第明治二二十種五郵年三月物三十一認可日

ARTICLE 22.9

List of arbitrators

1. The Joint Committee shall, at its first meeting pursuant to paragraph 2 of Article 23.1, establish a list of at least nine individuals who are willing and able to serve as arbitrators. The list shall be composed of three sub-lists: a sub-list for each Party and a sub-list of individuals who are not nationals of either Party and who shall act as the chairperson of the panel. Each sub-list shall include at least three individuals. For the establishment or an update of the sub-list of chairpersons, each Party may propose up to three individuals. The Joint Committee will ensure that the number of individuals on the list of arbitrators is always maintained at the level required by this paragraph.

2. The Joint Committee may establish an additional list, consisting of individuals with demonstrated expertise in specific sectors covered by this Agreement, which may be used to compose the panel.

ARTICLE 22.10

Qualifications of arbitrators

All arbitrators shall:

(a) have demonstrated expertise in law and either international trade or other matters covered by this Agreement and, in case of a chairperson, also have experience in arbitration proceedings;

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

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

(d) comply with the Code of Conduct.

ARTICLE 22.11

Replacement of arbitrators

If in arbitration proceedings under this Chapter, any of the arbitrators of the original panel is unable to participate, withdraws, or needs to be replaced because that arbitrator does not comply with the requirements of the Code of Conduct, the procedure set out in Article 22.8 shall apply.

ARTICLE 22.12

Functions of panels

The panel established pursuant to Article 22.7:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of, and conformity of the measures at issue with, the covered provisions;

(b) shall set out, in its decisions, the findings of fact and law and the rationale behind any findings and conclusions that it makes; and

(c) should consult regularly with the Parties and provide adequate opportunities for achieving a mutually agreed solution.