 24.7 (Lists of panellists); or

- (b) if the dispute concerns Chapter 18 (Trade and sustainable development), from the sub-list of chairpersons in the TSD list established pursuant to Article 24.7 (Lists of panellists).

The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot of the chairperson of the panel.

5. The panel shall be deemed to be established 15 days after all three selected panellists have accepted their appointment in accordance with Rule 11 of Annex 24-A (Rules of procedure), unless the Parties agree otherwise. Each Party shall promptly make public the date of establishment of the panel.

6. If any of the relevant sub-lists provided for in Article 24.7 (Lists of panellists) have not been established or if no individual on the relevant sub-list is available at the time a selection by lot is to be made pursuant to paragraphs 3 or 4, the panellists shall be drawn by lot in accordance with point (a) of Rule 10 of Annex 24-A (Rules of procedure).

7. If any of the relevant sub-lists provided for in Article 24.7 (Lists of panellists) no longer contain at least five individuals at the time a selection by lot is to be made pursuant to paragraphs 3 or 4, the panellists shall be drawn by lot in accordance with point (b) of Rule 10 of Annex 24-A (Rules of procedure).

## ARTICLE 24.7

### Lists of panellists

1. The Trade Committee shall, no later than six months after the date of entry into force of this Agreement, establish:

- (a) a list of at least 15 individuals who are willing and able to serve as panellists; and
- (b) a separate list of 15 individuals who are willing and able to serve as panellists in disputes under Chapter 18 (Trade and sustainable development) (referred to above as "TSD list").

2. Each list referred to in paragraph 1 shall be composed of the following three sub-lists:
  - (a) one sub-list of individuals established on the basis of proposals by the Union;
  - (b) one sub-list of individuals established on the basis of proposals by Australia; and
  - (c) one sub-list of individuals who are not natural persons of either Party and who shall serve as chairperson of the panel.
  
3. Each sub-list referred to in points (a), (b) and (c) of paragraph 2 shall include at least five individuals. The Trade Committee shall ensure that each sub-list is always maintained at this minimum number of individuals.
  
4. The sub-list referred to in point (c) of paragraph 1 shall also serve as the list of possible mediators for the purposes of selection by lot pursuant to Article 24.29(2) (Selection of the mediator). When establishing the sub-list referred to in point (c) of paragraph 2, the Trade Committee may also decide to limit the number of possible mediators to certain individuals on that sub-list.
  
5. The Trade Committee may establish additional lists of individuals with expertise in specific sectors covered by this Agreement. Subject to the agreement of the Parties, such additional lists shall be used to compose the panel in accordance with the procedure set out in Article 24.6 (Establishment of a panel).

## ARTICLE 24.8

### Requirements for panellists

1. Each panellist shall:

- (a) have demonstrated expertise in law<sup>2</sup>, international trade and other matters covered by this Agreement;
  - (b) be independent of, and not be affiliated with or take instructions from, either Party;
  - (c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and
  - (d) comply with Annex 24-B (Code of conduct for panellists and mediators).
2. The chairperson shall also have experience in dispute settlement procedures.
3. With respect to disputes concerning Chapter 18 (Trade and sustainable development) and by way of derogation from point (a) of paragraph 1:
- (a) each panellist shall have specialised knowledge of, or expertise in:
    - (i) labour or environmental law;
    - (ii) issues addressed in Chapter 18 (Trade and sustainable development); or
    - (iii) the resolution of disputes under international agreements; and
  - (b) the chairperson of the panel shall also have demonstrated expertise in law.<sup>3</sup>
4. In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in point (a) of paragraph 1 or in point (b) of paragraph 3.

#### ARTICLE 24.9

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<sup>2</sup> For greater certainty, expertise in law can be demonstrated, *inter alia*, by experience in the resolution of disputes arising under international trade agreements.

<sup>3</sup> For greater certainty, expertise in law can be demonstrated, *inter alia*, by experience in the resolution of disputes arising under international trade agreements.

## Functions of the panel

The panel shall:

- (a) make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the covered provisions;
- (b) set out, in its decisions and reports, the findings of facts, the applicability of, and conformity with, the covered provisions and the basic rationale behind any findings and conclusions that it makes; and
- (c) endeavour to consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

## ARTICLE 24.10

### Terms of reference

1. Unless the Parties agree otherwise within five days after the date of establishment of the panel, the terms of reference of the panel shall be:

"to examine, in light of the relevant provisions of this Agreement cited by the Parties, the matter referred to in the request for the establishment of the panel, to make findings on the conformity of the measure at issue with the provisions of this Agreement referred to in Article 24.3 (Scope) and to deliver a report in accordance with Articles 24.12 (Interim report) and 24.13 (Final report)."

2. If the Parties agree on terms of reference other than those set out in paragraph 1, they shall notify the agreed terms of reference to the panel within five days after the date of establishment of the panel.

## ARTICLE 24.11

## Decision on urgency

1. If a Party so requests, the panel shall decide, within 10 days after its establishment, whether the dispute concerns matters of urgency.
2. If the panel decides that the dispute concerns matters of urgency, the applicable time periods set out in Section C (Panel procedures) shall be half the time specified therein, except for the time periods referred to in Article 24.6 (Establishment of a panel), Article 24.10 (Terms of reference), Article 24.17(3), Article 24.17(5) (Temporary remedies) and Article 24.18(2) (Review of any measure taken to comply after the adoption of temporary remedies).

## ARTICLE 24.12

### Interim report

1. The panel shall deliver an interim report to the Parties within 110 days after the date of establishment of the panel. If the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. The panel shall not deliver its interim report later than 140 days after the date of establishment of the panel.
2. Each Party may provide to the panel written comments on precise aspects of the interim report within 12 days after its delivery. A Party may respond to the other Party's written comments within eight days after the delivery of the written comments.

## ARTICLE 24.13

### Final report

1. The panel shall deliver its final report to the Parties within 30 days after the date of delivery of the interim report. If the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. The panel shall not deliver its final report later than 60 days after the date of delivery of the interim report.
2. The final report shall clearly address the comments of each Party, if any, made pursuant to Article 24.12(2) (Interim report).

## ARTICLE 24.14

### Compliance measures

1. If a panel finds that the Party complained against is not in conformity with the covered provisions, the Party complained against shall take any measure necessary to comply promptly with the findings and conclusions in the final report in order to bring itself in compliance with the covered provisions.
2. If a panel finds the Party complained against is not in conformity with the covered provisions, the Party complained against shall, no later than 30 days after delivery of the final report, deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take to comply including, if any, the text of such measures.
3. In addition, if the dispute concerns Chapter 18 (Trade and sustainable development):
  - (a) the Party complained against shall, no later than 30 days after the date of delivery of the final report, inform its domestic advisory group referred to in Article 22.7 (Domestic advisory groups – Institutional Provisions Chapter) of the compliance measures it has taken or which it envisages taking to comply. The domestic advisory group may submit observations to the Trade and Sustainable Development Committee in this regard; and
  - (b) the Trade and Sustainable Development Committee shall monitor the implementation of the compliance measures.

## ARTICLE 24.15

### Reasonable period of time

1. If a panel finds the Party complained against is not in conformity with the covered provisions and immediate compliance is not possible, the Party complained against shall, no later than 30 days after the date of delivery of the final report, deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance. The Parties shall endeavour to agree on the length of the reasonable period of time to comply.
2. If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the delivery of the notification referred to in paragraph 1, request in writing the original panel to determine the length of the reasonable period of time. The panel shall deliver its decision to the Parties within 30 days after the date of delivery of such request.
3. The Party complained against shall deliver a written notification of its progress in complying with the final report to the complaining Party no later than 30 days before the expiry of the reasonable period of time.
4. The Parties may agree to extend the reasonable period of time.

## ARTICLE 24.16

### Compliance review

1. The Party complained against shall, no later than at the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the final report including, if any, the text of such measures.
2. If the Parties disagree on the existence or the consistency with the covered provisions of any measure taken to comply, the complaining Party may deliver a request, in writing, to the original panel to decide on the matter. Such request shall identify any measure at issue and explain how that

measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

3. The panel shall deliver its interim decision to the Parties within 40 days after the date of delivery of the request referred to in paragraph 2. Each Party may provide written comments to the panel on precise aspects of the interim decision and may respond to the other Party's written comments. The panel shall provide its final decision 20 days after the delivery of the interim decision.

## ARTICLE 24.17

### Temporary remedies

1. The Party complained against shall, on request by and after consultations with the complaining Party, present an offer for temporary compensation if:

- (a) the Party complained against delivers a notification to the complaining Party that it is not practicable to comply with the final report;
- (b) the Party complained against fails to deliver a notification of any measure taken to comply within the deadline referred to in Article 24.14 (Compliance measures) or before the date of expiry of the reasonable period of time;
- (c) the panel finds that no measure taken to comply exists; or
- (d) the panel finds that the measure taken to comply is not in conformity with the covered provisions.

2. In any of the circumstances referred to in paragraph 1, the complaining Party may deliver a written notification to the Party complained against that it intends to suspend the application of obligations under the covered provisions if:

- (a) the complaining Party does not make a request under paragraph 1; or

- (b) after a request is made under paragraph 1, the Parties do not agree on the temporary compensation within 20 days after the expiry of the reasonable period of time or the delivery of the panel decision under Article 24.16 (Compliance review).

Such notification shall specify the level of intended suspension of obligations.

3. The complaining Party may suspend obligations 10 days after the date of delivery of the notification referred to in paragraph 2, unless the Party complained against has made a request under paragraph 6.

4. In the circumstances referred to in points (a)(i) and (b)(i) of paragraph 9, the complaining Party shall only deliver the notification referred to in paragraph 2, if it considers that the violation is sufficiently serious or material in terms of its impact on workers, or on persons engaged in trade between, or investment in, the territories of the Parties to justify the suspension of obligations under this Agreement.

5. The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.

6. If the Party complained against considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel before the expiry of the 10-day period set out in paragraph 3 to decide on the matter.

7. The panel shall deliver its decision on the level of the suspension of obligations to the Parties within 40 days after the date of that request. Obligations shall not be suspended until the panel has delivered its decision. The suspension of obligations shall be consistent with that decision.

8. The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied if:

- (a) the Parties have reached a mutually agreed solution pursuant to Article 24.33 (Mutually agreed solution);

- (b) the Parties have agreed that the measure taken to comply brings the Party complained against into conformity with the covered provisions; or
- (c) any measure taken to comply which the panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the Party complained against into conformity with those provisions.

9. If the dispute concerns Chapter 18 (Trade and sustainable development), this Article applies if:

- (a) any of the circumstances set out in points (a), (b) or (c) of paragraph 1 arises and the final report delivered pursuant to Article 24.13 (Final report) finds a violation of:
  - (i) Article 18.3(2) (Multilateral labour standards and agreements - Trade and sustainable development Chapter); or
  - (ii) Article 18.6(2) (Trade and climate change - Trade and sustainable development Chapter) by reason of the Party complained against having failed to refrain from any act or omission that materially defeats the object and purpose of the Paris Agreement; or
- (b) the circumstances set out in point (d) of paragraph 1 arise and the decision of the compliance panel delivered pursuant to Article 24.16 (Compliance review) finds a violation of:
  - (i) Article 18.3(2) (Multilateral labour standards and agreements - Trade and sustainable development Chapter); or
  - (ii) Article 18.6(2) (Trade and climate change - Trade and sustainable development Chapter) by reason of the Party complained against having failed to refrain from any act or omission that materially defeats the object and purpose of the Paris Agreement.

#### ARTICLE 24.18

Review of any measure taken to comply after the adoption of temporary remedies

1. The Party complained against shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. Except in the circumstances specified in paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days from the date of delivery of the notification. In cases where compensation has been applied, and except in the circumstances specified in paragraph 2, the Party complained against may terminate the application of such compensation within 30 days from delivery of its notification that it has complied.
2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into conformity with the covered provisions within 30 days after the date of delivery of the notification, the complaining Party shall deliver a written request to the original panel to decide on the matter.
3. The panel shall deliver its interim decision to the Parties within 50 days after the date of the delivery of the request. Each Party may provide written comments to the panel on precise aspects of the interim decision and may respond to the other Party's written comments. The panel shall provide its final decision within 20 days after the delivery of the interim decision.
4. If the panel finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. When relevant, the complaining Party shall adjust the level of suspension of obligations or of compensation in light of the panel decision.
5. If the Party complained against considers that the level of suspension of obligations implemented by the complaining Party exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel to decide on the matter. The panel shall deliver its decision to the Parties within 40 days after the date of such request.

## ARTICLE 24.19

### Replacement of panellists

If a panellist is unable to participate, withdraws or needs to be replaced because he or she does not comply with Annex 24-B (Code of conduct for panellists and mediators), the procedure provided for in Article 24.6 (Establishment of a panel) applies. The time period for the delivery of any reports or decisions shall be extended for the time necessary for the appointment of the new panellist.

## ARTICLE 24.20

### Rules of procedure

1. Panel procedures shall be governed by this Chapter and Annex 24-A (Rules of procedure).
2. Any hearing of the panel shall be open to the public unless otherwise provided in Annex 24-A (Rules of procedure).

## ARTICLE 24.21

### Suspension and termination

1. On request of both Parties, the panel shall suspend its work at any time for a period agreed by the Parties which does not exceed 12 consecutive months.
2. The panel shall resume its work before the date of expiry of the agreed suspension period at the written request of both Parties, or on the day following the date of the expiry of the agreed suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly.
3. If the panel does not resume its work in accordance with paragraph 2, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated.

4. If the work of the panel is suspended, the relevant time periods under this Section shall be extended by the same period of time for which the work of the panel was suspended.

## ARTICLE 24.22

### Receipt of information

1. At the request of a Party, or on its own initiative, the panel may seek from the Parties, relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for such information.
2. On the request of a Party or its own initiative, the panel may seek any information it deems appropriate from any source. The panel also has the right to seek the opinion of experts, as it deems appropriate, and subject to any terms and conditions agreed by the Parties, where applicable.
3. For the purposes of paragraph 2, with regard to disputes concerning Articles 18.3 (Multilateral labour standards and agreements – Trade and sustainable development Chapter), 18.4 (Trade and gender equality – Trade and sustainable development Chapter), 18.5 (Multilateral environmental agreements – Trade and sustainable development) or 18.6 (Trade and climate change – Trade and sustainable development Chapter), the opinions of experts or the information requested by the panel should include information and advice from the ILO or from other relevant organisations or bodies established under multilateral agreements or instruments referred to in those Articles.
4. The panel shall consider *amicus curiae* submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex 24-A (Rules of procedure).
5. Any information obtained by the panel under this Article shall be disclosed to the Parties and the Parties may provide comments thereon.

## ARTICLE 24.23

## Rules of interpretation

1. The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 March 1969.
2. The panel shall also take into account relevant interpretations in reports of WTO panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO as well as in arbitration awards under the DSU.
3. Reports and decisions of the panel cannot add to or diminish the rights and obligations of the Parties under this Agreement.

## ARTICLE 24.24

### Reports and decisions of the panel

1. The deliberations of the panel shall be kept confidential. The panel shall make every effort to draft reports and take decisions by consensus. If this is not possible, the panel shall decide the matter by majority vote. In no case shall separate opinions of panellists be disclosed.
2. The decisions and reports of the panel shall be accepted unconditionally by the Parties. They shall not create any rights or obligations with respect to natural or legal persons.
3. Each Party shall promptly make the reports and decisions of the panel and its submissions publicly available, subject to the protection of confidential information.
4. The panel and the Parties shall treat as confidential any information submitted by a Party to the panel in accordance with Annex 24-A (Rules of procedure).

## ARTICLE 24.25

## Choice of forum

1. If a dispute arises regarding a particular measure in alleged breach of an obligation under this Agreement and a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.
2. Once a Party has selected the forum and initiated dispute settlement procedures under this Section or under another international agreement, the Party shall not initiate dispute settlement procedures under the other agreement with respect to the particular measure referred to in paragraph 1, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.
3. For the purposes of this Article:
  - (a) dispute settlement procedures under this Section are deemed to be initiated by a Party's request for the establishment of a panel in accordance with Article 24.5 (Initiation of panel procedures);
  - (b) dispute settlement procedures under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel in accordance with Article 6 of the DSU; and
  - (c) dispute settlement procedures under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.
4. Without prejudice to paragraph 2, nothing in this Agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the Parties are party. The WTO Agreement or any other international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations pursuant to this Section.

## SECTION D

### MEDIATION MECHANISM

## ARTICLE 24.26

### Objective

The objective of the mediation mechanism is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

## ARTICLE 24.27

### Request for information

1. At any time before the initiation of the mediation procedure, a Party may deliver a written request for information regarding a measure adversely affecting trade or investment between the Parties. The Party receiving the request shall, within 20 days after the date of delivery of the request, deliver a written response containing its comments on the requested information.
2. If the Party receiving the request considers it will not be able to deliver a response within 20 days after the date of delivery of the request, it shall promptly notify the requesting Party, stating the reasons for the delay and providing an estimate of the shortest period within which it will be able to deliver its response.
3. A Party is normally expected to deliver a written request for information under this Article before requesting to enter into a mediation procedure under Article 24.28 (Initiation of the mediation procedure).

## ARTICLE 24.28

### Initiation of the mediation procedure

1. A Party may at any time request to enter into a mediation procedure with respect to any measure by a Party adversely affecting trade or investment between the Parties.

2. The request shall be made in writing and delivered to the other Party. The request shall be sufficiently detailed to present the concerns of the requesting Party and shall:

- (a) identify the specific measure at issue;
- (b) provide a statement of the adverse effects that the requesting Party considers the measure has, or will have, on trade or investment between the Parties; and
- (c) explain how the requesting Party considers that those effects are linked to the measure.

3. The mediation procedure may only be initiated by agreement of the Parties which may include an agreement on a mediator, in order to explore mutually agreed solutions and consider any advice and proposed solutions by the mediator. The Party to which the request is made (hereinafter referred to as "the requested Party") shall give good faith consideration to the request and deliver its written acceptance or rejection of the request to the requesting Party within 10 days after the date of its delivery. Otherwise, the request shall be regarded as rejected.

## ARTICLE 24.29

### Selection of the mediator

1. If a mediator has not been agreed pursuant to Article 24.28(3) (Initiation of the mediation procedure), the Parties shall endeavour to agree on a mediator within 10 days after the date of delivery of the written acceptance to mediate.

2. In the event that the Parties are unable to agree on the mediator within 10 days after the date of delivery of written acceptance to mediate, either Party may request the co-chair of the Trade Committee from the requesting Party to select the mediator by lot, within five days from the request, from the list of possible mediators referred to in Article 24.7(4) (Lists of panellists). The co-chair of the Trade Committee from the requesting Party may delegate such selection by lot of the mediator. The requested Party may be present during the lot.

3. If the sub-list of chairpersons referred to in Article 24.7 (Lists of panellists) is not established at the time a request is made pursuant to Article 24.28 (Initiation of the mediation procedure), the mediator shall be drawn by lot from the individuals formally proposed by one Party or both of the Parties for that sub-list. Where applicable, the selection by lot shall be limited to the individuals identified in such proposals as possible mediators.
4. The Parties shall notify, in writing, the individual who has been selected to serve as mediator and invite that individual to confirm their availability. Unless the Parties agree otherwise, the date of the appointment of the mediator shall be the date on which the selected individual confirms their availability. If the selected individual notifies that he or she is unavailable or does not confirm their availability within 10 days, a new individual shall be selected. To that end, the procedure provided in this Article shall be repeated, starting with the selection method that led to the selection of the unavailable individual.
5. A mediator shall not be a natural person of either Party or employed by either Party, unless the Parties otherwise agree.
6. A mediator shall comply with Annex 24-B (Code of conduct for panellists and mediators).

## ARTICLE 24.30

### Rules of the mediation procedure

1. Within 10 days of the appointment of the mediator, the requesting Party shall deliver to the mediator and to the requested Party a detailed written description of its concerns, in particular of the operation of the measure at issue and its possible adverse effects on trade or investment. Within 20 days after the date of the delivery of such description, the requested Party may deliver written comments on that description. Either Party may include any information that it deems relevant in its description or comments.
2. The mediator shall assist the Parties in a transparent manner to understand the measure concerned and its possible adverse effects on trade or investment. In particular, the mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult with, relevant experts and stakeholders and provide any additional support requested

by the Parties. The mediator shall consult with the Parties before seeking the assistance of, or consulting with, relevant experts and stakeholders. Engagement of experts shall be subject to any terms and conditions agreed by the Parties, where applicable.

3. The mediator may offer advice and propose a solution for the consideration of the Parties. The Parties may accept or reject the proposed solution, or agree on a different solution. The mediator shall not advise or comment on the consistency of the measure at issue with this Agreement.

4. The mediation procedure shall take place in the territory of the requested Party, or by mutual agreement in any other location or by any other means.

5. The Parties shall endeavour to reach a mutually agreed solution within 70 days after the date of the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, particularly if the mediation procedure relates to matters of urgency.

6. On request of either Party, the mediator shall deliver a draft factual report to the Parties within 20 days after the date of such a request. The draft factual report shall provide:

- (a) a brief summary of the measure at issue;
- (b) the procedures followed; and
- (c) if applicable, any mutually agreed solution reached, including possible interim solutions.

7. The mediator shall allow the Parties to submit comments on the draft factual report within 15 days after the date of the delivery of that report.

8. The mediator shall deliver a final factual report to the Parties within 30 days after the date of delivery of the draft factual report. The final factual report shall clearly address the comments made by each Party, if any. Neither the draft nor the final factual report shall include any interpretation of this Agreement or reach any conclusions on the consistency of the measure at issue with this Agreement.

9. The mediation procedure shall be terminated by:

- (a) the adoption of a mutually agreed solution by the Parties, on the date of the adoption thereof;
- (b) mutual agreement of the Parties at any stage of the mediation procedure, on the date of that agreement;
- (c) a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of that declaration; or
- (d) a written declaration of a Party after the time period specified in paragraph 5 has expired, on the date of that declaration, provided that the Parties have first explored a mutually agreed solutions under the mediation procedure and considered any advice and solutions proposed by the mediator.

#### ARTICLE 24.31

##### Confidentiality

Unless the Parties agree otherwise, all steps of the mediation procedure, including any advice or proposed solution, are confidential. Either Party may disclose to the public the fact that mediation is taking place.

#### ARTICLE 24.32

##### Relationship to dispute settlement procedures

1. The mediation procedure is without prejudice to each Party's rights and obligations under Sections B (Consultations) and C (Panel procedures) or under dispute settlement procedures under any other agreement.
2. If a Party requests establishment of a panel in accordance with Article 24.5 (Initiation of panel procedures) in relation to the measure that is the subject of the mediation, the other Party may terminate the mediation by written declaration and without complying with point (d) of Article 24.30(7) (Rules of the mediation procedure).

3. A Party shall not rely on, or introduce as evidence, in other dispute settlement procedures under this Agreement or any other agreement, nor shall a panel take into consideration:
  - (a) positions taken by the other Party in the course of the mediation procedure or information exclusively gathered pursuant to Article 24.30(2) (Rules of the mediation procedure);
  - (b) the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or
  - (c) advice given or proposals made by the mediator.
  
4. Unless the Parties agree otherwise, a mediator shall not serve as a member of a panel in dispute settlement procedures under this Agreement or under any other agreement involving the same matter for which he or she has been a mediator.

## SECTION E

### COMMON PROVISIONS

#### ARTICLE 24.33

##### Mutually agreed solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 24.3 (Scope).
  
2. If a mutually agreed solution is reached during the panel or mediation procedure, the Parties shall jointly notify that solution to the chairperson of the panel or the mediator, as applicable. On such notification, the panel or the mediation procedure shall be terminated.
  
3. Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.

4. No later than at the expiry of the agreed time period the implementing Party shall inform the other Party, in writing, of any measure that it has taken to implement the mutually agreed solution, including, where applicable, the text of such measure.

#### ARTICLE 24.34

##### Time periods

1. All time periods laid down in this Chapter shall be counted in days from the day following the act to which they refer. Time periods laid down in this Chapter shall be calculated with reference to the date and time in Brussels.
2. Any time period referred to in this Chapter may be modified by mutual agreement of the Parties.
3. The panel may at any time propose to the Parties to modify any time period referred to in Section C (Panel procedures), stating the reasons for the proposal.

#### ARTICLE 24.35

##### Costs

1. Each Party shall bear its own expenses derived from its participation in the procedures or mediation procedure.
2. The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the panellists and of the mediator.<sup>4</sup>

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<sup>4</sup> For greater certainty, this provision is without prejudice to the specific rules in Annex 24-A (Rules of procedure) with regard to expenses related to the logistical administration of the hearing.

3. The Trade Committee may adopt a decision setting out the parameters or other details on the remuneration and the reimbursement of expenses of panellists and mediators, including any related costs that could be incurred in the proceedings. In the absence of such decision, the remuneration and the reimbursement of expenses of panellists and mediators and of any related costs shall be determined in accordance with Rule 10 of Annex 24-A (Rules of procedure).

4. Each panellist and mediator shall keep a record and render a final account of the time devoted to the proceedings and of the expenses, as well as the time and expenses of their assistants and administrative staff.