

- (c) If an issue arises as to whether a tax convention prevails over this Agreement in a dispute between the Parties, a Party may refer the issue to the designated authorities of the Parties. The designated authorities shall consider the issue and decide whether the tax convention prevails. If within 6 months of the referral of the issue to the designated authorities, they decide with respect to the measure that gives rise to the issue that the tax convention prevails, procedures concerning that measure may not be initiated under Article 21.10 (Institutional Arrangements and Dispute Settlement Procedures – Establishment of a Panel). Procedures concerning the measure may not be initiated while the designated authorities are considering the issue. If a Party has referred the issue to the designated authorities and they have not decided the issue within 6 months of the referral, the panel shall decide the issue.
- (d) If an issue arises as to whether a tax convention prevails over this Agreement prior to the submission of a claim by an investor of a Party, the Party that has received notice of intention to submit a claim to arbitration may refer the issue to the designated authorities of the Parties. The designated authorities shall consider the issue and decide whether the tax convention prevails. If within 6 months of the referral of the issue to the designated authorities, they decide with respect to the measure that gives rise to the issue that the tax convention prevails, a claim concerning that measure may not be submitted under Article 10.23 (Investment – Submission of a Claim to Arbitration). A claim concerning the measure may not be submitted while the designated authorities are considering the issue. An investor of a Party that fails to identify a taxation measure in its notice of intention to submit a claim may not submit a claim to arbitration concerning that measure under Article 10.23 (Investment – Submission of a Claim to Arbitration). If a Party has referred the issue to the designated authorities and they have not decided the issue within 6 months of the referral, the Tribunal shall decide the issue.

10. If an investor invokes Article 10.11 (Investment – Expropriation) as the basis for a claim under Article 10.19 (Investment – Claim by an Investor of a Party on Its Own Behalf) or Article 10.20 (Investment – Claim by an Investor of a Party on Behalf of an Enterprise), the designated authorities shall make a determination under paragraph 8 of whether a measure is an expropriation concurrently with a decision under paragraph 9(b) of whether the measure is a taxation measure.

11. The designated authorities seized of an issue under paragraphs 8 or 9 may modify the time period allowed to decide the issue.

12. This Agreement does not require a Party to furnish or allow access to information the disclosure of which would be contrary to the Party's law protecting information concerning the taxation affairs of a taxpayer.