

CONCURRING PROCEEDINGS

1. Notwithstanding paragraph 1 of Article 3.34 (Other Claims), an investor of the EU Party shall not submit to the Tribunal under Section B (Resolution of Disputes between Investors and Parties) of Chapter 3 (Dispute Settlement) a claim that Viet Nam has breached a provision referred to in Article 2.1 (Scope) if the investor has submitted a claim alleging a breach of that same provision referred to in Article 2.1 (Scope) in proceedings before a court or administrative tribunal of Viet Nam or any international arbitration.¹

¹ The fact that an investor has submitted a claim that Viet Nam has breached a provision of Chapter 2 in proceedings before a court or administrative tribunal of Viet Nam or any international arbitration with respect to one of its investments does not prevent the same investor from submitting a claim alleging a breach of the same provisions to the Tribunal under Section B (Resolution of Disputes between Investors and Parties) of Chapter 3 (Dispute Settlement) with respect to its other investments where such other investment is allegedly affected by the same measure.

2. Notwithstanding paragraphs 2 and 3 of Article 3.34 (Other Claims), in the event that Viet Nam is the respondent, an investor of the EU Party shall not submit a claim to the Tribunal under Section B (Resolution of Disputes between Investors and Parties) of Chapter 3 (Dispute Settlement) that a measure is inconsistent with the provisions of Chapter 2 if any person who directly or indirectly controls or is directly or indirectly controlled by the investor (hereinafter referred to as "related person") has submitted a claim to the Tribunal or any other domestic or international court or tribunal alleging a breach of the same provisions, with respect to the same investment and:
 - (a) the claim of that related person was addressed by an award, judgment, decision or other settlement; or
 - (b) the claim of that related person is pending and that person has not withdrawn such pending claim.

3. Claims that do not fall into the scope of paragraph 1 or 2 of this Annex shall be subject to Article 3.34 (Other Claims).
