dispute at any time.

3. If the parties to a dispute agree, good offices, conciliation or mediation proceedings may continue before any person or body as may be agreed by the parties to the dispute while the dispute proceeds for resolution before an arbitral panel established under Article 5.

4. Proceedings involving good offices, conciliation and mediation, and in particular, positions taken by the parties to a dispute during these proceedings, shall be confidential, and without prejudice to the rights of any Party in any further proceedings under this Agreement or other proceedings before a forum selected by the Parties.

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.

Article 6
Composition of Arbitral Panels

1. Unless otherwise provided in this Agreement or agreed by the parties to the dispute, an arbitral panel shall consist of three (3) members.

2. Each party to the dispute shall appoint one member of the arbitral panel within thirty (30) days after the date of receipt of the request under Article 5. If any party to the dispute fails to appoint a member of the arbitral panel within such period, then the member of the arbitral panel appointed by the other party to the dispute shall act as the sole member of the arbitral panel, notwithstanding paragraph 1.

3. The parties to the dispute shall endeavour to agree on the third member who shall serve as the chair of the arbitral panel within thirty (30) days of the appointment of the second member. If the parties to the dispute are unable to agree on the chair within this period, the chair shall be jointly appointed, by the members of the arbitral panel who have been appointed under paragraph 2, within a further period of thirty (30) days. If the members of the arbitral panel fail to appoint the chair within the aforesaid period, the chair shall be appointed at the request of the members of the arbitral panel by the Director-General of the WTO within thirty (30) days after the date of receipt of the request. In the event that the Director-General is a national of one of the parties to the dispute, the Deputy Director-General or the officer next in seniority who is not a national of any party to the dispute shall be requested to appoint the chair.2

4. The date of establishment of the arbitral panel shall be the date on which the chair is appointed under paragraph 3 or, the 30th day after the date of receipt of the request under Article 5 where only a sole member of the arbitral panel is available.

5. If a member appointed under this Article resigns or becomes unable to act, a successor member shall be appointed in the same manner as prescribed for the appointment of the original member and the successor member shall have all the powers and duties of the original member. The work of the arbitral panel shall be suspended until the successor member is appointed.

2 In appointing a chair, the Director-General of the WTO or an officer next in seniority in case of his or her unavailability, shall endeavour to appoint an individual who is not a national of, or does not have his/her usual place of residence in the territory of, or is not employed by, any of the Parties.