

- (b) the other Party has failed to comply with its obligations under this agreement through:
 - (i) a persistent pattern of failure to effectively enforce its labour law; or
 - (ii) failure to comply with its obligations under Articles 1 and 2 to the extent that they refer to the ILO 1998 Declaration.

2. Unless otherwise agreed by the Parties, a panel comprised 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 3.

Article 13: Conduct of Review and Reports

1. Unless the Parties otherwise agree, the panel shall perform its functions in accordance with the provisions of this Part, Annex 3 and the Model Rules of Procedure. The panel:

- (a) shall determine, within 30 days of confirmation of its terms of reference, whether the matter is trade-related and 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 panel;
- (c) may invite or receive and consider written submissions and any 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 16 and the Model Rules of Procedure.

2. The panel shall present to the Parties a report that:

- (a) makes findings of fact;