

*This document contains an EU proposal for a Dispute Settlement Chapter in the Trade Part of a possible modernised EU-Chile Association Agreement. It has been tabled for discussion with Chile. The actual text in the final agreement will be a result of negotiations between the EU and Chile. The EU reserves the right to make subsequent modifications to this proposal.*

**EU-Chile Free Trade Agreement**

**EU TEXTUAL PROPOSAL**

**DISPUTE SETTLEMENT CHAPTER**

# **DISPUTE SETTLEMENT CHAPTER**

## **SECTION 1**

### **OBJECTIVE AND SCOPE**

#### *Article X.1*

##### **Objective**

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

#### *Article X.2*

##### **Scope**

This Chapter shall apply with respect to any dispute between the Parties concerning the interpretation and application of the provisions of this part of the Agreement (hereinafter referred to as "covered provisions"), unless otherwise provided in this part of the Agreement.

## **SECTION 2**

### **CONSULTATIONS**

#### *Article X.3*

##### **Consultations**

1. The Parties shall endeavour to resolve any dispute referred to in Article [X.2] (Scope) by entering into consultations in good faith with the aim of reaching a mutually agreed solution.
2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the measure at issue and the covered provisions that it considers applicable.
3. The Party to which the request for consultations is made shall reply to the request promptly, but no later than 10 days after the date of its receipt. Consultations shall be held within 30 days of the date of receipt of the request and take place, unless the Parties agree otherwise, in the territory of the Party to which the request is made. The consultations shall be deemed concluded within 30 days of the date of receipt of the request, unless the Parties agree to continue consultations.

4. 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 the request. The consultations shall be deemed concluded within those 15 days unless the Parties agree to continue consultations.
5. During consultations each Party shall provide sufficient factual information so as to allow a complete examination of the manner in which the measure at issue could affect the application of this part of the Agreement. Each Party shall endeavour to ensure the participation of personnel of their competent governmental authorities who have expertise in the matter subject to the consultations.
6. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential, and without prejudice to the rights of either Party in any further proceedings.
7. If the Party to which the request is made does not respond to the request for consultations within 10 days of the date of its receipt, or if consultations are not held within the timeframes laid down in paragraph 3 or in paragraph 4 respectively, or if the Parties agree not to have consultations, or if consultations have been concluded and no mutually agreed solution has been reached, the Party that sought consultations may have recourse to Article [X.4](Initiation of Panel Procedures).

### **SECTION 3**

#### **PANEL PROCEDURES**

##### *Article X.4*

##### **Initiation of Panel Procedures**

1. If the Parties fail to resolve the dispute through recourse to consultations as provided for in Article [X.3] (Consultations), the Party that sought consultations may request the establishment of a panel.
2. The request for the establishment of a panel shall be made by means of a written request delivered to the other Party. The complaining Party shall identify the measure at issue in its request, 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 X.5*

##### **Establishment of a Panel**

1. A panel shall be composed of three panellists.
2. Within 10 days of the date of receipt by the Party complained against of the written request for the establishment of a panel, the Parties shall consult with a view to agree on the composition of the panel.

3. If the Parties do not agree on the composition of the panel within the time period provided for in paragraph 2, each Party shall appoint a panellist from the sub-list of that Party established under Article [X.6] (List of Panellists) within five days from the expiry of the time period established in paragraph 2. If a Party does not appoint a panellist from its sub-list within that time period, the co-chair of the [institutional body to be defined] from the complaining Party shall select by lot, within five days from the expiry of that time period, the panellist from the sub-list of that Party. The co-chair of the [institutional body to be defined] from the complaining Party may delegate such selection by lot of the panellist.
4. If the Parties do not agree on the chairperson of the panel within the time period established in paragraph 2, the co-chair of the [institutional body to be defined] from the complaining Party shall select by lot, within five days from the expiry of that time period, the chairperson of the panel from the sub-list of chairpersons established under Article [X.6] (List of Panellists). The co-chair of the [institutional body to be defined] from the complaining Party may delegate such selection by lot of the chairperson of the panel.
5. The date of establishment of the panel shall be the date on which all three selected panellists have notified their acceptance of appointment according to Annex X (Rules of Procedure).
6. If any of the lists provided for in Article [X.6] (List of Panellists) have not been established or do not contain sufficient names at the time a request is made pursuant to paragraphs 3 or 4, the panellists shall be drawn by lot from the individuals who have been formally proposed by one Party or both Parties in accordance with Annex X (Rules of Procedure).

*Article X.6*  
**Lists of Panellists**

1. The [institutional body to be defined] shall, no later than six months after the date of entry into force of this part of the Agreement, establish a list of at least 15 individuals who are willing and able to serve as panellists. The list shall be composed of three sub-lists:
  - (a) one sub-list of individuals established on the basis of proposals by the European Union;
  - (b) one sub-list of individuals established on the basis of proposals by the Republic of Chile; and
  - (c) one sub-list of individuals that are not nationals of either Party and who shall serve as chairperson to the panel.
2. Each sub-list shall include at least five individuals. The [institutional body to be defined] shall ensure that the list is always maintained at this minimum number of individuals.
3. The [institutional body to be defined] may establish additional lists of individuals with expertise in specific sectors covered by this part of the Agreement. Subject to the agreement of the Parties, such additional lists shall be used to compose the panel in accordance with the procedure set out in Article [X.5] (Establishment of the Panel).

*Article X.7*

**Requirements for Panellists**

1. Each panellist shall:
  - (a) have demonstrated expertise in law, international trade, and other matters covered by this part of the Agreement;
  - (b) be independent of, and 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 XX (Code of Conduct for Panellists and Mediators).
2. The chairperson shall also have experience in dispute settlement procedures.
3. In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in subparagraph 1(a).

*Article X.8*

**Functions of the Panel**

The panel:

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

*Article X.9*

**Terms of Reference**

1. Unless the Parties agree otherwise within five days after the date of establishment of the panel, the terms of reference of the panel shall be:

*“to examine, in the light of the relevant provisions of this part of the Agreement cited by the Parties, the matter referred to in the request for the establishment of the panel, to make findings on the conformity of the measure at issue with the provisions of this part of the Agreement referred to in Article [X.2] (Scope) and to deliver a report in accordance with Articles [X.11] (Interim Report) and [X.12] (Panel Report).”*
2. If the Parties agree on other terms of reference, they shall notify the agreed terms of reference to the panel within the time period set out in paragraph 1.

*Article X.10*

**Decision on Urgency**

1. If a Party so requests, the panel shall decide, within 10 days of its establishment, whether the case concerns matters of urgency.
2. In cases of urgency, the applicable time periods set out in Section 3 (Dispute Settlement Procedures) in this Chapter shall be half the time prescribed therein, except for the time periods referred to in Article [X.5] (Establishment of a Panel) and Article [X.9] (Terms of Reference).

*Article X.11*

**Interim Report**

1. The panel shall deliver an interim report to the Parties within 90 days after the date of establishment of the panel. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. The panel shall, under no circumstances, deliver its interim report later than 120 days after the date of establishment of the panel.
2. Each Party may deliver to the panel a written request to review precise aspects of the interim report within 10 days of its receipt. A Party may comment on the other's Party's request within six days of the delivery of the request.

*Article X.12*

**Final Report**

1. The panel shall deliver its final report to the Parties within 120 days of the date of establishment of the panel. When the panel considers that this deadline cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to deliver its final report. The panel shall, under no circumstances, deliver its final report later than 150 days after the date of establishment of the panel.
2. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.

*Article X.13*

**Compliance Measures**

1. The Party complained against shall take any measure necessary to comply promptly with the findings and conclusions in the final report in order to bring itself in compliance with the covered provisions.
2. The Party complained against shall, no later than 30 days after receipt of the final report, deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take to comply.

*Article X.14*

**Reasonable Period of Time**

1. If immediate compliance is not possible, the Party complained against shall, no later than 30 days after receipt of the final report, deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance. The Parties shall endeavour to agree on the length of the reasonable period of time to comply with the final report.
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 receipt of the notification in paragraph 1, request in writing the original panel to determine the length of the reasonable period of time. The panel shall deliver its decision to the Parties within 20 days of the date of receipt of the request.
3. The Party complained against shall deliver a written notification of its progress in complying with the final report 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 X.15*

**Compliance Review**

1. The Party complained against shall, no later than at 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 final report.
2. When the Parties disagree on the existence or the consistency with the covered provisions of any measure taken to comply, the complaining Party may deliver a request, in writing, the original panel 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 panel shall deliver its decision to the Parties within 46 days of the date of receipt of the request.

*Article X.16*

**Temporary Remedies**

1. The Party complained against shall, upon request by and after consultations with the complaining Party, present an offer for temporary compensation if:
  - (a) the Party complained against delivers a notification to the complaining Party that it is not possible to comply with the final report; or
  - (b) the Party complained against fails to deliver a notification of any measure taken to comply within the deadline referred to in Article [X.13] (Compliance Measures) or before the date of expiry of the reasonable period of time; or
  - (c) the panel 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 subparagraphs 1(a) to (c), the complaining Party may deliver a written notification to the Party complained against 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 panel decision under Article [X.15] (Compliance Review) when a request under paragraph 1 is made.

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

3. The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 2, unless the Party complained against made a request under paragraph 5.
4. The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.
5. If the Party complained against considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel before the expiry of the 10 day period set out in paragraph 3 to decide on the matter. The panel 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 panel has delivered its decision. The suspension of obligations shall be consistent with this decision.
6. 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 [X.33] (Mutually Agreed Solutions)
  - (b) the Parties have agreed that the measure taken to comply brings the Party complained against into conformity with the covered provisions; or
  - (c) any measure taken to comply which the panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the Party complained against into conformity with those provisions.

#### *Article X.17*

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

1. The Party complained against 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 receipt of the notification. In cases where compensation has been applied, and with the exception of cases under paragraph 2, the Party complained against may terminate the application of such compensation within 30 days from receipt of its notification that it has complied.
2. If the Parties do not reach an agreement on whether the notified measure brings the Party complained against into conformity with the covered provisions within 30 days of the date of receipt of the notification, the complaining Party shall deliver a written request to the original panel to decide on the matter. The panel shall deliver its decision to the Parties within 46 days of the date of the receipt of the request. If the

panel 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 complaining Party shall adjust the level of suspension of obligations or of compensation in light of the panel decision.

3. If the Party complained against considers that the level of suspension implemented by the complaining Party exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel to decide on the matter.

*Article X.19*

**Replacement of Panellists**

If during dispute settlement procedures, a panellist is unable to participate, withdraws or needs to be replaced because he or she does not comply with the requirements of Annex XX (Code of Conduct for Panellists and Mediators), the procedure provided for in Article X.5 (Establishment of Panels) applies. The time period for the delivery of the report or decision shall be extended for the time necessary for the appointment of the new panellist.

*Article X.19*

**Rules of Procedure**

1. Panel procedures shall be governed by this Chapter and Annex X (Rules of Procedure).
2. Any hearing of the panel shall be open to the public unless otherwise provided in Annex X (Rules of Procedure).

*Article X.20*

**Suspension and Termination**

At the request of both Parties, the panel shall suspend its work at any time for a period agreed by the Parties and not exceeding 12 consecutive months. The panel 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 panel's work at the expiry of the suspension period, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated. In the event of a suspension of the work of the panel, the relevant time periods under this Section shall be extended by the same period of time for which the work of the panel was suspended.

*Article X.21*

**Receipt of Information**

1. At the request of a Party, or upon its own initiative, the panel may seek, from the Parties, relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for such information.
2. Upon the request of a Party or its own initiative, the panel may seek any information it deems appropriate from any source. The panel also has the right to seek the opinion

of experts, as it deems appropriate, and subject to any terms and conditions agreed by the Parties, where applicable.

3. The panel shall consider *amicus curiae* submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex X (Rules of Procedure).
4. Any information obtained by the panel under this Article shall be disclosed to the Parties and the Parties may provide comments on that information.

#### *Article X.22*

### **Rules of Interpretation**

The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law, including those codified in the 1969 Vienna Convention on the Law of Treaties. The panel shall also take into account relevant interpretations in reports of WTO panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO. Reports and decisions of the panel cannot add to or diminish the rights and obligations of the Parties under this part of the Agreement.

#### *Article X.23*

### **Reports and Decisions of the Panel**

1. The deliberations of the panel shall be kept confidential. The panel shall make every effort to draft reports and take decisions by consensus. If this is not possible, the panel shall decide the matter by majority vote. In no case shall separate opinions of arbitrators be disclosed.
2. The decisions and reports of the panel shall be accepted unconditionally by the Parties. They shall not create any rights or obligations with respect to natural or legal persons.
3. Each Party shall make the reports and decisions of the panel and its submissions publicly available, subject to the protection of confidential information.
4. The panel and the Parties shall treat as confidential any information submitted by a Party to the panel in accordance with Annex X (Rules of Procedure).

#### *Article X.24*

### **Choice of Forum**

1. When a dispute arises regarding a particular measure in alleged breach of an obligation under this part of the Agreement and 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 under this Section or under another international agreement, the Party shall not initiate dispute settlement procedures under the other 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 Section are deemed to be initiated by a Party's request for the establishment of an panel under Article [X.4] (Initiation of Panel Procedures);
  - (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 Procedures Governing the Settlement of Disputes of the WTO;
  - (c) dispute settlement procedures under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.
4. Without prejudice to paragraph 2, nothing in this part of the 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 disputing 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 Section.

## **SECTION 4**

### **MEDIATION MECHANISM**

#### *Article X.25*

##### **Objective**

The objective of the mediation mechanism is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

#### *Article X.26*

##### **Request for Information**

1. At any time before the initiation of the mediation procedure, a Party may deliver a written request for information regarding a measure adversely affecting trade or investment between the Parties. The Party to which such request is made shall, within 20 days of receipt of the request, deliver a written response containing its comments on the requested information.
2. When the responding Party considers it will not be able to deliver a response within 20 days of receipt of the request, it shall promptly notify the requesting Party, stating the reasons for the delay and providing an estimate of the shortest period within which it will be able to deliver its response.
3. A Party is normally expected to avail itself of this provision before the initiation of the mediation procedure.

*Article X.27*

**Initiation of the Mediation Procedure**

1. A Party may at any time request to enter into a mediation procedure with respect to any measure by a Party adversely affecting trade or investment between the Parties.
2. The request shall be made by means of a written request delivered to the other Party. The request shall be sufficiently detailed to present the concerns of the requesting Party clearly and shall:
  - (a) identify the specific measure at issue;
  - (b) provide a statement of the adverse effects that the requesting Party considers the measure has, or will have, on trade or investment between the Parties; and
  - (c) explain how the requesting Party considers that those effects are linked to the measure.
2. The mediation procedure may only be initiated by mutual agreement of the Parties in order to explore mutually agreed solutions and consider any advice and proposed solutions by the mediator. The Party to which the request is made shall give sympathetic consideration to the request and deliver its written acceptance or rejection to the requesting Party within 10 days of its receipt. Otherwise the request shall be regarded as rejected.

*Article X.28*

**Selection of the Mediator**

1. The Parties shall endeavour to agree on a mediator within 10 days of the initiation of the mediation procedure.
2. In the event that the Parties are unable to agree on the mediator within the time period laid down in paragraph 1, either Party may request the co-chair of the [institutional body to be defined] from the complaining Party to select the mediator by lot, within five days from the request, from the sub-list of chairpersons established under Article [X.6] (Lists of Panellists). The co-chair of the [institutional body to be defined] from the complaining Party may delegate such selection by lot of the mediator.
3. Should the sub-list of chairpersons referred to in Article [X.6] (Lists of Panellists) not be established at the time a request is made pursuant to Article X.27 (Initiation of the Mediation Procedure), the mediator shall be drawn by lot from the individuals formally proposed by one or both of the Parties for that sub-list.
4. A mediator shall not be a national of either Party or employed by either Party, unless the Parties agree otherwise.
5. A mediators shall comply with Annex XX (Code of Conduct for Panellists and Mediators).

*Article X.29*

**Rules of the Mediation Procedure**

1. Within 10 days of the appointment of the mediator, the Party which invoked the mediation procedure shall deliver to the mediator and to the other Party a detailed written description of its concerns, in particular of the operation of the measure at issue and its possible adverse effects on trade or investment. Within 20 days of the receipt of this description, the other Party may deliver written comments on this description. Either Party may include any information that it deems relevant in its description or comments.
2. The mediator shall assist the Parties in a transparent manner in bringing clarity to the measure concerned and its possible adverse effects on trade or investment. In particular, the mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult with, relevant experts and stakeholders and provide any additional support requested by the Parties. The mediator shall consult with the Parties before seeking the assistance of, or consulting with, relevant experts and stakeholders.
3. The mediator may offer advice and propose a solution for the consideration of the Parties. The Parties may accept or reject the proposed solution, or agree on a different solution. The mediator shall not advise or comment on the consistency of the measure at issue with this part of the Agreement.
4. The mediation procedure shall take place in the territory of the Party to which the request was addressed, or by mutual agreement in any other location or by any other means.
5. The Parties shall endeavour to reach a mutually agreed solution within 60 days of the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, particularly if the measure relates to perishable goods or seasonal goods or services.
6. Upon request of either Party, the mediator shall deliver a draft factual report to the Parties, providing:
  - (a) a brief summary of the measure at issue;
  - (b) the procedures followed; and
  - (c) if applicable, any mutually agreed solution reached, including possible interim solutions.

The mediator shall allow the Parties 15 days to comment on the draft report. After considering the comments of the Parties received, the mediator shall, within 15 days, deliver a final factual report to the Parties. The factual report shall not include any interpretation of this part of the Agreement.
8. The procedure shall be terminated:
  - (a) by the adoption of a mutually agreed solution by the Parties, on the date of the adoption thereof;

- (b) by mutual agreement of the Parties at any stage of the procedure, on the date of that agreement;
- (c) by a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of that declaration; or
- (d) by a written declaration of a Party after exploring mutually agreed solutions under the mediation procedure and after having considered any advice and proposed solutions by the mediator, on the date of that declaration.

*Article X.30*

**Confidentiality**

Unless the Parties agree otherwise, all steps of the mediation procedure, including any advice or proposed solution, are confidential. Any Party may disclose to the public the fact that mediation is taking place.

*Article X.31*

**Relationship to Dispute Settlement Procedures**

1. The mediation procedure is without prejudice to the Parties' rights and obligations under Sections 2 and 3 or under dispute settlement procedures under any other agreement.
2. A Party shall not rely on, or introduce as evidence, in other dispute settlement procedures under this part of the Agreement or any other agreement, nor shall a panel take into consideration:
  - (a) positions taken by the other Party in the course of the mediation procedure or information exclusively gathered under paragraph 2 of Article X.29 (Rules of the Mediation Procedure);
  - (b) the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or
  - (c) advice given or proposals made by the mediator.
3. Unless the Parties agree otherwise, a mediator shall not serve as a member of a panel in dispute settlement procedures under this part of the Agreement or under any other agreement involving the same matter for which he or she has been a mediator.

**SECTION 5**

**COMMON PROVISIONS**

*Article X.32*

**Mutually Agreed Solution**

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article [X.2] (Scope).

2. If a mutually agreed solution is reached during the panel or mediation procedure, the Parties shall jointly notify that solution to the chairperson of the panel or the mediator, respectively. Upon such notification, the panel or the mediation procedure shall be terminated.
3. Each Party shall take measures necessary to implement the mutually agreed solution within the agreed time period.
4. No later than at the expiry of the agreed time period the implementing Party shall inform the other Party, in writing, of any measure that it has taken to implement the mutually agreed solution.

*Article X.33*

**Time Periods**

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

*Article X.34*

**Costs**

1. Each Party shall bear its own expenses derived from the participation in the panel or mediation procedure.
2. The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the panellists and of the mediator. The remuneration of the panellists and of the mediator shall be in accordance with that foreseen for a chairperson of an arbitration Panel in accordance with Annex X (Rules of Procedure).

*Article X.35*

**Annexes**

The [institutional body to be defined] may modify the Annexes X (Rules of Procedure) and XX (Code of Conduct for Panellists and Mediators).

**ANNEXES**

Annex X: Rules of Procedure

Annex XX: Code of Conduct for Panellists and Mediators

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