

4. Upon appointment of the fifth panelist, the panelists shall promptly appoint a chairman from among the lawyers on the panel by majority vote of the panelists. If there is no majority vote, the chairman shall be appointed by lot from among the lawyers on the panel.

5. Decisions of the panel shall be by majority vote and be based upon the votes of all members of the panel. The panel shall issue a written decision with reasons, together with any dissenting or concurring opinions of panelists.

6. Panelists shall be subject to the code of conduct established pursuant to Article 1910. If a Party believes that a panelist is in violation of the code of conduct, the Parties shall consult and if the Parties agree, the panelist shall be removed and a new panelist shall be selected in accordance with the procedures of this Annex.

7. When a panel is convened pursuant to Article 1904, each panelist shall be required to sign:

- a) a protective order for information supplied by the United States of America or its persons covering business proprietary and other privileged information; and
- b) an undertaking for information supplied by Canada or its persons covering confidential, personal, business proprietary and other privileged information.

8. The United States of America shall establish appropriate sanctions for violations of protective orders issued by it and of undertakings given to Canada. Canada shall establish appropriate sanctions for violations of undertakings given to it and protective orders issued by the United States of America. Each Party shall enforce such sanctions with respect to any person within its jurisdiction. Failure by a panelist to sign a protective order or undertaking shall result in disqualification of the panelist.

9. If a panelist becomes unable to fulfill panel duties or is disqualified, proceedings of the panel shall be suspended pending the selection of a substitute panelist in accordance with the procedures of this Annex.