

1.1	Text of Article 15	1
1.2	Article 15.1: issuance and review of the descriptive (factual and arguments) part of the report	2
1.2.1	The "factual" section of the descriptive part	2
1.2.2	Timing of comments on the descriptive section	2
1.3	Article 15.2: requests to review precise aspects of the Report	2
1.3.1	Requirement to identify "precise aspects" of the interim report	2
1.3.2	Comments on the Panel's summary of parties' arguments	4
1.3.3	New evidence	5
1.3.4	Re-arguing points made in the proceeding	6
1.3.5	Changing findings.....u2.T0 9 72 595.44 Tm [(1)-8 (.3)-..... 0.004 Tw 0.227 0 Td (.....)Tj 0Tf 11.04 TtC /	

3. The findings of the final panel report shall include a discussion of the arguments made at the interim review stage. The interim review stage shall be conducted within the time period set out in paragraph 8 of Article 12.

1. Panels generally address contested factual issues in the Findings section of the report, rather than in the Factual Aspects section of the descriptive part of the report. For example, in *US – Clove Cigarettes*, the Panel explained, in the introduction to the Factual Aspects section of the descriptive part of the report, that "[t]he parties disagree on a number of factual issues. To the extent it is necessary for the Panel to resolve those disputed factual issues, it will do so in its Findings."¹

2. In a number of cases, parties have provided additional comments on the descriptive part of the report in the context of subsequently providing comments on the interim report containing the Panel's findings.² In *US – Clove Cigarettes*, the Panel made a point of noting that:

"[T]he United States put forward a number of requests for review of the language in Section II of this Report which had already been

because revising its Interim Report in response to a party's litigation strategy would not accord with the Panel's duty under Article 11 of the DSU. The Panel also noted the current, broader systemic context in which Korea had made reference to its "promising appeal" (i.e. a time at which no appellate mechanism had been agreed upon between the parties):

"We do not include a discussion of the comments made by Korea as part of the interim review process regarding its 'promising appeal' if its desired changes were not made to the Interim Report. We declined to take account of these comments because they did not pertain to a 'precise aspect' of the Interim Report, and because revising the Interim Report in anticipation of one party's litigation strategy would not accord with our duty to make an objective assessment of the law and facts before us, as required by Article 11 of the DSU. We are cognisant of the broader systemic context in which Korea makes reference to its 'promising appeal'. But this broader context does not mean that we can or should revise our assessment of the law or facts due to an indication by one party that it may pursue an appeal if such revisions are not made."

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9. In *India – Sugar and Sugarcane*, a case involving multiple complainants, it was agreed that Brazil (a co-complainant) would not participate in the interim review meeting since its claims

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11. In EC – Sardines , the Appellate Body explained that the interim review stage is not an appropriate time to introduce new evidence:

"We also reject the European Communities' contention relating to the letter

19. The Panel in US – Poultry (China) considered that interim review is "not the appropriate forum for relitigating arguments already put before a panel" and refrained from engaging in a new analysis of the US arguments on a particular point:

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expected to have raised at a much earlier stage

Having regard to Article 17.6 of the DSU, we consider this to be equivalent to depriving the interim review stage of its purpose."⁴¹

34. An additional interim review meeting has been requested and held in a number of proceedings.⁴²

35. In US/Canada – Continued Suspension, the Panel explained that it is for a party, and not for a panel, to decide whether a party has exhausted its rights of appeal.⁴³

"We would like to address the issue of confidentiality of the Interim Reports. When, on 26 March 2002, we transmitted our Interim Reports to the parties, we clearly indicated that such Reports were confidential. Indeed, pursuant to the DSU, all panel proceedings remain confidential until the Panel Report is circulated to WTO Members. We had also explicitly emphasized at all our meetings with the parties that the panel proceedings were confidential. This was accepted by the parties and reflected in the Panel's working procedures and in all our relevant correspondence with the parties. Therefore, we are concerned to discover that parties have not respected this confidentiality obligation and have disclosed aspects of the Panel's Interim Report. We consider that this lack of respect of a

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