

Article 1807: Panel Procedures

1. The Commission shall develop and maintain a roster of individuals who are willing and able to serve as panelists. Wherever possible, panelists shall be chosen from this roster. In all cases, panelists shall be chosen strictly on the basis of objectivity, reliability and sound judgment and, where appropriate, have expertise in the particular matter under consideration. Panelists shall not be affiliated with or take instructions from either Party.
2. If a dispute has been referred to the Commission under Article 1805 and has not been resolved within a period of 30 days after such referral, or within such other period as the Commission has agreed upon, or has not been referred to arbitration pursuant to Article 1806, the Commission, upon request of either Party, shall establish a panel of experts to consider the matter. A panel shall be deemed to be established from the date of the request of a Party.
3. The panel shall be composed of five members, at least two of whom shall be citizens of Canada and at least two of whom shall be citizens of the United States. Within 15 days of establishment of the panel, each Party, in consultation with the other Party, shall choose two members of the panel and the Commission shall endeavour to agree on the fifth who shall chair the panel. If a Party fails to appoint its panelists within 15 days, such panelists shall be selected by lot from among its citizens on the roster described in paragraph 1. If the Commission is unable to agree on the fifth panelist within such period, then, at the request of either Party, the four appointed panelists shall decide on the fifth panelist within 30 days of establishment of the panel. If no agreement is possible, the fifth panelist shall be selected by lot from the roster described in paragraph 1.
4. The panel shall establish its rules of procedure, unless the Commission has agreed otherwise. The procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide written submissions and rebuttal arguments. The proceedings of the panel shall be confidential. Unless otherwise agreed by the Parties, the panel shall base its decision on the arguments and submissions of the Parties.
5. Unless the Parties otherwise agree, the panel shall, within three months after its chairman is appointed, present to the Parties an initial report containing findings of fact, its determination as to whether the