

Article 21.12: Compliance Review

If there is disagreement as to the existence or consistency with this Agreement of measures taken to comply with the determinations or recommendations of a panel established under Article 21.6, a Party may refer the matter to a dispute settlement panel (hereinafter referred to as the “compliance panel”) through written notification to the other Party. The compliance panel is established upon receipt by the other Party of the written notification.² In the written notification of compliance panel establishment, the Party shall identify the matter at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. A compliance panel established under this paragraph shall be composed, to the extent possible, of the panellists who served on the original panel established under Article 21.6. If an original panellist is unable to serve on the compliance panel established under this paragraph, a replacement panellist shall be appointed in accordance with Article 21.7, applied *mutatis mutandis*. Articles 21.8 and 21.9 apply to procedures adopted and reports issued by a compliance panel. Where a complaining Party has suspended benefits in accordance with Article 21.11, it may continue to suspend such benefits during proceedings under this paragraph. A compliance panel may include in its final report a recommendation that such suspension be terminated or that the amount of benefits suspended be modified.

Section B – Domestic Proceedings and Private Commercial Dispute Settlement

Article 21.13: Referrals of Matters from Judicial or Administrative Proceedings

1. If an issue of interpretation or application of this Agreement arises in a domestic judicial or administrative proceeding of a Party that either Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Party. The Commission shall endeavour to agree on an appropriate response as expeditiously as possible.
2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum.
3. If the Commission is unable to agree, either Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

² In interpreting the terms “the existence or consistency with” and “measures taken to comply”, a compliance panel established under this Article shall take into account relevant jurisprudence under the Dispute Settlement Understanding.