

TRANS-PACIFIC PARTNERSHIP AGREEMENT

CHAPTER SUMMARY: DISPUTE SETTLEMENT

The Dispute Settlement Chapter incorporates a fair, transparent, timely, effective and binding procedure for settling disputes that may arise between the TPP Parties in three circumstances. They are:

- With respect to the interpretation or application of the TPP.
- Where a TPP Party's measure (for example a law or regulation), whether proposed or in operation, is alleged to be inconsistent with the TPP, or that another TPP Party has otherwise failed to carry out its obligations under the TPP.
- Where a TPP Party considers that a benefit that would have been expected has been nullified or impaired as a result of a measure of another TPP Party.

The Chapter is restricted to disputes between the TPP Parties, also known as State-to-State disputes. It does not address Investor-State Dispute Settlement, which is provided for separately in the Investment Chapter.

The Chapter does not apply to all provisions in the agreement; some chapters are specifically exempt from the Dispute Settlement Chapter (see respective chapter summaries for more information).

MORE INFORMATION ON THE CHAPTER

The Chapter requires that, before commencing formal dispute resolution, TPP Parties must engage in consultations (other interested TPP Parties can seek to participate) and must make every effort to attempt to resolve the dispute through the consultation process. TPP Parties may also undertake alternative methods of dispute resolution, including good offices, conciliation or mediation.

If a matter is not resolved through these consultation or alternative methods, a panel will be established to examine the issues in dispute, make findings or determinations (and recommendations, if requested) and produce a written report. Panelists are required, among other things, to have expertise or experience in law, international trade or other matters covered in the TPP, be independent and comply with a code of conduct.

The Chapter provides specific procedures for the conduct of panel hearings. This includes the ability for hearings to be open to the public, for submissions to be made publicly available, involvement of experts, and participation of third TPP Parties.

Panels will consider the provisions in the Agreement in accordance with applicable rules of treaty interpretation under international law, as reflected in Article 31 and Article 32 of the *Vienna Convention on the Law of Treaties*, and with respect to any WTO Obligation incorporated into the TPP, any relevant reports of WTO Panels and the WTO Appellate Body adopted by the WTO Dispute Settlement Body.



Panels will furnish reports including their findings of fact, determinations, recommendations and the reasons for their decision. TPP Parties may make submissions on the report for the Panel's consideration prior to the furnishing of a public final report.

If the Panel determines that:

- the TPP Party's measure is inconsistent with its obligations under the Agreement;
- the TPP Party has failed to carry out its obligations; or
- the measure is causing nullification of impairment of benefits,

then that TPP Party shall have a reasonable period of time to eliminate the non-conformity or nullification or impairment, if it is not practicable to comply immediately.

If the Party fails to eliminate the non-conformity or nullification or impairment, the TPP Party bringing the complaint may seek compensation or may seek to suspend benefits to the TPP Party at fault commensurate with the harm suffered. Compensation and suspension of benefits may be applied until the responding TPP Party has corrected the non-compliance or nullification or impairment.