

7. Article 8.11 (Expropriation and Compensation) applies to a taxation measure. However, an investor shall not invoke Article 8.11 (Expropriation and Compensation) as the basis for a claim under Article 8.18 (Claim by an Investor of a Party on its Own Behalf) or 8.19 (Claim by an Investor of a Party on Behalf of an Enterprise) if it has been determined pursuant to this paragraph that the measure is not an expropriation. The investor shall refer to the designated authorities, at the time that it gives its Notice of Intent under Article 8.20 (Notice of Intent to Submit a Claim to Arbitration), the issue of whether that taxation measure is not an expropriation. If the designated authorities do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation within a period of 180 days of such referral, the investor may submit its claim to arbitration under Article 8.23 (Submission of a Claim to Arbitration).

8. This Agreement is not to be construed to 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.

Article 22.4: Transfers

1. Chapters Eight (Investment), Nine (Cross-Border Trade in Services), and Ten (Financial Services) are not to be construed to prevent Korea from applying measures pursuant to Article 6 of the *Foreign Exchange Transactions Act*, provided that such measures¹:

- (a) are in effect for a period not to exceed one year; however, if extremely exceptional circumstances arise such that Korea seeks to extend such measures, Korea will coordinate in advance with Canada concerning the implementation of a proposed extension;
- (b) are not confiscatory;
- (c) do not constitute a dual or multiple exchange rate practice;
- (d) do not otherwise interfere with investors' ability to earn a market rate of return in the territory of Korea on restricted assets²;
- (e) avoid unnecessary damage to the commercial, economic, or financial interests of Canada;
- (f) are temporary and phased out progressively as the situation calling for imposition of such measures improves;

¹ Korea shall endeavour to provide that such measures will be price-based.

² For greater certainty, the term "restricted assets" in this subparagraph refers only to assets invested in the territory of Korea by an investor of Canada that are restricted from being transferred out of the territory of Korea.