

PART SIX

DISPUTE SETTLEMENT AND HORIZONTAL PROVISIONS

TITLE I

DISPUTE SETTLEMENT

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 734

Objective

The objective of this Title is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement and supplementing agreements with a view to reaching, where possible, a mutually agreed solution.

ARTICLE 735

Scope

1. This Title applies, subject to paragraphs 2, 3, 4 and 5, to disputes between the Parties concerning the interpretation and application of the provisions of this Agreement or of any supplementing agreement ("covered provisions").
2. The covered provisions shall include all provisions of this Agreement and of any supplementing agreement with the exception of:
 - (a) Article 32(1) to (6) and Article 36;
 - (b) Annex 12;
 - (c) Title VII of Heading one of Part Two;
 - (d) Title X of Heading One of Part Two;
 - (e) Article 355(1), (2) and (4), Article 356(1) and (3), Chapter 2 of Title XI of Heading One of Part Two, Articles 371 and 372, Chapter 5 of Title XI of Heading One of Part Two, and Article 411(4) to (9);

- (f) Part Three, including when applying in relation to situations governed by other provisions of this Agreement;
- (g) Part Four;
- (h) Title II of Part Six;
- (i) Article 782; and
- (j) the Agreement on security procedures for exchanging and protecting classified information.

3. The Partnership Council may be seized by a Party with a view to resolving a dispute with respect to obligations arising from the provisions referred to in paragraph 2.

4. Article 736 applies to the provisions referred to in paragraph 2 of this Article.

5. Notwithstanding paragraphs 1 and 2, this Title shall not apply with respect to disputes concerning the interpretation and application of the provisions of the Protocol on Social Security Coordination or its annexes in individual cases.

ARTICLE 736

Exclusivity

The Parties undertake not to submit a dispute between them regarding the interpretation or application of provisions of this Agreement or of any supplementing agreement to a mechanism of settlement other than those provided for in this Agreement.

ARTICLE 737

Choice of forum in case of a substantially equivalent obligation under another international agreement

1. If a dispute arises regarding a measure allegedly in breach of an obligation under this Agreement or any supplementing agreement and of a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.
2. Once a Party has selected the forum and initiated dispute settlement procedures either under this Title or under another international agreement, that Party shall not initiate such procedures under the other international agreement with respect to the particular measure referred to in paragraph 1, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.

3. For the purposes of this Article:

- (a) dispute settlement procedures under this Title are deemed to be initiated by a Party's request for the establishment of an arbitration tribunal under Article 739;
- (b) dispute settlement procedures under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedure Governing the Settlement of Disputes of the WTO; and
- (c) dispute settlement procedures under any other agreement are deemed to be initiated if they are initiated in accordance with the relevant provisions of that agreement.

4. Without prejudice to paragraph 2, nothing in this Agreement or any supplementing agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the Parties are party. The WTO Agreement or any other international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations under this Title.

CHAPTER 2

PROCEDURE

ARTICLE 738

Consultations

1. If a Party (the "complaining Party") considers that the other Party (the "respondent Party") has breached an obligation under this Agreement or under any supplementing agreement, the Parties shall endeavour to resolve the matter by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.
2. The complaining Party may seek consultations by means of a written request delivered to the respondent Party. The complaining Party shall specify in its written request the reasons for the request, including the identification of the measures at issue and the legal basis for the request, and the covered provisions it considers applicable.
3. The respondent Party shall reply to the request promptly, and in any case no later than 10 days after the date of its delivery. Consultations shall be held within 30 days of the date of delivery of the request in person or by any other means of communication agreed by the Parties. If held in person, consultations shall take place in the territory of the respondent Party, unless the Parties agree otherwise.

4. The consultations shall be deemed concluded within 30 days of the date of delivery of the request, unless the Parties agree to continue consultations.
5. Consultations on matters of urgency, including those regarding perishable goods or seasonal goods or services, shall be held within 20 days of the date of delivery of the request. The consultations shall be deemed concluded within those 20 days unless the Parties agree to continue consultations.
6. Each Party shall provide sufficient factual information to allow a complete examination of the measure at issue, including an examination of how that measure could affect the application of this Agreement or any supplementing agreement. Each Party shall endeavour to ensure the participation of personnel of their competent authorities who have expertise in the matter subject to the consultations.
7. For any dispute concerning an area other than Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One or Heading Six of Part Two, at the request of the complaining Party, the consultations referred to in paragraph 3 of this Article shall be held in the framework of a Specialised Committee or of the Partnership Council. The Specialised Committee may at any time decide to refer the matter to the Partnership Council. The Partnership Council may also seize itself of the matter. The Specialised Committee, or, as the case may be, the Partnership Council, may resolve the dispute by a decision. The time periods referred to in paragraph 3 of this Article shall apply. The venue of meetings shall be governed by the rules of procedure of the Specialised Committee or, as the case may be, the Partnership Council.

8. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential, and shall be without prejudice to the rights of either Party in any further proceedings.

ARTICLE 739

Arbitration procedure

1. The complaining Party may request the establishment of an arbitration tribunal if:
 - (a) the respondent Party does not respond to the request for consultations within 10 days of the date of its delivery;
 - (b) consultations are not held within the time periods referred to in Article 738(3), (4) or (5);
 - (c) the Parties agree not to have consultations; or
 - (d) consultations have been concluded without a mutually agreed solution having been reached.

2. The request for the establishment of the arbitration tribunal shall be made by means of a written request delivered to the respondent Party. In its request, the complaining Party shall explicitly identify the measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

ARTICLE 740

Establishment of an arbitration tribunal

1. An arbitration tribunal shall be composed of three arbitrators.
2. No later than 10 days after the date of delivery of the request for the establishment of an arbitration tribunal, the Parties shall consult with a view to agreeing on the composition of the arbitration tribunal.
3. If the Parties do not agree on the composition of the arbitration tribunal within the time period provided for in paragraph 2 of this Article, each Party shall appoint an arbitrator from the sub-list for that Party established pursuant to Article 752 no later than five days after the expiry of the time period provided for in paragraph 2 of this Article. If a Party fails to appoint an arbitrator from its sub-list within that time period, the co-chair of the Partnership Council from the complaining Party shall select, no later than five days after the expiry of that time period, an arbitrator by lot from the sub-list of the Party that has failed to appoint an arbitrator. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the arbitrator.
4. If the Parties do not agree on the chairperson of the arbitration tribunal within the time period provided for in paragraph 2 of this Article, the co-chair of the Partnership Council from the complaining Party shall select, no later than five days after the expiry of that time period, the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 752. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the chairperson of the arbitration tribunal.

5. Should any of the lists provided for in Article 752 not be established or not contain sufficient names at the time a selection is made pursuant to paragraph 3 or 4 of this Article, the arbitrators shall be selected by lot from the individuals who have been formally proposed by one Party or both Parties in accordance with Annex 48.

6. The date of establishment of the arbitration tribunal shall be the date on which the last of the three arbitrators has notified to the Parties the acceptance of his or her appointment in accordance with Annex 48.

ARTICLE 741

Requirements for arbitrators

1. All arbitrators shall:
 - (a) have demonstrated expertise in law and international trade, including on specific matters covered by Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One of Part Two or Heading Six of Part Two, or in law and any other matter covered by this Agreement or by any supplementing agreement and, in the case of a chairperson, also have experience in dispute settlement procedures;
 - (b) not be affiliated with or take instructions from either Party;

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

(d) comply with Annex 49.

2. All arbitrators shall be persons whose independence is beyond doubt, who possess the qualifications required for appointment to high judicial office in their respective countries or who are jurisconsults of recognised competence.

3. In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in point (a) of paragraph 1.

ARTICLE 742

Functions of the arbitration tribunal

The arbitration tribunal:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of, and conformity of the measures at issue with, the covered provisions;

- (b) shall set out, in its decisions and rulings, the findings of facts and law and the rationale behind any findings that it makes; and
- (c) should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

ARTICLE 743

Terms of reference

1. Unless the Parties agree otherwise no later than five days after the date of the establishment of the arbitration tribunal, the terms of reference of the arbitration tribunal shall be:

"to examine, in the light of the relevant covered provisions of this Agreement or of a supplementing agreement, the matter referred to in the request for the establishment of the arbitration tribunal, to decide on the conformity of the measure at issue with the provisions referred to in Article 735 and to issue a ruling in accordance with Article 745".

2. If the Parties agree on terms of reference other than those referred to in paragraph 1, they shall notify the agreed terms of reference to the arbitration tribunal within the time period referred to in paragraph 1.

ARTICLE 744

Urgent proceedings

1. If a Party so requests, the arbitration tribunal shall decide, no later than 10 days after the date of its establishment, whether the case concerns matters of urgency.
2. In cases of urgency, the applicable time periods set out in Article 745 shall be half the time prescribed therein.

ARTICLE 745

Ruling of the arbitration tribunal

1. The arbitration tribunal shall deliver an interim report to the Parties within 100 days after the date of establishment of the arbitration tribunal. If the arbitration tribunal considers that this deadline cannot be met, the chairperson of the arbitration tribunal shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its interim report. The arbitration tribunal shall not deliver its interim report later than 130 days after the date of establishment of the arbitration tribunal under any circumstances.

2. Each Party may deliver to the arbitration tribunal a written request to review precise aspects of the interim report within 14 days of its delivery. A Party may comment on the other Party's request within six days of the delivery of the request.
3. If no written request to review precise aspects of the interim report is delivered within the time period referred to in paragraph 2, the interim report shall become the ruling of the arbitration tribunal.
4. The arbitration tribunal shall deliver its ruling to the Parties within 130 days of the date of establishment of the arbitration tribunal. When the arbitration tribunal considers that that deadline cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its ruling. The arbitration tribunal shall not deliver its ruling later than 160 days after the date of establishment of the arbitration tribunal under any circumstances.
5. The ruling shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.
6. For greater certainty, a "ruling" or "rulings" as referred to in Articles 742, 743 and 753 and Article 754(1), (3), (4) and (6) shall be understood to refer also to the interim report of the arbitration tribunal.

CHAPTER 3

COMPLIANCE

ARTICLE 746

Compliance measures

1. If, in its ruling referred to in Article 745(4), the arbitration tribunal finds that the respondent Party has breached an obligation under this Agreement or under any supplementing agreement, that Party shall take the necessary measures to comply immediately with the ruling of the arbitration tribunal in order to bring itself in compliance with the covered provisions.
2. The respondent Party, no later than 30 days after delivery of the ruling, shall deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take in order to comply.

ARTICLE 747

Reasonable Period of Time

1. If immediate compliance is not possible, the respondent Party, no later than 30 days after delivery of the ruling referred to in Article 745(4), shall deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance with the ruling referred to in Article 745(4). The Parties shall endeavour to agree on the length of the reasonable period of time to comply.
2. If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the delivery of the notification referred to in paragraph 1, request in writing that the original arbitration tribunal determines the length of the reasonable period of time. The arbitration tribunal shall deliver its decision to the Parties within 20 days of the date of delivery of the request.
3. The respondent Party shall deliver a written notification of its progress in complying with the ruling referred to in Article 745(4) to the complaining Party at least one month before the expiry of the reasonable period of time.
4. The Parties may agree to extend the reasonable period of time.

ARTICLE 748

Compliance Review

1. The respondent Party shall, no later than the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the ruling referred to in Article 745(4).
2. When the Parties disagree on the existence of, or the consistency with the covered provisions of, any measure taken to comply, the complaining Party may deliver a request, which shall be in writing, to the original arbitration tribunal to decide on the matter. The request shall identify any measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly. The arbitration tribunal shall deliver its decision to the Parties within 45 days of the date of delivery of the request.

ARTICLE 749

Temporary Remedies

1. The respondent Party shall, at the request of and after consultations with the complaining Party, present an offer for temporary compensation if:

- (a) the respondent Party delivers a notification to the complaining Party that it is not possible to comply with the ruling referred to in Article 745(4); or
- (b) the respondent Party fails to deliver a notification of any measure taken to comply within the deadline referred to in Article 746 or before the date of expiry of the reasonable period of time; or
- (c) the arbitration tribunal finds that no measure taken to comply exists or that the measure taken to comply is inconsistent with the covered provisions.

2. In any of the conditions referred to in points (a), (b) and (c) of paragraph 1, the complaining Party may deliver a written notification to the respondent Party that it intends to suspend the application of obligations under the covered provisions if:

- (a) the complaining Party decides not to make a request under paragraph 1; or

- (b) the Parties do not agree on the temporary compensation within 20 days after the expiry of the reasonable period of time or the delivery of the arbitration tribunal decision under Article 748 if a request under paragraph 1 of this Article is made.

The notification shall specify the level of intended suspension of obligations.

3. Suspension of obligations shall be subject to the following conditions:

- (a) obligations under Heading Four of Part Two, the Protocol on Social Security Coordination or its annexes or Part Five may not be suspended under this Article;
- (b) by way of derogation from point (a), obligations under Part Five may be suspended only where the ruling referred to in Article 745(4) concerns the interpretation and implementation of Part Five;
- (c) obligations outside Part Five may not be suspended where the ruling referred to in Article 745(4) concerns the interpretation and implementation of Part Five; and
- (d) obligations under Title II of Heading One of Part Two in respect of financial services may not be suspended under this Article, unless the ruling referred to in Article 745(4) concerns the interpretation and application of obligations under Title II of Heading One of Part two in respect of financial services.

4. Where a Party persists in not complying with a ruling of an arbitration panel established under an earlier agreement concluded between the Parties, the other Party may suspend obligations under the covered provisions referred to in Article 735. With the exception of the rule in point (a) of paragraph 3 of this Article, all rules relating to temporary remedies in case of non-compliance and to review of any such measures shall be governed by the earlier agreement.
5. The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.
6. If the arbitration tribunal has found the violation in Heading One or Heading Three of Part Two, the suspension may be applied in another Title of the same Heading as that in which the tribunal has found the violation, in particular if the complaining party is of the view that such suspension is effective in inducing compliance.
7. If the arbitration tribunal has found the violation in Heading Two of Part Two:
 - (a) the complaining party should first seek to suspend obligations in the same Title as that in which the arbitration tribunal has found the violation;
 - (b) if the complaining party considers that it is not practicable or effective to suspend obligations with respect to the same Title as that in which the tribunal has found the violation, it may seek to suspend obligations in the other Title under the same Heading.

8. If the arbitration tribunal has found the violation in Heading One, Heading Two, Heading Three or Heading Five of Part Two, and if the complaining party considers that it is not practicable or effective to suspend obligations within the same Heading as that in which the arbitration tribunal has found the violation, and that the circumstances are serious enough, it may seek to suspend obligations under other covered provisions.
9. In the case of point (b) of paragraph 7 and paragraph 8, the complaining Party shall state the reasons for its decision.
10. The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 2 unless the respondent Party made a request under paragraph 11.
11. If the respondent Party considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation or that the principles and procedures set forth in point (b) of paragraph 7, paragraph 8 or paragraph 9 have not been followed, it may deliver a written request to the original arbitration tribunal before the expiry of the 10 day period set out in paragraph 10 to decide on the matter. The arbitration tribunal shall deliver its decision on the level of the suspension of obligations to the Parties within 30 days of the date of the request. Obligations shall not be suspended until the arbitration tribunal has delivered its decision. The suspension of obligations shall be consistent with that decision.

12. The arbitration tribunal acting pursuant to paragraph 11 shall not examine the nature of the obligations to be suspended but shall determine whether the level of such suspension exceeds the level equivalent to the nullification or impairment caused by the violation. However, if the matter referred to arbitration includes a claim that the principles and procedures set forth in point (b) of paragraph 7, paragraph 8 or paragraph 9 have not been followed, the arbitration tribunal shall examine that claim. In the event the arbitration tribunal determines that those principles and procedures have not been followed, the complaining party shall apply them consistently with point (b) of paragraph 7, paragraph 8 and paragraph 9. The parties shall accept the arbitration tribunal's decision as final and shall not seek a second arbitration procedure. This paragraph shall under no circumstances delay the date as of which the complaining Party is entitled to suspend obligations under this Article.

13. The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied after:

- (a) the Parties have reached a mutually agreed solution pursuant to Article 756;
- (b) the Parties have agreed that the measure taken to comply brings the respondent Party into compliance with the covered provisions; or
- (c) any measure taken to comply which the arbitration tribunal has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the respondent Party into compliance with those covered provisions.

ARTICLE 750

Review of any measure taken to comply after the adoption of temporary remedies

1. The respondent Party shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. With the exception of cases under paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days from the delivery of the notification. In cases where compensation has been applied, with the exception of cases under paragraph 2, the respondent Party may terminate the application of such compensation within 30 days from the delivery of its notification that it has complied.
2. If the Parties do not reach an agreement on whether the notified measure brings the respondent Party into compliance with the covered provisions within 30 days of the date of delivery of the notification, the complaining Party shall deliver a written request to the original arbitration tribunal to decide on the matter. The arbitration tribunal shall deliver its decision to the Parties within 46 days of the date of the delivery of the request. If the arbitration tribunal finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. When relevant, the level of suspension of obligations or of compensation shall be adjusted in light of the arbitration tribunal decision.

CHAPTER 4

COMMON PROCEDURAL PROVISIONS

ARTICLE 751

Receipt of information

1. On request of a Party, or on its own initiative, the arbitration tribunal may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the arbitration tribunal for such information.
2. On request of a Party, or on its own initiative, the arbitration tribunal may seek from any source any information it considers appropriate. The arbitration tribunal may also seek the opinion of experts as it considers appropriate and subject to any terms and conditions agreed by the Parties, where applicable.
3. The arbitration tribunal shall consider amicus curiae submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex 48.
4. Any information obtained by the arbitration tribunal under this Article shall be made available to the Parties and the Parties may submit comments on that information to the arbitration tribunal.

ARTICLE 752

Lists of arbitrators

1. The Partnership Council shall, no later than 180 days after the date of entry into force of this Agreement, establish a list of individuals with expertise in specific sectors covered by this Agreement or its supplementing agreements who are willing and able to serve as members of an arbitration tribunal. The list shall comprise at least 15 persons and shall be composed of three sub-lists:

- (a) one sub-list of individuals established on the basis of proposals by the Union;
- (b) one sub-list of individuals established on the basis of proposals by the United Kingdom; and
- (c) one sub-list of individuals who are not nationals of either Party who shall serve as chairperson to the arbitration tribunal.

Each sub-list shall include at least five individuals. The Partnership Council shall ensure that the list is always maintained at this minimum number of individuals.

2. The Partnership Council may establish additional lists of individuals with expertise in specific sectors covered by this Agreement or by any supplementing agreement. Subject to the agreement of the Parties, such additional lists may be used to compose the arbitration tribunal in accordance with the procedure set out in Article 740(3) and (5). Additional lists shall be composed of two sub-lists:

- (a) one sub-list of individuals established on the basis of proposals by the Union; and
- (b) one sub-list of individuals established on the basis of proposals by the United Kingdom.

3. The lists referred to in paragraphs 1 and 2 shall not comprise persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom.

ARTICLE 753

Replacement of arbitrators

If during dispute settlement procedures under this Title, an arbitrator is unable to participate, withdraws, or needs to be replaced because that arbitrator does not comply with the requirements of the Code of Conduct, the procedure set out in Article 740 shall apply. The time period for the delivery of the ruling or decision shall be extended for the time necessary for the appointment of the new arbitrator.

ARTICLE 754

Arbitration tribunal decisions and rulings

1. The deliberations of the arbitration tribunal shall be kept confidential. The arbitration tribunal shall make every effort to draft rulings and take decisions by consensus. If this is not possible, the arbitration tribunal shall decide the matter by majority vote. In no case shall separate opinions of arbitrators be disclosed.
2. The decisions and rulings of the arbitration tribunal shall be binding on the Union and on the United Kingdom. They shall not create any rights or obligations with respect to natural or legal persons.
3. Decisions and rulings of the arbitration tribunal cannot add to or diminish the rights and obligations of the Parties under this Agreement or under any supplementing agreement.
4. For greater certainty, the arbitration tribunal shall have no jurisdiction to determine the legality of a measure alleged to constitute a breach of this Agreement or of any supplementing agreement, under the domestic law of a Party. No finding made by the arbitration tribunal when ruling on a dispute between the Parties shall bind the domestic courts or tribunals of either Party as to the meaning to be given to the domestic law of that Party.
5. For greater certainty, the courts of each Party shall have no jurisdiction in the resolution of disputes between the Parties under this Agreement.

6. Each Party shall make the rulings and decisions of the arbitration tribunal publicly available, subject to the protection of confidential information.

7. The information submitted by the Parties to the arbitration tribunal shall be treated in accordance with the confidentiality rules laid down in Annex 48.

ARTICLE 755

Suspension and termination of the arbitration proceedings

At the request of both Parties, the arbitration tribunal shall suspend its work at any time for a period agreed by the Parties and not exceeding 12 consecutive months. The arbitration tribunal shall resume its work before the end of the suspension period at the written request of both Parties, or at the end of the suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly. If a Party does not request the resumption of the arbitration tribunal's work at the expiry of the suspension period, the authority of the arbitration tribunal shall lapse and the dispute settlement procedure shall be terminated. In the event of a suspension of the work of the arbitration tribunal, the relevant time periods shall be extended by the same time period for which the work of the arbitration tribunal was suspended.

ARTICLE 756

Mutually agreed solution

1. The Parties may at any time reach a mutually agreed solution with respect to any dispute referred to in Article 735.
2. If a mutually agreed solution is reached during panel proceedings, the Parties shall jointly notify the agreed solution to the chairperson of the arbitration tribunal. Upon such notification, the arbitration proceedings shall be terminated.
3. The solution may be adopted by means of a decision of the Partnership Council. Mutually agreed solutions shall be made publicly available. The version disclosed to the public shall not contain any information either Party has designated as confidential.
4. Each Party shall take the measures necessary to implement the mutually agreed solution within the agreed time period.
5. No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures thus taken to implement the mutually agreed solution.

ARTICLE 757

Time Periods

1. All time periods laid down in this Title shall be counted in days from the day following the act to which they refer.
2. Any time period referred to in this Title may be modified by mutual agreement of the Parties.
3. The arbitration tribunal may at any time propose to the Parties to modify any time period referred to in this Title, stating the reasons for the proposal.

ARTICLE 758

Costs

1. Each Party shall bear its own expenses derived from the participation in the arbitration tribunal procedure.
2. The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the members of the arbitration tribunal. The remuneration of the arbitrators shall be in accordance with Annex 48.

ARTICLE 759

Annexes

1. Dispute settlement procedures set out in this Title shall be governed by the rules of procedure set out in Annex 48 and conducted in accordance with Annex 49.
2. The Partnership Council may amend Annexes 48 and 49.

CHAPTER 5

SPECIFIC ARRANGEMENTS FOR UNILATERAL MEASURES

ARTICLE 760

Special procedures for remedial measures and rebalancing

1. For the purposes of Article 374 and Article 411(2) and (3), this Title applies with the modifications set out in this Article.

2. By way of derogation from Article 740 and Annex 48, if the Parties do not agree on the composition of the arbitration tribunal within two days, the co-chair of the Partnership Council from the complaining Party shall select, no later than one day after the expiry of the two-day time period, an arbitrator by lot from the sub-list of each Party and the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 752. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the arbitrator or chairperson. Each individual shall confirm his or her availability to both Parties within two days from the date on which he or she was informed of his or her appointment. The organisational meeting referred to in Rule 10 of Annex 48 shall take place within two days from the establishment of the arbitration tribunal.

3. By way of derogation from Rule 11 of Annex 48 the complaining Party shall deliver its written submission no later than seven days after the date of establishment of the arbitration tribunal. The respondent Party shall deliver its written submission no later than seven days after the date of delivery of the written submission of the complaining Party. The arbitration tribunal shall adjust any other relevant time periods of the dispute settlement procedure as necessary to ensure the timely delivery of the report.

4. Article 745 does not apply and references to the ruling in this Title shall be read as references to the ruling referred to in Article 374(10) or point (c) of Article 411(3).

5. By way of derogation from Article 748(2), the arbitration tribunal shall deliver its decision to the Parties within 30 days from the date of delivery of the request.

ARTICLE 761

Suspension of obligations for the purposes of Article 374(12), Article 501(5) and Article 506(7)

1. The level of suspension of obligations shall not exceed the level equivalent to the nullification or impairment of benefits under this Agreement or under a supplementing agreement that is directly caused by the remedial or compensatory measures from the date the remedial or compensatory measures enter into effect until the date of the delivery of the arbitration ruling.
2. The level of suspension of obligations requested by the complaining Party and the determination of the level of suspension of obligations by the arbitration tribunal shall be based on facts demonstrating that the nullification or impairment arises directly from the application of the remedial or compensatory measure and affects specific goods, service suppliers, investors or other economic actors and not merely on allegation, conjecture or remote possibility.
3. The level of nullified or impaired benefits requested by the complaining Party or determined by the arbitration tribunal:
 - (a) shall not include punitive damages, interest or hypothetical losses of profits or business opportunities;
 - (b) shall be reduced by any prior refunds of duties, indemnification of damages or other forms of compensation already received by the concerned operators or the concerned Party; and

- (c) shall not include the contribution to the nullification or impairment by wilful or negligent action or omission of the concerned Party or any person or entity in relation to whom remedies are sought pursuant to the intended suspension of obligations.

ARTICLE 762

Conditions for rebalancing, remedial, compensatory and safeguard measures

Where a Party takes a measure under Article 374, Article 411, Article 469, Article 501, Article 506 or Article 773, that measure shall only be applied in respect of covered provisions within the meaning of Article 735 and shall comply, *mutatis mutandis*, with the conditions set out in Article 749(3).