

**Article 5**  
**Establishment of Arbitral Panels**

1. If the consultations under Article 3 fail to settle a dispute within sixty (60) days after the date of receipt of the request for consultations or within twenty (20) days after such date in cases of urgency including those which concern perishable goods, the complaining party may make a written request to the party complained against to establish an arbitral panel. A copy of this request shall also be communicated to the rest of the Parties.
2. A request for the establishment of an arbitral panel shall give the reasons for the request, including the identification of:
  - (a) the specific measure at issue; and
  - (b) the factual and legal basis (including the provisions of any of the covered agreements alleged to have been breached and any other relevant provisions) for the complaint sufficient to present the problem clearly.
3. Upon delivery of the request, an arbitral panel shall be established.
4. Unless otherwise agreed by the parties to the dispute, an arbitral panel shall be established and perform its functions in accordance with the provisions of this Agreement, and the Annex on the Rules and Procedures for the Arbitral Panel Proceedings.
5. Where more than one complaining party requests the establishment of an arbitral panel related to the same matter, a single arbitral panel may, whenever feasible, be established by the parties to the dispute to examine the matter, taking into account their respective rights.
6. Where a single arbitral panel is established under paragraph 5, the arbitral panel shall organise its examination and present its findings to all the parties to the dispute in such manner that the rights which the parties to the dispute would have enjoyed had separate arbitral panels examined the same matter are in no way impaired. If one of the parties to the dispute so requests, the arbitral panel may

submit separate reports on the dispute concerned if the timeframe for writing the report so permits. The written submissions by a party to the dispute shall be made available to the other parties to the dispute, and each party to the dispute shall have the right to be present when any of the other parties to the dispute presents its views to the arbitral panel.

7. Where more than one arbitral panel is established to examine the same matter, to the greatest extent possible, the same persons shall be appointed by the parties to the disputes to serve on each of the separate arbitral panels and the timetable for the proceedings of each separate arbitral panel shall be harmonised.