

**Chapter [ ]**

**Dispute Settlement**

June 2015

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## [EU: Section 1

### Objective and Scope]

#### **Article 1: [EU: Objective] [US: Mechanism to Resolve Disputes]**

[EU: The objective of] [US: The Parties endeavor in] this Chapter [EU: is] to establish an effective and efficient mechanism for resolving any dispute between the Parties concerning the interpretation and application of this Agreement with a view to arriving, where possible, at a mutually agreed solution.

#### **Article 2: Scope**

Except as otherwise provided in this Agreement, this Chapter shall apply to the settlement of all disputes between the Parties regarding the interpretation or application of this Agreement [US: wherever a Party considers that:

- (a) another Party has otherwise failed to carry out its obligations under this Agreement; or
- (b) a measure of another Party is inconsistent with the obligations under this Agreement;
- (c) except as otherwise provided in this Agreement, a benefit the Party could reasonably have expected to accrue to under this Agreement is being nullified or impaired as a result of a measure that is not inconsistent with this Agreement, except that a Party may not invoke this paragraph with respect to a benefit under this Agreement if the measure is subject to an exception under Article [...] (General exceptions).]

#### **Article 3: Choice of Forum**

1. Where a dispute regarding any matter arises under this Agreement and under the WTO Agreement [US: or any other agreement to which the Parties are party], the complaining Party may select the forum in which to settle the dispute.
2. Once the complaining Party has requested the establishment of a panel with respect to a matter, it shall not request the establishment of a panel [US: or take an equivalent step] in another forum with respect to the same matter [EU:, unless the forum selected first fails for procedural or jurisdictional reasons to make findings on the matter].
3. For the purpose of this Article, a matter is considered to be the same where it concerns the same measure [EU: and a substantially equivalent obligation] under this Agreement and the WTO Agreement [US: or any other agreement to which the Parties are party].

#### **Article x: [EU: Relations with WTO Obligations]**

1. Nothing in this Agreement shall preclude a Party from implementing the suspension of concessions or other obligations authorized by the Dispute Settlement Body pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 of the WTO Agreement.
2. [EU: The WTO Agreement shall not be invoked to preclude a Party from suspending obligations under this Chapter.

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## Article x: Administration of Dispute Settlement Proceedings

Each Party shall:

- (a) designate an office that shall be responsible for [US: providing administrative assistance to panels established under Article 7] [EU: the administration of disputes under this Chapter];
- (b) be responsible for the operation and costs of its designated office; and
- (c) provide written notice to the other Party of the office's location and contact information.

## [EU: Section 2 Consultations and Mediation]

### Article x: Consultations

1. A Party may request consultations with respect to any matter referred to in Article XX.2 by delivering a written request to the Contact Point of the other Party [EU:, copied to the {institutional body to be defined}]. The request shall set out the reasons for requesting consultations including identification of the measure at issue [US: or how the Party has otherwise failed to carry out its obligations under this Agreement] and an indication of the legal basis for the complaint.
2. The Party complained against shall reply to the request delivered under paragraph 1 in writing within (7/19) days from the date it receives the request.
3. The Parties shall endeavor to resolve the dispute for which consultations have been requested by entering into consultations with the aim of reaching a mutually agreed solution.
4. Consultations shall be held within 30 days of the date of receipt of the request for consultations. Consultations on matters of urgency, including those regarding perishable goods or seasonal goods or services, shall be held within 15 days of the date of receipt of such request.
5. Consultations shall be held in the territory of the Party complained against, unless the Parties decide otherwise. Consultations shall be held in person unless the Parties decide to consult by other means.
6. During the consultations, each Party shall endeavor to provide sufficient factual information to allow a full examination of how the matter subject to consultations might affect the application of this Agreement.
7. Each Party shall endeavor to make available during the consultations personnel of its government agencies or other regulatory bodies who have expertise in the matter subject to consultations and can contribute to resolving the matter.
8. Consultations shall be confidential and without prejudice to the rights of either Party in any further proceedings. A Party shall not disclose any position taken or any information provided by the other Party in the course of consultations that has not been made available to the public.
9. Consultations shall be deemed concluded:
  - (a) 40 days after the date of receipt of the request;
  - (b) on matters of urgency, 20 days after the day of receipt of the request; or
  - (c) on any other date decided by the Parties.
10. The Party that requested consultations may have recourse to Article X [EU: panel establishment] [US: Joint Committee] if:

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- (a) the Party complained against does not respond to the request for consultations within the time frame laid down in paragraph 2;
- (b) consultations are deemed concluded under paragraph 9;
- (c) the Parties decide not to have consultations; or
- (d) the Parties decide to conclude consultations without a mutually agreed solution.

### **[EU: Article X: Mediation]**

Any Party may request the other Party to enter into a mediation procedure with respect to any measure adversely affecting trade or investment between the Parties pursuant to Annex III (Mediation Mechanism) to this Agreement.]

### **[US: Article x: Intervention of Joint Committee]**

1. If the Parties fail to resolve a matter pursuant to Article x within:
  - (a) 40 days of the date of receipt of a request for consultations;
  - (b) 20 days of the date of receipt of a request for consultations in matters of urgency; or
  - (c) such other time period as they may decide,
2. The Party referring the matter to the Joint Committee shall set out in its written notification the reasons for doing so.

either Party may refer the matter to the Joint Committee established under Article [...] (Institutional Provision) by delivering written notification to the Contact Point of the other Party.

3. The Joint Committee shall convene within ten days of receipt of the notification provided under paragraph 1 and shall endeavor to resolve the dispute promptly. To assist the Parties in reaching a mutually satisfactory resolution of the dispute, the Joint Committee may:
  - (a) call on such technical advisers or expert groups as it deems necessary; or
  - (b) make recommendations.
4. The Joint Committee may meet in person or by other means.]

### **[EU: Section 3 Dispute Settlement Procedures]**

#### **[EU: Subsection 1: Arbitration Procedure]**

### **Article x: Panel Establishment**

1. The complaining Party may refer the matter to a dispute settlement panel ("panel") by notifying the Party complained against.
2. The notification shall be made in writing to the Party complained against through its Contact Point [EU: and the institutional body {to be defined}]. The complaining Party shall identify the measure at issue [US: or how the Party complained against has otherwise failed to carry out its obligations under this Agreement] and shall provide a brief summary of the legal basis for the complaint sufficient to present the problem clearly.
3. A panel shall be established on delivery of the written notification pursuant to paragraph 2.
4. Unless the Parties decide otherwise within {14/5} days from the date of [US: establishment of the panel] [EU: composition of the panel], the terms of reference shall be:

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“To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the notification pursuant to {Article x.x/panel request} [US:, to make findings, determinations, and recommendations as provided in Article x.x and to deliver the written reports referred to in Articles x and x] [EU: to rule on the compatibility of the measure in question with the provisions referred to in Article 2 in Chapter XX and to make a ruling in accordance with Articles x and x of Chapter XX].“

### Article x: Panel Composition

1. A panel shall be composed of three arbitrators.
2. Within {14} days of the date of receipt by the Party complained against of the request for the establishment of a panel, the Parties shall consult with a view to agreeing on individuals to serve as arbitrators. A Party may propose, and the Parties may agree on, individuals to serve as arbitrators, whether or not they are on a roster established pursuant to Article { }.
3. If the Parties are unable to agree on an individual to serve as chair within the time period specified in paragraph 2, [US: the office designated by the complaining Party under Article x] [EU: the chair of the institutional body or the chair's delegate] shall within seven days select by lot an individual to serve as chair from among the individuals on the roster who are not nationals of either Party. The Parties shall have the right to [US: have representatives] [EU: be] present for the selection. The [US: office designated by the complaining Party] [EU: the chair of the institutional body or the chair's delegate] shall inform the Parties in writing of the date and location for the selection.
4. If the Parties are unable to agree on individuals to serve as arbitrators other than the chair within the time period specified in paragraph 2, each Party shall select an individual to serve as an arbitrator from its list as established under Article x within five days of the expiry of the time period specified in paragraph 2.
5. If, with respect to an arbitrator other than the chair, the Parties agree under paragraph 2 on an individual proposed by one Party to serve as an arbitrator but do not agree on an individual proposed by the other Party to serve as an arbitrator, the other Party shall select an individual to serve as an arbitrator from its list established under Article x within five days from the expiry of the time period specified in paragraph 2.
6. If the Parties have agreed on an individual to serve as an arbitrator other than the chair, who is not a national of either Party, the chair and the other arbitrator shall be selected from the list of non-nationals.
7. If a Party fails to select an individual to serve as an arbitrator within the time period specified in paragraph 4 or 5 (“non-selecting Party”), the [EU: chair of the institutional body or the chair's delegate][US: other Party] shall select by lot, within 14 days of the non-selecting Party's failure to act within the relevant time period specified in paragraph 4 or 5, for the non-selecting Party an individual to serve as an arbitrator from among the members of the list who are nationals of the non-selecting Party. The non-selecting Party shall have the right to [US: have representatives][EU: be] present for the selection of an individual to serve as the arbitrator. The [EU: chair of the institutional body or the chair's delegate][US: other Party] shall inform the non-selecting Party in writing of the date and location for the selection.
8. The date of panel composition shall be the date on which [US: the responsible office notifies the Parties that] all three arbitrators have [US: been appointed following their acceptance of the invitation to serve on the panel and completion of the Initial Disclosure Statement that appears as an Appendix to the Code of Conduct for Dispute Settlement Proceedings under

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this Chapter] [EU: notified the Parties in writing that they have agreed to serve on the panel].

9. If a list provided for in Article x is not established or does not contain sufficient names for purposes of selecting an arbitrator under paragraph 4, 5, or 7, the arbitrator who would otherwise be selected from the missing or incomplete list shall be selected from among all individuals who have been proposed [US: for the dispute] by one or both of the Parties.

### Article x: [EU: Lists of Arbitrators] [US: Arbitrators]

1. No later than { } days after the date of entry into force of this Agreement, the [EU: institutional body][US: Parties] shall establish a roster of individuals who are willing and able to serve as arbitrators. The roster shall be composed of three lists: one list for each Party and one list of individuals who are not nationals of any Party. Unless the [US: Parties] [EU: institutional body] decide[s] otherwise, the list for each Party shall contain at least {5/10} names and the list of individuals who are not nationals of any Party shall contain at least {5/8} names. [US: The Parties may review and revise the roster at any time.]
2. [EU: The {...}] will ensure that the list is always maintained at the level set forth in paragraph 1].  
[US: Once established, a roster shall remain in effect until the Parties constitute a new roster. The Parties shall review the roster every three years and may remove and replace individuals on the list as appropriate. The Parties may also at any time remove an individual from the roster. An individual whom the Parties have appointed to the roster shall remain as a member of the roster until the individual resigns, is replaced or is unable to serve, or the Parties have removed the individual. The Parties may appoint a replacement where a member of the roster is no longer available to serve or the Parties have removed a member of the roster.]
3. Arbitrators [EU: shall] [US: should] have expertise or experience in law [EU: and] [US:;] international trade [US:; other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements]. They shall be independent and serve in their individual capacities. They shall not take instructions from any organization or government with regard to matters related to the dispute or be affiliated with the government of any Party. They shall comply with the Code of Conduct [EU: set out in Annex II to this Agreement] [US: established by the Parties].
4. The {institutional body} may establish additional rosters of individuals with specialized knowledge and experience in particular matters covered by this Agreement. [EU: If the Institutional Body so decides, such additional rosters shall be used when selecting individuals to serve as arbitrators in accordance with paragraphs 4, 5 and 7 of Article XX.6).

### Article x: Rules of Procedure

1. [US: The Parties shall establish as of the date of entry into force of this Agreement, Rules of Procedure and a Code of Conduct for individuals who have agreed to serve as arbitrators on a panel and, where applicable, for experts, and for assistants and staff of an office designated pursuant to Article x(a). Should the Parties decide otherwise, the panel shall follow the Rules of Procedure and may, after consulting with the Parties, adopt additional rules of procedure not incompatible with the Rules of Procedure.]  
[EU: Dispute settlement procedures under this Chapter shall be governed by the Rules of Procedure set out in Annex I to this Agreement and by the Code of Conduct set out in Annex

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II to this Agreement.]

2. The Rules of Procedure shall ensure in particular:
  - (a) that each Party shall make available to the public its initial and rebuttal written submissions, written responses to a question from the panel, and written comments on responses to a question from the panel;
  - (b) at least one hearing before the panel;
  - (c) that any hearing before the panel shall be open to observation by the public; and
  - (d) the protection of confidential information.

### Article x: *Amicus Curiae* Submissions

[EU: Natural or legal persons established in the territory of a Party may submit *amicus curiae* briefs to the arbitration panel in accordance with the Rules of Procedure.] [US: The panel shall consider requests from non-governmental entities located in the territory of a Party to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the Parties.]

### Article x: Information and Technical Advice

1. At the request of a Party, or upon its own initiative, the panel may seek any information or technical advice from any [EU: source] [US: person or body] which it deems appropriate, [EU: including the Parties involved in the dispute] [US: provided that the Parties so decide and subject to such terms and conditions as the Parties may decide].
2. [EU: The panel may also seek the opinion of experts, as it deems appropriate. The panel shall consult the Parties before choosing such experts. Any such person or body chosen by the panel shall abide by the Code of Conduct.]
3. The panel shall provide each Party with an opportunity to comment on any request for information or advice from any [EU: source] [US: person or body] and any information or advice obtained from any [EU:source] [US: person or body] under this article.

### Article x : Mutually Agreed Solution

The Parties may reach a mutually agreed solution to a dispute under this Chapter at any time. They shall jointly notify [EU: the {institutional body to be defined} and] the panel, where composed, [EU: of any] [US: that they have reached] such solution.

### Article x: Suspension and Termination of [US: Proceedings] [EU: Arbitration and Compliance Procedures]

[US:

1. The panel may suspend its work at any time at the request of the complaining Party. The complaining Party shall set out in its request its reasons for requesting suspension.]
2. The panel shall suspend its work at any time where the Parties jointly request it to do so [EU: for a period agreed by the Parties not exceeding 12 consecutive months]. The panel shall resume its work [EU: before the end of that period] at the written request of both Parties or [EU: at the end of that period] at the written request of either Party. [EU: The requesting Party shall inform the Chairperson of the {institutional body} and the other Party accordingly.]
3. [EU: If a Party does not request the resumption of the panel's work at the expiry of the agreed

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suspension period, the procedure shall be terminated.] [US: If the work of the panel has been suspended for more than 12 consecutive months, the establishment of the panel under Article x shall lapse, unless the Parties decide otherwise.] The panel shall terminate its work at any time when the Parties jointly request to do so.

4. In the event of suspension, all deadlines established by the relevant time frames set out in this Chapter, in the Rules of Procedure and in additional rules of procedure that the panel may have adopted shall be extended by the amount of time that the work was suspended.

### [EU: Article x: Preliminary Ruling on Urgency

If a Party so requests, the panel shall give, within 10 days of its establishment, a preliminary ruling on whether it deems the case to be urgent.]

### Article x: Decisions [EU: and Rulings] of the Panel

[US:

1. Unless the Parties decide otherwise, the panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the Parties, and on any information or advice obtained in accordance with Article x.]
2. The panel shall [EU: interpret the provisions referred to in Article 2] [US: consider this Agreement] in accordance with the customary rules of interpretation of public international law. [EU: including those codified] [US: which are reflected] in [US: Articles 31 through 33 of] the Vienna Convention of 1969 on the Law of Treaties. [EU: The panel shall also take into account relevant interpretations in reports of panels and the Appellate Body adopted by the WTO Dispute Settlement Body. The rulings of the panel cannot add to or diminish the rights and obligations of the Parties under this Agreement]
1. The panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. [EU: However, in no case shall dissenting opinions of arbitrators be disclosed,] [US: Panelists may furnish separate opinions on matters not unanimously agreed. No panel may, either in its interim or final report, disclose which panelists are associated with majority or minority opinions.]

### Article x: Interim Panel Report

1. The panel [EU: shall] [US: should] within {90/180} days after the date of its composition issue to the Parties an interim report. Where it considers that this deadline cannot be met, the chair of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel will issue its interim report. Under no circumstances [US: shall] [EU: should] the interim report be issued later than [120/210] days after the date of establishment of the panel [US: unless the Parties decide otherwise].
2. The interim report shall contain:
  - (a) finding of fact;
  - (b) [EU: a determination whether the measure at issue is inconsistent with the obligations of this agreement] [US: a Party has otherwise failed to carry out its obligations under this Agreement; or the measure at issue is causing nullification or impairment in the sense of Article 2(c)]



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- (c) [US: any other findings and determinations specified in the panel's terms of reference;]
  - (d) [US:, if the Parties have jointly requested, recommendations for resolution of the dispute;] and
  - (e) the basic rationale behind any findings and determinations [US: and, where applicable, recommendations].
3. A Party may submit to the panel written comments on precise aspects of its interim report within {14} days of the issuance of the report to the Parties.

4. [EU: In cases of urgency, including those involving perishable goods or seasonal goods or services, the panel shall make every effort to issue its interim report within 60 days of the date of its composition. Any Party may submit a written request to the panel to review precise aspects of the interim report within seven days of the notification of the interim report.]

[US: In matters of urgency, the panel shall make every effort to accelerate the proceedings to the greatest extent possible.]

### Article x: Final Panel Report

1. After considering any written comments by the Parties on the interim report, the panel may modify its report and make any further examination it considers appropriate. The final report shall include a discussion of the written comments, if any, submitted by the Parties pursuant to Article x.
2. The panel [US: should] [EU: shall] issue a final report to the Parties [EU: and to the {institutional body}] [US:, including any separate opinions on matters not unanimously agreed,] within {45} days of issuance of the interim report. Where it considers that this deadline cannot be met, the chair of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel will issue its final report. Under no circumstances [EU: should] [US: shall] the final report be issued later than {60} days after the issuance of the interim report.

[EU:

3. In cases of urgency, including those involving perishable goods or seasonal goods or services, the panel shall make every effort to notify its ruling within 60 days from the date of its composition. Under no circumstances should the ruling be notified later than 75 days from the date of its establishment.]
4. [EU: The Parties] [US: Each Party] shall promptly publish the final report, subject to the protection of confidential information.

[EU:

5. The ruling/report of the panel shall be unconditionally accepted by the Parties. It shall not create any rights or obligations for natural or legal persons.]

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### [EU: Subsection 2: Compliance]

#### [EU: Article 10: Compliance with the Panel Ruling]

The Party complained against shall take any measure necessary to comply promptly and in good faith with the panel ruling.]

#### [EU: Article 11: Reasonable Period of Time for Compliance]

1. If immediate compliance is not possible, the Parties shall endeavor to agree on the period of time to comply with the ruling. In such a case, the Party complained against shall, no later than 30 days after receipt of the notification of the panel ruling to the Parties, notify the complaining Party and the {institutional body} of the time it will require for compliance (“reasonable period of time”).
2. If there is disagreement between the Parties on the reasonable period of time to comply with the panel ruling, the complaining Party shall, within 20 days of the receipt of the notification made under paragraph 1 by the Party complained against, request in writing the original panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the {institutional body}. The panel shall notify its ruling to the Parties and to the {institutional body} within 20 days from the date of the submission of the request.
3. The Party complained against shall inform the complaining party in writing of its progress to comply with the panel ruling at least one month before the expiry of the reasonable period of time.
4. The reasonable period of time may be extended by mutual agreement of the Parties.]

#### [US: Article 15: Implementation of Final Report]

1. If in its final report the panel determines that the responding Party has not conformed to its obligations under this Agreement or that a measure of the responding Party is causing nullification or impairment in the sense of Article 2 (c), the Parties shall seek to agree on a resolution of the dispute, taking into account the determinations and recommendations, if any, of the panel. The resolution shall normally seek, respectively, to eliminate the non-conformity or the nullification or impairment.
2. If in its final report the panel determines that the responding Party has not complied with its obligations under this agreement or that a measure of the responding Party is causing nullification or impairment under the article 2 (c), within 30 days after the panel presents its final report to the Parties under article 14.2, the responding Party shall inform the complaining Party of its intent with respect to the elimination of the non-conformity of the nullification or impairment.]

#### [EU: Article 12: Review of Any Measure Taken to Comply With the Panel ruling]

1. The Party complained against shall notify the complaining Party and the {institutional body} before the end of the reasonable period of time of any measure that it has taken to comply with the panel ruling.
2. In the event of a disagreement between the Parties concerning the existence or the consistency of any measure taken to comply with the provisions referred to in Article 2, the

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complaining Party may request in writing the original panel to rule on the matter. Such request shall identify the specific measure at issue and explain how such measure is inconsistent with the provisions referred to in Article 2, in a manner sufficient to present the legal basis for the complaint clearly. The panel shall notify its ruling to the Parties and to the {institutional body} within 45 days of the date of the submission of the request.]

### [EU:Article 13: Temporary Remedies in Case of Non-Compliance

1. If the Party complained against fails to notify any measure taken to comply with the panel ruling before the expiry of the reasonable period of time, or if the panel rules that no measure taken to comply exists or the measure notified under Article 12 paragraph 1 is inconsistent with that Party's obligations under the provisions referred to in Article 2, the Party complained against shall, if so requested by the complaining Party and after consultations with that Party, present an offer for temporary compensation.
2. If the complaining Party decides not to request an offer for temporary compensation under paragraph 1 of this Article, or, in case such request is made, if no agreement on compensation is reached within 30 days after the end of the reasonable period of time or of the issuance of the panel ruling under Article 12 that no measure taken to comply exists or that a measure taken to comply is inconsistent with the provisions referred to in Article 2, the complaining Party shall be entitled, upon notification to the other Party and to the {institutional body}, to suspend obligations arising from any provisions referred to in Article 2 at a level equivalent to the nullification or impairment caused by violation. The notification shall specify the level of suspension of obligations. The complaining Party may implement the suspension at any moment after the expiry of 10 days from the date of receipt of the notification by the Party complained against, unless the Party complained against has requested arbitration under paragraph 3 of this Article.
3. If the Party complained against considers that the level of suspension is not equivalent to the nullification or impairment caused by the violation, it may request in writing the original panel to rule on the matter. Such request shall be notified to the complaining Party and to the {institutional body} before the expiry of the 10-day period referred to in paragraph 2. The original panel shall notify its ruling on the level of the suspension of obligations to the Parties and to the {institutional body} within 30 days of the date of the submission of the request. Obligations shall not be suspended until the original panel has notified its ruling, and any suspension shall be consistent with the panel ruling.
4. The suspension of obligations and the compensation foreseen in this Article shall be temporary and shall not be applied after:
  - (a) the Parties have reached a mutually agreed solution pursuant to Article 17; or
  - (b) the Parties have agreed that the measure notified under Article 12 paragraph 1 brings the Party complained against into conformity with the provisions referred to in Article 2; or
  - (c) any measure found to be inconsistent with the provisions referred to in the Article 2 has been withdrawn or amended so as to bring it into conformity with those provisions, as ruled under Article 12 paragraph 2.]

### [US: Article 16: Non-Implementation – Suspension of Benefits

1. If the responding Party fails to notify the complaining Party under Article 15.2 that it intends to eliminate the non-conformity or, where the Panel has determined a measure is causing

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nullification or impairment in the sense of Article 2(c), the responding Party shall enter into negotiations with the complaining Party to develop mutually acceptable compensation within 14 days of receipt of a request by the complaining Party to do so.

2. If the Parties:
  - (a) are unable to agree to a resolution under Article 15.1 within 60 days of receipt of the final panel report;
  - (b) are unable to agree on compensation within 30 days after the responding Party receives the complaining Party's request under Article 16.1; or
  - (c) have agreed on compensation pursuant to Article 16.1 or on a resolution pursuant to Article 15.1 and the complaining Party considers that the responding Party has failed to observe the terms of the agreement,the complaining Party may at any time thereafter provide written notice to the responding Party that it intends to suspend the application to the responding Party of benefits under this Agreement of equivalent effect to the nullification and impairment (i) resulting from the non-conformity or (ii) in the sense of Article 2(c). The notice shall specify the level of benefits that the Party proposes to suspend and the basis for that level.
3. Subject to paragraph 4, 5 and 6, the complaining Party may begin suspending benefits 30 days after it provides written notice to the responding Party under paragraph 2.
4. If the responding Party considers that it has eliminated the non-conformity or the nullification or impairment in the sense of Article 2 (c) that the panel has found, it shall provide the complaining Party, within seven days of receipt of the complaining Party's notice under paragraph 3, with the text of any measure taken to comply and a brief description of how it has eliminated the non-conformity or the nullification or impairment. If the complaining Party considers that the responding Party has not eliminated the non-conformity or the nullification or impairment, it may request the panel to reconvene under paragraph 7 to consider the matter. The complaining Party may not suspend the application of benefits until the panel has reconvened and issued its final report on the matter.
5. If the responding Party considers that the level of benefits proposed to be suspended is manifestly excessive, the responding Party shall so notify the complaining Party within seven days of receiving notice under paragraph 3 and include a brief description of the reasons why it considers the level of benefits proposed to be suspended manifestly excessive. Thereafter, the responding Party may request the panel to be reconvened under paragraph 7 to consider the matter. If the responding Party makes its request before the end of the 30-day period referred to in paragraph 3, the complaining Party may not suspend the application of benefits until the panel has issued its final report on the matter.
6. Notwithstanding paragraph 5, if the responding Party states in its reasons provided under paragraph 5 that it has reduced the non-conformity or the nullification or impairment, it shall provide the complaining Party with the text of any measure taken to comply and a brief description of how it has reduced the non-conformity or the nullification or impairment. If the complaining Party disagrees with the responding Party's statement, it shall notify the responding Party within 45 days of receipt of the responding Party's notification. Thereafter, the responding Party may request the panel to be reconvened under paragraph 7 to consider the matter. If the responding Party makes its request within seven days of receipt of the complaining Party's notification under this paragraph, the complaining Party may not suspend the application of benefits until the panel has issued its final report on the matter.
7. The panel shall reconvene within 14 days of the date of a request to do so under paragraph 4, 5 or 6.
  - (a) The panel shall present to the Parties an interim report on the matter within {90} days

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- after it reconvenes pursuant to a request received under paragraph 5, or within {120} days after it reconvenes pursuant to a request received under paragraph 4 or 6.
- (b) The interim and final panel report shall contain findings of fact, the determination for which it was reconvened and the basic rationale behind any findings and determinations.
  - (c) The panel shall make every effort to take any decision by consensus. Nevertheless, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. Panelists may furnish separate opinions on matters not unanimously agreed. No panel may, either in its interim or final report issued pursuant to paragraph 4, 5 or 6, disclose which panelists are associated with majority or minority opinions.
  - (d) After the panel presents to the Parties an interim report on the matter, each Party may submit written comments to the panel on the panel's interim report within {14} days of the presentation of the report or within such other time period as the Parties may decide.
  - (e) After considering any written comments by the Parties on the interim report, the panel may modify its report and make any further examination it considers appropriate.
  - (f) The panel shall present a final report to the Parties, including any separate opinions on matters not unanimously agreed, within {35} days of presentation of the interim panel report.
  - (g) Unless the Parties decide otherwise, the office designated under Article 4 1(a) for the dispute shall publish the final report, subject to the protection of confidential information, seven days after the panel presents it to the Parties.
8. If the panel has determined pursuant to paragraph 4 that the responding Party has not eliminated the non-conformity or the nullification or impairment in the sense of Article 2 (c), the panel shall determine the level of benefits it considers to be of equivalent effect to the non-conformity or the nullification or impairment in the sense of Article 2 (c) and include this determination in its interim and final report.
9. If the panel pursuant to paragraph 5 or 6 determines that the level of benefits proposed to be suspended is manifestly excessive compared to the nullification or impairment of the benefits under this Agreement resulting from the non-conformity or from the nullification or impairment in the sense of Article 2(c), it shall determine the level of benefits it considers to be of equivalent effect and include this determination in its interim and final report.
10. The complaining Party might begin suspending benefits immediately after it receives the panel's final report pursuant to paragraph 7(f), and any suspension shall be consistent with the panel's final report.
11. Should any arbitrator of the original panel no longer be available to participate in proceedings pursuant to this Article, a replacement shall be selected following the procedures used to pick the unavailable arbitrator.]

### **[EU: Article 14: Review of Any Measure Taken to Comply After the Adaption of Temporary Remedies for Non-Compliance**

1. The Party complained against shall notify the complaining Party and the {institutional body} of the measure it has taken to comply with the ruling of the panel following the suspension of concessions 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 concessions within 30 days from receipt of the notification. In cases where compensation has been applied, and with the exception of cases under paragraph 2, the defending Party may terminate the application of such compensation within 30 days of its notification that it has complied with the ruling of the panel.

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2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into conformity with the provisions referred to in Article 2 within 30 days of date of receipt of the notification, the complaining Party shall request in writing the original panel to rule on the matter. Such a request shall be notified simultaneously to the other Party and to the (institutional body). The panel ruling shall be notified to the Parties and to the {institutional body} within 45 days of the date of the submission of the request. If the panel rules that the measure taken to comply is in conformity with the provisions referred to in Article 2, the suspension of obligations or compensation, as the case may be, shall be terminated. Where relevant, the level of suspension of obligations or of compensation shall be adapted in light of the panel ruling.]

### [US: Article 17: Compliance Review

1. Without prejudice to Article 16, if the responding Party considers that it has eliminated the non-conformity or the nullification or impairment in the sense of Article 2(c) that the panel has determined, the responding Party shall so notify the complaining Party and provide the complaining Party with the text of any measure taken to comply and a brief description of how the responding Party has eliminated the non-conformity or the nullification or impairment in the sense of Article 2(c). If the complaining Party disagrees with the responding Party's statement, it shall notify the responding Party within {60} days of receipt of the responding Party's notification. Thereafter, either the responding or the complaining Party may request the panel to be reconvened to consider the matter.
2. The panel shall reconvene within 14 days of the request to do so under paragraph 1 and proceed in the same manner as directed under Article 16.7, subparagraphs (b) through (g). The panel shall present to the Parties an interim report on the matter within {120} days after it reconvenes.
3. If the panel determines that the responding Party has eliminated the non-conformity or the nullification or impairment, the complaining Party shall promptly resume the application of any benefits it has suspended under Article 16.
4. Should any arbitrator of the original panel no longer be available to participate in proceedings pursuant to this Article, a replacement shall be selected following the procedures used to pick the unavailable arbitrator.]

### [EU: Section 4

#### General Provisions]

#### Article x: Time Limits

1. All time limits for proceedings under this Chapter shall be counted in calendar days, the first day being the day following the act or fact to which they refer, unless otherwise specified.
2. The Parties may agree to modify any time limit in this chapter. [EU: The panel may at any time propose to the Parties to modify any time limit in this chapter, stating the reasons for the proposal.]

#### [EU: Article x: Review and Modification of the Chapter]

The {institutional body} may decide to modify this Chapter and its Annexes.]