2. Any request for the establishment of an arbitral tribunal pursuant to this Article shall identify:

(a) the legal basis of the complaint including the provisions of this Agreement alleged to have been breached and any other relevant provisions; and

(b) the factual basis for the complaint.

3. Each Party shall, within 30 days after the date of receipt of the request for the establishment of an arbitral tribunal, appoint one arbitrator who may be its national and propose up to three candidates to serve as the third arbitrator who shall be the chair of the arbitral tribunal. The third arbitrator shall not be a national of either Party, nor have his or her usual place of residence in either Party, nor be employed by either Party, nor have dealt with the dispute in any capacity.

4. The Parties shall agree on and appoint the third arbitrator within 45 days after the date of receipt of the request for the establishment of an arbitral tribunal, taking into account the candidates proposed pursuant to paragraph 3.

5. If either Party has not appointed an arbitrator pursuant to paragraph 3, or if the Parties fail to agree on and appoint the third arbitrator pursuant to paragraph 4, the Director-General of the World Trade Organization shall immediately be requested to make the necessary appointments. In the event that the Director-General is a national of either Party, the Deputy Director-General or the officer next in seniority who is not a national of either Party shall be requested to make the necessary appointments.

6. The date of the establishment of an arbitral tribunal shall be the date on which the chair is appointed.

7. An arbitral tribunal should be composed of arbitrators with relevant technical or legal expertise.

Article 120
Functions of Arbitral Tribunals

1. The arbitral tribunal established pursuant to Article 119:

(a) should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory resolution;

(b) shall make its award in accordance with this Agreement and applicable rules of international law;

(c) shall set out, in its award, its findings of law and fact, together with the reasons therefor; and

(d) may, apart from giving its findings, include in its award suggested implementation options for the Parties to consider in conjunction with Article 123.

2. The arbitral tribunal may seek, from the Parties, such relevant information as it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the arbitral tribunal for such information.

3. The arbitral tribunal may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to factual issues concerning a scientific or other technical matter raised by a Party, the arbitral tribunal may request advisory reports in writing from experts. The arbitral tribunal may, at the request of a Party or on its own initiative, select, in consultation with the Parties, no fewer than two scientific or technical experts who shall assist the arbitral tribunal throughout its proceedings, but who shall not have the right to vote in respect of any decision to be made by the arbitral tribunal, including its award.

Article 121
Proceedings of Arbitral Tribunals

1. The rules and procedures as set out in this Article shall apply to the proceedings of an arbitral tribunal.

2. The Parties, in consultation with the arbitral tribunal, may agree to adopt additional rules and procedures not inconsistent with the provisions of this Article.

3. After consulting the Parties, the arbitral tribunal shall as soon as practicable and whenever possible within seven days after the establishment of the arbitral tribunal, fix the timetable for the arbitral tribunal process. The timetable fixed for the arbitral tribunal shall include precise deadlines for written submissions by the Parties. Modifications to such timetable may be made by the agreement of the Parties in consultation with the arbitral tribunal.

4. The venue for the arbitral tribunal proceedings shall be decided by mutual agreement between the Parties. If there is no agreement, the venue shall alternate between the capitals of the Parties with the first meeting of the arbitral tribunal proceedings to be held in the capital of the Party complained against.

5. The arbitral tribunal shall meet in closed session. The Parties shall be present at the meetings only when invited by the arbitral tribunal to appear before it.