(b) be chosen strictly on the basis of objectivity, reliability, and sound judgement; and

(c) be independent of, and not be affiliated with or take instructions from, either Party.

10. If the Parties agree that an arbitrator has failed to comply with the Code of Conduct referred to in Article 19.16, they may remove the arbitrator, waive the violation or request the arbitrator to take steps within a specified period of time to ameliorate the violation. If the Parties agree to waive the violation or determine that, after amelioration, the violation has ceased, the arbitrator may continue to serve.

11. If an arbitrator appointed in accordance with this Article dies, resigns or becomes unable to act, including as a result of his or her removal in accordance with paragraph 10, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and shall have all the powers and duties of the original arbitrator.

12. Where an arbitral tribunal is reconvened in accordance with Article 19.14 or 19.15, the reconvened arbitral tribunal shall, where possible, have the same arbitrators as the original arbitral tribunal. Where this is not possible, a replacement arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and shall have all the powers and duties of the original arbitrator.

Article 19.7
Terms of Reference of Arbitral Tribunals

Unless the Parties otherwise agree within 20 days after the date of receipt of the request for the establishment of an arbitral tribunal, the terms of reference of the arbitral tribunal shall be:

"To examine, in the light of the relevant provisions of this Agreement cited by the Parties, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to Article 19.6, to make findings of law and fact together with the reasons therefor and to issue an award for the resolution of the dispute."

Article 19.8
Functions of Arbitral Tribunals

The arbitral tribunal established in accordance with Article 19.6:

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

(b) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case, the applicability of the provisions of this Agreement cited by the Parties, and:

(i) the consistency with this Agreement of the measure at issue applied by the Party complained against;

(ii) whether the Party complained against has failed to carry out its obligations under this Agreement; or

(iii) whether the measure at issue applied by the Party complained against is causing the nullification or impairment of any benefit described in subparagraph 1(b) of Article 19.4; and

(c) may make such other findings as necessary for the resolution of the dispute.