

1 ARTICLE 21	1
1.1 Text of Article 21	1
1.2 Article 21.3: Period of time for compliance	2
1.2.1 Table showing agreements pursuant to Article 21.3(b).....	2
1.3 Ad hoc agreements on procedures under Articles 21 and 22 concluded by parties	5
1.3.1 Ad hoc agreements on sequencing procedures.....	5
1.3.2 Consultations.....	7
1.3.3 Establishment of the panel.....	8
1.3.4 Appointment of panelists	8
1.3.5 Participation of experts.....	9
1.3.6 Cooperation to ensure time-limits for the work of the compliance panel and Appellate Body are respected	9
1.3.7 Non-prejudice of the parties other rights	9

1 ARTICLE 21

1.1 Text of Article 21

Article 21

Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members.
2. Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.
3. At a DSB meeting held within 30 days¹¹ after the date of adoption of the panel or Appellate Body report, the Member concerned shall inform the DSB of its intentions in respect of implementation of the recommendations and rulings of the DSB. If it is impracticable to comply immediately with the recommendations and rulings, the Member concerned shall have a reasonable period of time in which to do so. The reasonable period of time shall be:

(footnote original) ¹¹ If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose

- (a) the period of time proposed by the Member concerned, provided that such period is approved by the DSB; or, in the absence of such approval,
- (b) a period of time mutually agreed by the parties to the dispute within 45 days after the date of adoption of the recommendations and rulings; or, in the absence of such agreement,
- (c) a period of time determined through binding arbitration within 90 days after the date of adoption of the recommendations and rulings.¹² In such arbitration, a guideline for the arbitrator¹³ should be that the reasonable period of time to implement panel or Appellate Body recommendations should not exceed 15 months from the date of adoption of a panel or Appellate Body report. However, that time may be shorter or longer, depending upon the particular circumstances.

(footnote original) ¹² If the parties cannot agree on an arbitrator within ten days after referring the matter to arbitration, the arbitrator shall be appointed by the Director-General within ten days, after consulting the parties.

(footnote original) ¹³ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

4. Except where the panel or the Appellate Body has extended, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, the time of providing its report, the period from the date of establishment of the panel by the DSB until the date of determination of the reasonable period of time shall not exceed 15 months unless the parties to the dispute agree otherwise. Where either the panel or the Appellate Body has acted to extend the time of providing its report, the additional time taken shall be added to the 15-month period; provided that unless the parties to the dispute agree that there are exceptional circumstances, the total time shall not exceed 18 months.

5. Where there is disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings such dispute shall be decided through recourse to these dispute settlement procedures, including wherever possible resort to the original panel. The panel shall circulate its report within 90 days after the date of referral of the matter to it. When the panel considers that it cannot provide its report within this time frame, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

6. The DSB shall keep under surveillance the implementation of adopted recommendations or rulings. The issue of implementation of the recommendations or rulings may be raised at the DSB by any Member at any time following their adoption. Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. At least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations or rulings.

7. If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances.

8. If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Members concerned.

1.2 Article 21.3: Period of time for compliance

1.2.1 Table showing agreements pursuant to Article 21.3(b)

1. The following table provides information on agreements reached among the parties to a dispute regarding the reasonable period of time pursuant to Article 21.3(b). It is updated to February 2018.

DS No.	Short Title	Reasonable period of time/ Expiry date	Reference
DS31	<i>Canada – Periodicals</i>	15 months 30 October 1998	WT/DSB/M/37
DS34	<i>Turkey – Textiles</i>	15 months 19 February 2001	WT/DS34/10
DS50	<i>India – Patents (US)</i>	15 months 16 April 1999	WT/DSB/M/45
DS56	<i>Argentina – Textiles and Apparel</i>	180 / 242 days 19 October 1998 / 1 January 1999	WT/DS56/14

WTO ANALYTICAL INDEX

DSU – Article 21 (Practice)

DS58	<i>US – Shrimp</i>	13 months 6 December 1999	WT/DSB/M/54
DS69	<i>EC – Poultry</i>	8 months 8 days 31 March 1999	WT/DS69/9
DS76	<i>Japan – Agricultural Products II</i>	9 months 12 days 31 December 1999	WT/DS76/9
DS90	<i>India – Quantitative Restrictions</i>	18 months 10 days 1 April 2001	WT/DS90/15
DS98	<i>Korea – Dairy</i>	4 months 8 days 20 May 2000	WT/DS98/11
DS99	<i>US – DRAMS</i>	8 months 19 November 1999	WT/DS99/6
DS103 DS113	<i>Canada – Dairy</i>	14 months 4 days 31 December 2000 31 January 2001	WT/DS103/10 WT/DS113/10 WT/DS103/13 WT/DS113/13
DS122	<i>Thailand – H-Beams</i>	6 months 15 days 20 October 2001	WT/DS122/8
DS132	<i>Mexico – Corn Syrup</i>	6 months 29 days 22 September 2000	WT/DS132/5
DS141	<i>EC – Bed Linen</i>	5 months 2 days 14 August 2001	WT/DS141/10
DS146 DS175	<i>India – Autos</i>	5 months 5 September 2002	WT/DS146/13 WT/DS175/13
DS161 DS169	<i>Korea – Various Measures on Beef</i>	8 months 10 September 2001	WT/DS161/12 WT/DS169/12
DS166	<i>US – Wheat Gluten</i>	4 months 14 days 2 June 2001	WT/DS166/12
DS174 DS290	<i>EC – Trademarks and Geographical Indications</i>	11 months 2 weeks 3 April 2006	WT/DS174/24 WT/DS290/22
DS176	<i>US – Section 211 Appropriations Act</i>	11 months 31 December 2002 30 June 2003 31 December 2003 31 December 2004 30 June 2005	WT/DS176/10 WT/DS176/12 WT/DS176/13 WT/DS176/14 WT/DS176/15
DS179	<i>US – Stainless Steel</i>	7 months 1 September 2001	WT/DS179/5
DS189	<i>Argentina – Ceramic Tiles</i>	5 months 5 April 2002	WT/DS189/7
DS202	<i>US – Line Pipe</i>	5 months 24 days 1 September 2002	WT/DS202/18
DS204	<i>Mexico – Telecoms</i>	13 months 1 July 2005 15 July 2005 29 July 2005	WT/DS204/7 WT/DS204/10 WT/DS204/11
DS206	<i>US – Steel Plate</i>	5 months 29 December 2002	WT/DS206/7
DS211	<i>Egypt – Steel Rebar</i>	9 months 31 July 2003	WT/DS211/6
DS212	<i>US – Countervailing Measures on Certain EC Products</i>	10 months 8 November 2003	WT/DS212/12
DS219	<i>EC – Tube or Pipe Fittings</i>	7 months 19 March 2004	WT/DS219/12
DS231	<i>EC – Sardines</i>	6 months 23 April 2003	WT/DS231/16
DS238	<i>Argentina – Preserved Peaches</i>	8 months 16 days 31 December 2003	WT/DS238/7
DS245	<i>Japan – Apples</i>	6 months 20 days 30 June 2004	WT/DS245/9
DS257	<i>US – Softwood Lumber IV</i>	10 months 17 December 2004	WT/DS257/13

WTO ANALYTICAL INDEX

DSU – Article 21 (Practice)

DS264	<i>US – Softwood Lumber V</i>	7 months 15 days 15 April 2005 2 May 2005	WT/DS264/12 WT/DS264/15
DS276	<i>Canada – Wheat Exports and Grain Imports</i>	10 months 5 days 1 August 2005	WT/DS276/19
DS277	<i>US – Softwood Lumber VI</i>	9 months 26 January 2005	WT/DS277/7
DS282	<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	6 months 28 May 2006	WT/DS282/11
DS291	<i>EC – Approval and Marketing of Biotech Products (US)</i>	12 months 21 November 2007 11 January 2008	WT/DS291/35 WT/DS291/36
DS292	<i>EC – Approval and Marketing of Biotech Products (Canada)</i>	12 months 21 November 2007 11 January 2008 11 February 2008 30 June 2008 31 July 2008 31 December 2008 1 March 2009 1 May 2009 30 June 2009 31 July 2009	WT/DS292/29 WT/DS292/30 WT/DS292/32 WT/DS292/33 WT/DS292/34 WT/DS292/35 WT/DS292/36 WT/DS292/37 WT/DS292/38 WT/DS292/39 + Corr.1
DS293	<i>EC – Approval and Marketing of Biotech Products (Argentina)</i>	12 months 21 November 2007 11 January 2008 30 June 2008 31 July 2008 31 December 2008 1 March 2009 30 June 2009 31 December 2009 31 January 2010 28 February 2010 31 March 2010	WT/DS293/29 WT/DS293/30 WT/DS293/32 WT/DS293/33 WT/DS293/34 WT/DS293/35 WT/DS293/36 WT/DS292/37 WT/DS293/38 WT/DS293/39 WT/DS293/40
DS294	<i>US – Zeroing (EC)</i>	11 months 9 April 2007	WT/DS294/19
DS295	<i>Mexico – Anti-Dumping Measures on Rice</i>	8 months 20 August 2006	WT/DS295/12
DS296	<i>US – Countervailing Duty Investigation on DRAMs</i>	7 months 16 days 8 March 2006	WT/DS296/11
DS299	<i>EC – Countervailing Measures on DRAM Chips</i>	8 months 3 April 2006	WT/DS299/7
DS302	<i>Dominican Republic – Import and Sale of Cigarettes</i>	24 months 19 May 2007	WT/DS302/17
DS308	<i>Mexico – Taxes on Soft Drinks</i>	10 months 7 days 31 January 2007	WT/DS308/15
DS312	<i>Korea – Certain Paper</i>	8 months 28 July 2006	WT/DS312/6
DS322	<i>US – Zeroing (Japan)</i>	11 months 24 December 2007	WT/DS322/20
DS331	<i>Mexico – Steel Pipes and Tubes</i>	6 months 24 January 2008	WT/DS331/7
DS334	<i>Turkey – Rice</i>	6 months 22 April 2008	WT/DS334/12
DS335	<i>US – Shrimp (Ecuador)</i>	6 months 20 August 2007	WT/DS335/10
DS337	<i>EC – Salmon (Norway)</i>	10 months 15 November 2008	WT/DS337/8
DS339	<i>China – Auto Parts (EC)</i>	7 months 20 days 1 September 2009	WT/DS339/15

WTO ANALYTICAL INDEX

DSU – Article 21 (Practice)

DS340	<i>China – Auto Parts (US)</i>	7 months 20 days 1 September 2009	WT/DS340/15
DS342	<i>China – Auto Parts (Canada)</i>	7 months 20 days 1 September 2009	WT/DS342/15
DS343	<i>US – Shrimp (Thailand)</i>	8 months 1 April 2009	WT/DS343/16
DS345	<i>US – Customs Bond Directive</i>	8 months 1 April 2009	WT/DS345/15
DS350	<i>US – Continued Zeroing</i>	10 months 19 December 2009	WT/DS350/17
DS362	<i>China – Intellectual Property Rights</i>	12 months 20 March 2010	WT/DS362/13
DS363	<i>China – Publications and Audiovisual Products</i>	14 months 19 March 2011	WT/DS363/16
DS367	<i>Australia – Apples</i>	8 months 17 August 2011	WT/DS367/19
DS375	<i>EC – IT Products (US)</i>	9 months 9 days 30 June 2011	WT/DS375/16
DS376	<i>EC – IT Products (Japan)</i>	9 months 9 days 30 June 2011	WT/DS376/16
DS377	<i>EC – IT Products (Chinese Taipei)</i>	9 months 9 days 30 June 2011	WT/DS377/14
DS379	<i>US – Anti-Dumping and Countervailing Duties (China)</i>	11 months 25 February 2012	WT/DS379/11
DS382	<i>US – Orange Juice</i>	9 months 17 March 2012	WT/DS382/8
DS383	<i>US – Anti-Dumping Measures on PET Bags</i>	6 months 18 August 2010	WT/DS383/6
DS402	<i>US – Zeroing (Korea)</i>	8 months and 9 months 24 October and 24 November 2011	WT/DS402/6
DS429	<i>US – Shrimp II (Viet Nam)</i>	15 months 22 July 2016	WT/DS429/12
DS437	<i>US – Countervailing Measures (China)</i>	14 months and 16 days 1 April 2016.	WT/DS437/17
DS457	<i>Peru – Agricultural Products</i>	7 months and 29 days 29 March 2016	WT/DS457/15
DS461	<i>Colombia – Textiles</i>	7 months 22 January 2016	WT/DS461/13
DS464	<i>US – Washing Machines</i>	15 months 26 December 2017	WT/DS464/RPT
DS471	<i>US – Anti-Dumping Methodologies (China)</i>	15 months 22 August 2018	WT/DS471/RPT

1.3 Ad hoc agreements on procedures under Articles 21 and 22 concluded by parties

1.3.1 Ad hoc agreements on sequencing procedures

2. The following table provides information on ad hoc agreements on sequencing procedures concluded by the parties to a dispute under Articles 21.5 and 22 of the DSU. It is updated to 30 September 2011.

DS No.	Short title	Reference
DS18	<i>Australia – Salmon</i>	WT/DS18/RW, para. 1.3
DS46	<i>Brazil – Aircraft</i>	WT/DS46/13
DS58	<i>US – Shrimp</i>	WT/DS58/16
DS70	<i>Canada – Aircraft</i>	WT/DS70/9
DS103	<i>Canada – Dairy</i>	WT/DS103/14 and 24

WTO ANALYTICAL INDEX

DSU – Article 21 (Practice)

DS113		WT/DS113/14 and 24
DS103 DS113	<i>Canada – Dairy (Article 21.5 – New Zealand and US II)</i>	WT/DS103/14 and 24 WT/DS113/14 and 24
DS108	<i>US – FSC</i>	WT/DS108/12
DS122	<i>Thailand – H-Beams</i>	WT/DS122/10
DS126	<i>Australia – Automotive Leather II</i>	WT/DS126/8
DS141	<i>EC – Bed Linen</i>	WT/DS141/11
DS155	<i>Argentina – Hides and Finished Leather</i>	WT/DS155/12
DS184	<i>US – Hot-Rolled Steel</i>	WT/DS184/19
DS206	<i>US – Steel Plate</i>	WT/DS206/9
DS207	<i>Chile – Price Band System</i>	WT/DS207/16
DS245	<i>Japan – Apples</i>	WT/DS245/10
DS257	<i>US – Softwood Lumber IV</i>	WT/DS257/18
DS264	<i>US – Softwood Lumber V</i>	WT/DS264/18
DS265 DS266 DS283	<i>EC – Export Subsidies on Sugar</i>	WT/DS265/36 WT/DS266/36 WT/DS283/17
DS267	<i>US – Subsidies on Upland Cotton</i>	WT/DS267/22
DS268	<i>US – Oil Country Tubular Goods Sunset Reviews</i>	WT/DS268/14
DS277	<i>US – Softwood Lumber VI</i>	WT/DS277/11
DS282	<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	WT/DS282/12
DS285	<i>US – Gambling</i>	WT/DS285/16
DS286 DS269	<i>EC – Chicken Cuts</i>	WT/DS286/18 WT/DS269/16
DS291	<i>EC – Approval and Marketing of Biotech Products</i>	WT/DS291/38
DS294	<i>US – Zeroing (EC)</i>	WT/DS294/21
DS295	<i>Mexico – Anti-Dumping Measures on Rice</i>	WT/DS295/15
DS312	<i>Korea – Certain Paper</i>	WT/DS312/7
DS316	<i>EC and certain member States - Large Civil Aircraft</i>	WT/DS316/21
DS322	<i>US – Zeroing (Japan)</i>	WT/DS322/26
DS334	<i>Turkey – Rice</i>	WT/DS334/13
DS336	<i>Japan – DRAMs (Korea)</i>	WT/DS336/18
DS344	<i>US – Stainless Steel (Mexico)</i>	WT/DS344/17
DS350	<i>US – Continued Zeroing</i>	WT/DS350/19
DS353	<i>US - Large Civil Aircraft (2nd complaint)</i>	WT/DS353/14
DS362	<i>China – Intellectual Property Rights</i>	WT/DS362/15
DS363	<i>China – Publications and Audiovisual Products</i>	WT/DS363/18
DS366	<i>Colombia – Ports of Entry</i>	WT/DS366/14

DS367	<i>Australia - Apples</i>	WT/DS367/21
DS371	<i>Thailand - Cigarettes (Philippines)</i>	WT/DS371/16
DS375	<i>EC - IT Products</i>	WT/DS375/17
DS376		WT/DS376/17
DS377		WT/DS377/15
DS379	<i>US - Anti-Dumping and Countervailing Duties (China)</i>	WT/DS379/14
DS381	<i>US - Tuna II (Mexico)</i>	WT/DS381/19
DS382	<i>US - Orange Juice (Brazil)</i>	WT/DS382/11
DS384	<i>US - COOL (Canada)</i>	WT/DS384/25
DS386	<i>US - COOL (Mexico)</i>	WT/DS386/24
DS394	<i>China - Raw Materials (US)</i>	WT/DS394/20
DS395	<i>China - Raw Materials (EC)</i>	WT/DS395/19
DS397	<i>EC - Fasteners (China)</i>	WT/DS397/16
DS398	<i>China - Raw Materials (Mexico)</i>	WT/DS398/18
DS405	<i>EU - Footwear (China)</i>	WT/DS405/8
DS412	<i>Canada - Renewable Energy</i>	WT/DS412/12
DS414	<i>China - GOES</i>	WT/DS414/14
DS426	<i>Canada - Feed-In Tariff Program</i>	WT/DS426/18
DS427	<i>China - Broiler Products</i>	WT/DS427/9
DS431	<i>China - Rare Earths (US)</i>	WT/DS431/17
DS432	<i>China - Rare Earths (EU)</i>	WT/DS432/15
DS433	<i>China - Rare Earths (Japan)</i>	WT/DS433/15
DS436	<i>US - Carbon Steel (India)</i>	WT/DS436/16
DS437	<i>US - Countervailing Measures (China)</i>	WT/DS437/19
DS438	<i>Argentina - Import Measures</i>	WT/DS438/24
DS444		WT/DS444/24
DS445		WT/DS445/25
DS449	<i>US - Countervailing and Anti-Dumping Measures (China)</i>	WT/DS449/19
DS457	<i>Peru - Agricultural Products</i>	WT/DS457/18
DS473	<i>EU - Biodiesel (Argentina)</i>	WT/DS473/19

1.3.2 Consultations

3. In *US – Steel Plate*, the disputing parties, the United States and India, agreed in a procedural agreement concluded on 14 February 2003, that should the complainant consider that the situation described in Article 21.5 exists, it would request consultations with the respondent prior to requesting the establishment of a compliance panel. The relevant part of the procedural agreement reads:

"Should India consider that the situation described in Article 21.5 of the DSU exists, India will request consultations which the parties agree to hold within 12 days from the date of circulation of the request. India and the United States agree that at the

end of such consultations, should either party so state, the parties will jointly consider that the consultations have failed to settle the dispute."¹

4. In *US – Hot-Rolled Steel*, Japan agreed not to request authorization to suspend concessions pursuant to Article 22.2 of the DSU without first providing advance notice to and consulting with the United States. Paragraph 1 of the said agreement reads:

"If Japan at some future date decides to request DSB authorization to suspend concessions or other obligations under Article 22.2 of the DSU, it will provide the United States advance notice and will consult with the United States before making such a request."²

1.3.3 Establishment of the panel

5. In *Brazil – Aircraft* and *Canada – Aircraft*, and the two proceedings under Article 21.5 brought by Canada and Brazil against each other, the disputing parties agreed, in two identical procedural agreements concluded on 23 November 1999, to include a provision whereby the parties would agree to establish the 21.5 panels at the first DSB meeting. The relevant part of the procedural agreement reads as follows:

"On 23 November 1999, Canada will request that this matter be referred to the original panel pursuant to Article 21.5 of the DSU. Canada will also request the convening of a DSB meeting on 3 December 1999 and Brazil will not object to the holding of such a meeting.

At the DSB meeting convened in response to the request by Canada, Brazil will accept the establishment of a review panel under Article 21.5 of the DSU and will not pose any procedural objection to the establishment of such a panel."³

1.3.4 Appointment of panelists

6. In *Japan – Apples*, the disputing parties agreed that if the original panelists were not available for the compliance panel or the Article 22.6 arbitration (or both) proceedings, they would request the Director General of the WTO to appoint a replacement for the proceeding or proceedings in which this was required. The relevant part of the procedural agreement provides:

"If any of the original panelists are not available for either the Article 21.5 compliance panel or the Article 22.6 arbitration, or both, the parties will request the Director-General of the WTO to appoint, as soon as possible, a replacement for the proceeding or proceedings in which such a replacement is required. If an original panelist is unavailable to serve in the either proceeding, the parties will further request that in making this appointment, the Director-General seek a person who will also be available to act in both proceedings."⁴

¹ WT/DS206/9, para. 1. For similar provisions, see also *US – FSC*, WT/DS108/12; *Canada – Dairy*, WT/DS103/14; *Thailand – H-Beans*, WT/DS122/10; *US – Steel Plate*, WT/DS206/9 and *Chile – Price Band System*, WT/DS207/16; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS268/14; *US – Anti-Dumping Measures on Oil Country Tubular Goods*, WT/DS282/12; *US – Gambling*, WT/DS285/16; *EC – Chicken Cuts*, WT/DS286/18; *EC – Chicken Cuts*, WT/DS269/16; *Korea – Certain Paper*, WT/DS312/7..

² WT/DS184/19, para. 1.

³ WT/DS46/13, paras. 1-2. For similar provisions, see also *US – FSC*, WT/DS108/12; *Canada – Dairy*, WT/DS103/14; *US – Steel Plate*, WT/DS206/9; *Chile – Price Band System*, WT/DS207/16 and *Japan – Apples*, WT/DS245/10; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS268/14; *US – Anti-Dumping Measures on Oil Country Tubular Goods*, WT/DS282/12; *US – Gambling*, WT/DS285/16; *EC – Chicken Cuts*, WT/DS286/18; *EC – Chicken Cuts*, WT/DS269/16; *Korea – Certain Paper*, WT/DS312/7..

⁴ WT/DS245/10, para. 10. For similar provisions, see also, *US – FSC*, WT/DS108/12; *Canada – Dairy*, WT/DS113/14 and *Chile – Price Band System*, WT/DS207/16; *US – Softwood Lumber IV (Article 21.5 – Canada)*, WT/DS257/18; *US – Softwood Lumber V (Article 21.5 – Canada)*, WT/DS264/18; *EC – Export Subsidies on Sugar*, WT/DS266/36; *EC – Export Subsidies on Sugar*, WT/DS283/17; *US – Upland Cotton*, WT/DS267/22; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS268/14; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS277/11; *US – Anti-Dumping Measures on Oil Country Tubular Goods*, WT/DS282/12; *US – Softwood Lumber IV (Article 21.5 – Canada)*, WT/DS257/18; *US – Softwood Lumber V*

1.3.5 Participation of experts

7. In *Japan – Apples*, the disputing parties agreed that if the participation of experts was deemed necessary, the parties would not object to the participation of the original experts. The relevant part of the procedural agreement provides:

"Should the Article 21.5 compliance panel determine that the participation of experts is necessary, and should the panel consider the participation of the original experts appropriate, the parties will not object to the participation of the original experts."⁵

1.3.6 Cooperation to ensure time-limits for the work of the compliance panel and Appellate Body are respected

8. In *Canada – Dairy*, the disputing parties agreed to include a provision in the procedural agreement whereby they would agree to cooperate to ensure that the 90-day deadlines for both the compliance Panel and the Appellate Body work were respected. The relevant part of the procedural agreement reads as follows:

"New Zealand and Canada will cooperate to enable the Article 21.5 panel to circulate its report within 90 days of the panel's composition, excluding such time as the panel's work may be suspended pursuant to Article 12.12 of the DSU.

...

In case of an appeal of the Article 21.5 compliance panel report, the parties will cooperate to enable the Appellate Body to circulate its report within no more than 90 days from the date of notification of the appeal to the DSB."⁶

1.3.7 Non-prejudice of the parties other rights

9. In *US – Steel Plate*, the disputing parties included a clause whereby they agreed that the provisions in the procedural agreement did not prejudice their rights or interests. The relevant part of the agreement provides that:

"These agreed procedures do not prejudice the rights of India or the United States to take any action or procedural step to protect their rights or interests, including the activation of any aspect of the provisions of the DSU."⁷

10. In *EC – Export Subsidies on Sugar*, Brazil and the European Communities agreed to jointly request the adoption by the DSB of a draft decision safeguarding their respective rights under the DSU. The draft decision reads:

"The DSB takes note of the Understanding reached between Brazil and the European Communities and agrees that, in the event that the DSB adopts recommendations and rulings that measures taken by the European Communities to comply with the prior

(Article 21.5 – *Canada*), WT/DS264/18; *EC – Export Subsidies on Sugar*, WT/DS266/36; *EC – Export Subsidies on Sugar*, WT/DS283/17; *US – Upland Cotton*, WT/DS267/22; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS268/14; *US – Gambling*, WT/DS285/16; *EC – Chicken Cuts*, WT/DS286/18; *EC – Chicken Cuts*, WT/DS269/16; *Korea – Certain Paper*, WT/DS312/7..

⁵ WT/DS245/10, para. 11.

⁶ WT/DS113/14, paras. 3 and 5. For similar provisions see also *Australia – Automotive Leather II*, WT/DS126/8; *Brazil – Aircraft*, WT/DS46/13; *Canada – Aircraft*, WT/DS70/9; *US – FSC*, 108/12; *US – Steel Plate*, WT/DS206/9; *Chile – Price Band System*, WT/DS207/16; *US – Softwood Lumber IV (Article 21.5 – Canada)*, WT/DS257/18; *US – Softwood Lumber V (Article 21.5 – Canada)*, WT/DS264/18; *EC – Export Subsidies on Sugar*, WT/DS266/36; *EC – Export Subsidies on Sugar*, WT/DS283/17; *US – Upland Cotton*, WT/DS267/22; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS268/14; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS277/11; *US – Anti-Dumping Measures on Oil Country Tubular Goods*, WT/DS282/12; *US – Gambling*, WT/DS285/16; *EC – Chicken Cuts*, WT/DS286/18; *EC – Chicken Cuts*, WT/DS269/16; *Korea – Certain Paper*, WT/DS312/7.

⁷ WT/DS206/9, para. 10. For a similar provision, see *Japan – Apples*, WT/DS245/10; *US – Oil Country Tubular Goods Sunset Reviews*, WT/DS277/11; *US – Anti-Dumping Measures on Oil Country Tubular Goods*, WT/DS282/12; *US – Gambling*, WT/DS285/16.

recommendations and rulings of the DSB do not exist or are inconsistent with a covered agreement, the DSB shall grant Brazil upon its request authorization to suspend concessions or other obligations pursuant to Article 22 of the DSU unless (i) the DSB decides by consensus not to do so, or (ii) the European Communities objects to the level of suspension proposed or claims that the principles and procedures set forth in Article 22.3 of the DSU have not been followed, in which case the matter shall be referred to arbitration under Article 22.6 of the DSU."⁸

Current as of: February 2018

⁸ WT/DS266/36, para. 15 and Draft Decision of the DSB. For similar provisions see also *EC – Export Subsidies on Sugar*, WT/DS283/17.