

2. Unless the Commission directs otherwise, an arbitration panel shall be established and perform its functions in a manner consistent with the provisions of paragraphs 1, 3 and 4 of Article 1807.

3. If a Party fails to implement in a timely fashion the findings of a binding arbitration panel and the Parties are unable to agree on appropriate compensation or remedial action, then the other Party shall have the right to suspend the application of equivalent benefits of this Agreement to the non-complying Party.

#### **Article 1807: Panel Procedures**

1. The Commission shall develop and maintain a roster of individuals who are willing and able to serve as panelists. Wherever possible, panelists shall be chosen from this roster. In all cases, panelists shall be chosen strictly on the basis of objectivity, reliability and sound judgment and, where appropriate, have expertise in the particular matter under consideration. Panelists shall not be affiliated with or take instructions from either Party.

2. If a dispute has been referred to the Commission under Article 1805 and has not been resolved within a period of 30 days after such referral, or within such other period as the Commission has agreed upon, or has not been referred to arbitration pursuant to Article 1806, the Commission, upon request of either Party, shall establish a panel of experts to consider the matter. A panel shall be deemed to be established from the date of the request of a Party.

3. The panel shall be composed of five members, at least two of whom shall be citizens of Canada and at least two of whom shall be citizens of the United States. Within 15 days of establishment of the panel, each Party, in consultation with the other Party, shall choose two members of the panel and the Commission shall endeavour to agree on the fifth who shall chair the panel. If a Party fails to appoint its panelists within 15 days, such panelists shall be selected by lot from among its citizens on the roster described in paragraph 1. If the Commission is unable to agree on the fifth panelist within such period, then, at the request of either Party, the four appointed panelists shall decide on the fifth panelist within 30 days of establishment of the panel. If no agreement is possible, the fifth panelist shall be selected by lot from the roster described in paragraph 1.