or policy, or served as a senior trade policy official of a WTO Member; and

(c) in the case of the chair of the panel, wherever possible:

(i) have served on a WTO panel or the WTO Appellate Body; and

(ii) have expertise or experience relevant to the subject matter of the dispute.

12. In appointing a panellist under paragraph 8, and in accordance with the requirements referred to in paragraphs 10 and 11, the following procedure shall be used, unless the Parties to the dispute agree otherwise:

(a) the Secretary-General of the Permanent Court of Arbitration shall notify the Parties to the dispute of an identical list containing at least three nominees for panellists;

(b) within 15 days of the date of the receipt of the list referred to in subparagraph (a), each Party to the dispute may return the list to the Secretary-General of the Permanent Court of Arbitration after having deleted any of the nominees which it objects to and having numbered the remaining nominees on the list in the order of its preference;

(c) after the expiry of the period of time referred to in subparagraph (b), the Secretary-General of the Permanent Court of Arbitration shall appoint the remaining panellists from the remaining nominees on any list returned to him or her and in accordance with the order of preference indicated by the Parties to the dispute; and

(d) if for any reason the remaining panellists cannot be appointed in accordance with the procedure set out in this paragraph, the Secretary-General of the Permanent Court of Arbitration may appoint, in his or her discretion, the remaining panellists in accordance with this Chapter.

13. Unless the Parties to the dispute agree otherwise, the chair shall not be a national of any Party to the dispute or a Third Party and shall not have his or her usual place of residence in any Party to the dispute.

14. Each panellist shall serve in his or her individual capacity and not as a government representative, nor as a representative of any organisation. Any Party shall not give any panellist instructions nor seek to influence any panellist as an individual with regard to matters before a panel.

15. If a panellist appointed under this Article resigns or becomes unable to act, a successor panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist and shall have all the powers and duties of the original panellist. The work of the panel shall be suspended until the successor panellist is appointed. In such a case, any relevant period of time for the panel proceedings shall be suspended until the successor panellist is appointed.

16. Where a panel is reconvened pursuant to Article 19.16 (Compliance Review) or Article 19.17 (Compensation and Suspension of Concessions or Other Obligations), the reconvened panel shall, where feasible, have the same panellists as the original panel. Where this is not feasible, a replacement panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist, and shall have all the powers and duties of the original panellist.

Article 19.12: Functions of Panels

1. The panel shall make an objective assessment of the matter before it, including an objective assessment of:

(a) the facts of the case;

(b) the applicability of the provisions of this Agreement cited by the Parties to the dispute; and

(c) whether:

(i) the measure at issue is not in conformity with the obligations under this Agreement; or

(ii) the Responding Party has otherwise failed to carry out its obligations under this Agreement.