

4. The Parties consider that, for a situation to constitute a serious and substantial failure to fulfil any of the obligations described as essential elements in Article 771, its gravity and nature would have to be of an exceptional sort that threatens peace and security or that has international repercussions. For greater certainty, an act or omission which materially defeats the object and purpose of the Paris Agreement shall always be considered as a serious and substantial failure for the purposes of this Article.

ARTICLE 773

Safeguard measures

1. If serious economic, societal or environmental difficulties of a sectorial or regional nature, including in relation to fishing activities and their dependent communities, that are liable to persist arise, the Party concerned may unilaterally take appropriate safeguard measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to those measures which will least disturb the functioning of this Agreement.
2. The Party concerned shall, without delay, notify the other Party through the Partnership Council and shall provide all relevant information. The Parties shall immediately enter into consultations in the Partnership Council with a view to finding a mutually agreeable solution.

3. The Party concerned may not take safeguard measures until one month has elapsed after the date of notification referred to in paragraph 2, unless the consultation procedure pursuant to paragraph 2 has been jointly concluded before the expiration of the stated time limit. When exceptional circumstances requiring immediate action exclude prior examination, the Party concerned may apply forthwith the safeguard measures strictly necessary to remedy the situation.

The Party concerned shall, without delay, notify the measures taken to the Partnership Council and shall provide all relevant information.

4. If a safeguard measure taken by the Party concerned creates an imbalance between the rights and obligations under this Agreement or under any supplementing agreement, the other Party may take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to those measures which will least disturb the functioning of this Agreement. Paragraphs 2 to 4 shall apply *mutatis mutandis* to such rebalancing measures.

5. Either Party may, without having prior recourse to consultations pursuant to Article 738, initiate the arbitration procedure referred to in Article 739 to challenge a measure taken by the other Party in application of paragraphs 1 to 5 of this Article.

6. The safeguard measures referred to in paragraph 1 and the rebalancing measures referred to in paragraph 5 may also be taken in relation to a supplementing agreement, unless otherwise provided therein.