

4. If, in connection with a claim by an investor of a Party or a dispute between the Parties, an issue arises as to whether a measure of a Party is a taxation measure, a Party may refer the issue to the taxation authorities of the Parties. The taxation authorities shall decide the issue, and their decision shall bind any Tribunal formed pursuant to Section C or arbitral panel formed pursuant to Section D, as the case may be, with jurisdiction over the claim or the dispute. A Tribunal or arbitral panel seized of a claim or a dispute in which the issue arises may not proceed pending receipt of the decision of the taxation authorities. If the taxation authorities have not decided the issue within six months of the referral, the Tribunal or arbitral panel shall decide the issue in place of the taxation authorities.

## ARTICLE 17

### Prudential Measures

1. Where an investor submits a claim to arbitration under Section C, and the disputing Party invokes Articles 10(2) or 14(6), the Tribunal established pursuant to Article 22 (Claim by an Investor of a Party on its Own Behalf) or 23 (Claim by an Investor of a Party on Behalf of an Enterprise) shall, at the request of that Party, seek a report in writing from the Parties on the issue of whether and to what extent the said paragraphs are a valid defence to the claim of the investor. The Tribunal may not proceed pending receipt of a report under this Article.
2. Pursuant to a request received in accordance with paragraph (1), the Parties shall proceed in accordance with Section D to prepare a written report, either on the basis of agreement following consultations, or by means of an arbitral panel. The consultations shall be between the financial services authorities of the Parties. The report shall be transmitted to the Tribunal, and shall be binding on the Tribunal.
3. Where, within 70 days of the referral by the Tribunal, no request for the establishment of a panel pursuant to paragraph (2) has been made, and no report has been received by the Tribunal, the Tribunal may proceed to decide the matter.