

- (9) For the purposes of an arbitration proceeding under paragraph 6 of Article 23 (Mutual Agreement Procedure) of the Convention the members of the arbitration board and their staff are considered "persons or authorities" to whom information may be disclosed under Article 24 (Exchange of Information) of the Convention.
- (10) If at any time before the arbitration board delivers a determination to the competent authorities of the Contracting States:
- (a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case pursuant to Article 23 (Mutual Agreement Procedure) of the Convention;
 - (b) the presenter of the case withdraws the application for the competent authorities to engage in the mutual agreement procedure under Article 23 (Mutual Agreement Procedure) of the Convention;
 - (c) a decision concerning the case is rendered by a court or administrative tribunal of one of the Contracting States during the arbitration proceeding; or
 - (d) any concerned person or their authorized representatives or agents wilfully violates the written non-disclosure statement required by paragraph (8) of this Note, and the competent authorities of both Contracting States agree that the violation should result in the termination of the arbitration proceeding;

the mutual agreement procedure, including the arbitration proceeding, with respect to the case is terminated. In addition, in the situation described in subparagraph (b), the case will not be eligible for any further consideration by the competent authorities under Article 23 (Mutual Agreement Procedure) of the Convention.

- (11) Regarding the selection of the members of the arbitration board:
- (a) the competent authority of each Contracting State has 60 days from the date on which the arbitration proceeding begins in accordance with paragraph (7) of this Note to send a written communication to the competent authority of the other Contracting State appointing one member of the arbitration board;
 - (b) if the competent authority of a Contracting State fails to appoint a member within the time period prescribed by this paragraph, the competent authority of the other Contracting State shall select a second member of the arbitration board;
 - (c) within 60 days from the date on which the communication appointing the second member of the arbitration board is sent, the two members appointed by the competent authorities of the Contracting States shall appoint a third member, who will serve as chair of the board;