

- (d) the investor has delivered evidence establishing that it is an investor of the other Party with its notice of intent to submit a claim to arbitration under subparagraph 2(c);
 - (e) in the case of a claim submitted under Article 21(1) (Claim by an Investor of a Party on Its Own Behalf or on Behalf of an Enterprise):
 - (i) not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor has incurred loss or damage thereby,
 - (ii) the investor clearly and unambiguously waives its right to initiate or continue before an administrative tribunal or court under the domestic law of a Party, or other dispute settlement procedures, proceedings with respect to the measure of the respondent Party that is alleged to be a breach referred to in Article 21 (Claim by an Investor of a Party on its Own Behalf or on Behalf of an Enterprise), and
 - (iii) if the claim is for loss or damage to an interest in an enterprise of the other Party that is a juridical person that the investor owns or controls directly or indirectly, the enterprise waives the right referred to under subparagraph (ii);
 - (f) in the case of a claim submitted under Article 21(2) (Claim by an Investor of a Party on its Own Behalf or on Behalf of an Enterprise):
 - (i) not more than three years have elapsed from the date on which the enterprise first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the enterprise has incurred loss or damage thereby, and
 - (ii) both the investor and the enterprise clearly and unambiguously waive their right to initiate or continue before an administrative tribunal or court under the domestic law of a Party, or other dispute settlement procedures, proceedings with respect to the measure of the respondent Party that is alleged to be a breach referred to in Article 21 (Claim by an Investor of a Party on its Own Behalf or on Behalf of an Enterprise).
3. Subparagraphs 2(e)(ii), (iii) and 2(f)(ii) do not apply to proceedings before a judicial or administrative tribunal or court under the domestic law of the respondent Party for injunctive, declaratory or other extraordinary relief, not involving the payment of damages.
4. The disputing investor or the enterprise shall deliver the consent and waiver required under paragraph 2 to the respondent Party and the investor shall include them in the submission of a claim to arbitration. A waiver from the enterprise under subparagraphs 2(e)(iii) or 2(f)(ii) is not required if the respondent Party has deprived the investor of control of the enterprise.

ARTICLE 23

Mediation

1. The disputing parties may at any time, be it after notice of intent to submit a claim to arbitration has been given or after a claim has been submitted to arbitration, agree to mediation.