

- (3) (a) Where an investor submits a claim to arbitration under Article XIII, and the disputing Contracting Party invokes paragraphs (1) or (2) above, the tribunal established pursuant to Article XIII shall, at the request of that Contracting Party, seek a report in writing from the Contracting 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.
- (b) Pursuant to a request received in accordance with subparagraph 3(a), the Contracting Parties shall proceed in accordance with Article XV, 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 Contracting Parties. The report shall be transmitted to the tribunal, and shall be binding on the tribunal.
- (c) Where, within 70 days of the referral by the tribunal, no request for the establishment of a panel pursuant to subparagraph 3(b) has been made and no report has been received by the tribunal, the tribunal may proceed to decide the matter.
- (4) Panels for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service in dispute.
- (5) Sub-paragraph 3(b) of Article II does not apply in respect of financial services.

ARTICLE XII

Taxation Measures

- (1) Except as set out in this Article, nothing in this Agreement shall apply to taxation measures.
- (2) Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties under any tax agreement. In the event of any inconsistency between the provisions of this Agreement and any such agreement, the provisions of that agreement apply to the extent of the inconsistency.
- (3) Subject to paragraph (2), a claim by an investor that a tax measure of a Contracting Party is in breach of an agreement between the central government authorities of a Contracting Party and the investor concerning an investment shall be considered a claim for breach of this Agreement unless the taxation authorities of the Contracting Parties, no later than six months after being notified of the claim by the investor, jointly determine that the measure does not contravene such agreement.
- (4) Article VIII may be applied to a taxation measure unless the taxation authorities of the Contracting Parties, no later than six months after being notified by an investor that he disputes a taxation measure, jointly determine that the measure is not an expropriation.
- (5) If the taxation authorities of the Contracting Parties fail to reach the joint determinations specified in paragraphs (3) and (4) within six months after being notified, the investor may submit its claim for resolution under Article XIII.