

7. Unless the Parties otherwise decide, within 30 days after the Parties establish the panel, the terms of reference shall be:

“To examine, in light of the relevant provisions of this Agreement, whether the Party that was the object of the request has, in a trade-related matter, failed to comply with its obligations under Articles 1 and 2 to the extent that they refer to the ILO 1998 Declaration, or engaged in 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, and to make findings, determinations and recommendations in accordance with paragraph 1 of Article 14.”

8. For a determination under paragraph 3 of Article 13 of whether the matter is trade-related, the Party which has requested the panel has the onus of establishing that the matter is trade-related. For a determination under subparagraph 1(c) of Article 14 of whether the Party that is the object of the request has failed to comply with its obligations, the onus of establishing such non-compliance is on the Party which has requested the panel and its case may be supplemented by any other information provided under subparagraph 3(c) of Article 13.

9. A panel may not release the final report other than to the Parties. Panellists may furnish separate opinions on matters that are not the subject of unanimous agreement. A panel however may not disclose which panellists are associated with majority or minority opinions.