

- (c) If, after 60 days, the financial services authorities of the Contracting Parties are unable to reach a joint decision on the issue of whether and to what extent Article 33(3) is a valid defence to the claim of the investor, the issue shall, within 30 days, be referred by either of the Contracting Parties to a State-State arbitral tribunal established pursuant to Article 15. In such a case, the provisions requiring consultations between the Contracting Parties in Article 15(1) and (2) shall not apply. The decision of the State-State arbitral tribunal shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal. All of the members of any such State-State arbitral tribunal shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

ARTICLE 21

Conditions Precedent to Submission of a Claim to Arbitration

1. Before a disputing investor may submit a claim to arbitration, the disputing parties shall first hold consultations in an attempt to settle a claim amicably. Consultations shall be held within 30 days of the submission of the notice of intent to submit a claim to arbitration, unless the disputing parties otherwise agree. The place of consultation shall be the capital of the disputing Contracting Party, unless the disputing parties otherwise agree.
2. Subject to the Party-specific requirements set out in Annex C.21, a disputing investor may submit a claim to arbitration under Article 20 only if:
 - (a) the investor consents to arbitration in accordance with the procedures set out in this Agreement and delivers notice of such consent to the disputing Contracting Party together with the submission of a claim to arbitration;
 - (b) at least six months have elapsed since the events giving rise to the claim;
 - (c) the investor has delivered to the disputing Contracting Party written notice of its intent to submit a claim to arbitration at least four months prior to submitting the claim;
 - (d) the investor has delivered, with its notice of intent to submit a claim to arbitration under sub-paragraph (c), evidence establishing that it is an investor of the other Contracting Party;