

- (b) for Costa Rica:

the Director of the Department of Direct Tax Office, Ministry of Treasury of Costa Rica.

## ARTICLE XII

### Settlement of Disputes between an Investor and the Host Contracting Party

1. Any dispute between one Contracting Party and an investor of the other Contracting Party, relating to a claim by the investor that a measure taken or not taken by the former Contracting Party is in breach of this Agreement, and that the investor has incurred loss or damage by reason of, or arising out of, that breach, shall, to the extent possible, be settled amicably between them.
2. If a dispute has not been settled amicably within a period of six months from the date on which it was initiated, it may be submitted by the investor to arbitration in accordance with paragraph (4). The investor will bear the burden of proof to demonstrate:
  - (a) that it is an investor as defined by Article I of this Agreement;
  - (b) that the measure taken or not taken by the Contracting Party is in breach of this Agreement; and
  - (c) that the investor has incurred loss or damage by reason of, or arising out of, that breach.

For the purpose of this Agreement, a dispute is considered to be initiated when the investor of one Contracting Party has delivered notice in writing to the other Contracting Party alleging that a measure taken or not taken by the latter Contracting Party is in breach of this Agreement, and that the investor has incurred loss or damage by reason of, or arising out of, that breach.

3. An investor may submit a dispute as referred to in paragraph (1) to arbitration in accordance with paragraph (4) only if:
  - (a) the investor has consented in writing thereto;
  - (b) the investor has waived its right to initiate or continue any other proceedings in relation to the measure that is alleged to be in breach of this Agreement before the courts or tribunals of the Contracting Party concerned or in a dispute settlement procedure of any kind;
  - (c) 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; and
  - (d) in cases where Costa Rica is a party to the dispute, no judgement has been rendered by a Costa Rican court regarding the measure that is alleged to be in breach of this Agreement.