

- (ii) a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private rights of action, procedural guarantees, public information and awareness.

2. Unless otherwise decided by the Parties, a Review Panel composed of three independent experts, including a chairperson who is not a national of either Party, shall be established in a manner consistent with the criteria and procedures set out in Annex 2 (Procedures related to Review Panels).

3. Unless the Parties otherwise decide, the Review Panel shall perform its functions in accordance with the provisions of this part, Annex 2 (Procedures related to Review Panels) and any Model Rules. The Review Panel:

- (a) shall determine, within 30 days of confirmation of its terms of reference, whether the matter is trade-related and shall cease its functions if it determines that the matter is not trade-related;
- (b) shall provide the Parties with sufficient opportunity to make written and oral submissions to the Review Panel;
- (c) may invite or receive and consider written submissions and other information from organisations, institutions, the public and persons with relevant information or expertise; and
- (d) shall hold proceedings that are open to the public, except to the extent necessary to protect information in accordance with Article 17 (Protection of Information) and any Model Rules of Procedure.

#### **Article 14: Review Panel Reports and Determinations**

1. The Review Panel shall present to the Parties a report that:

- (a) sets out findings of fact;
- (b) addresses the submissions and arguments of the Parties and relevant information before it pursuant to Article 13 (Establishment and Conduct of Review Panel) subparagraph 3(c);
- (c) determines whether the Party that is the object of the review has engaged in non-compliance through failure to comply with its obligations under Article 1 (General Obligations) and Article 2 (Upholding levels of protection) to the extent that they refer to the ILO 1998 Declaration or a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private rights of action, procedural guarantees, public information and awareness, or any other determination requested in the terms of reference; and