

## **ANNEX ON OPTIONAL PROCEDURES FOR COMPOSING ARBITRAL TRIBUNALS**

As provided in Article 11.3 (Establishment and Re-convening of Arbitral Tribunals), the Parties to the dispute may agree to use any of the following optional procedures, or variations thereof, for the purpose of composing an arbitral tribunal.

### **Optional Procedure A**

1. The Complaining Party and the Responding Party shall each appoint one arbitrator within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal. If either Party fails to appoint an arbitrator within such period, then the arbitrator appointed by the other Party shall act as the sole arbitrator of the arbitral tribunal.

2. Where two arbitrators are appointed in accordance with Paragraph 1, the Parties to the dispute shall designate by common agreement the third arbitrator who shall chair the arbitral tribunal. If the Parties to the dispute have not designated the chair of the arbitral tribunal within (*period to be agreed by the Parties to the dispute*) of the appointment of the second arbitrator, the two arbitrators appointed in accordance with Paragraph 1 shall designate by common agreement the third arbitrator who shall chair the tribunal. If the chair of the arbitral tribunal has not been designated by the arbitrators within (*period to be agreed by the Parties to the dispute*) of the appointment of the second arbitrator, the Director-General of the WTO shall, at the request of any Party to the dispute, appoint the chair of the arbitral tribunal within (*period to be agreed by the Parties to the dispute*) of that request.

## **Optional Procedure B**

1. The Complaining Party and the Responding Party shall each appoint one arbitrator within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal.

2. The Parties to the dispute shall agree on the appointment of the third arbitrator within (*period to be agreed by the Parties to the dispute*) of the appointment of the third arbitrator who shall serve as chair of the arbitral tribunal. If all three appointments have not been made within (*period to be agreed by the Parties to the dispute*), the necessary appointments shall be made at the request of any Party to the dispute by the Director-General of the WTO within a further (*period to be agreed by the Parties to the dispute*).

## **Optional Procedure C**

1. Within (*period to be agreed by the Parties to the dispute*) of the date of the receipt of a request to establish an arbitral tribunal, each Party to the dispute shall provide to the other Parties to the dispute a list of up to (*number to be agreed by the Parties to the dispute*) nominees for appointment as arbitrators, including at least two individuals suitable for appointment as chair. The Parties to the dispute shall then consult with each other on the composition of the arbitral tribunal with the objective of appointing the arbitrators drawing as appropriate on the lists of nominees.

2. If all of the arbitrators have not been appointed within (*period to be agreed by the Parties to the dispute*) of the request to establish an arbitral tribunal, any of the remaining arbitrators shall be appointed at the request of any Party to the dispute by random drawing from the lists of nominees separated for this purpose into separate lists of nominations for appointment as chair or as a regular arbitrator.