

PART C**ARTICLE 19****Purpose**

Without prejudice to the rights and obligations of the Contracting Parties under Article 15, this Part establishes a mechanism for the settlement of investment disputes.

ARTICLE 20**Claim by an Investor of a Contracting Party**

1. An investor of a Contracting Party may submit to arbitration under this Part a claim that the other Contracting Party has breached an obligation:

- (a) under Articles 2 to 7(2), 9, 10 to 13, 14(4) or 16, if the breach is with respect to investors or covered investments of investors to which sub-paragraph (b) does not apply, or
- (b) under Article 10 or 12 if the breach is with respect to investors of a Contracting Party in financial institutions in the other Contracting Party's territory or covered investments of such investors in financial institutions in the other Contracting Party's territory,

and that the investor or a covered investment of the investor has incurred loss or damage by reason of, or arising out of, that breach.

- 2. (a) Where an investor submits a claim to arbitration under this Article, and the disputing Contracting Party invokes Article 33(3), the investor-State tribunal established pursuant to this Part may not decide whether and to what extent Article 33(3) is a valid defence to the claim of the investor. It shall seek a report in writing from the Contracting Parties on this issue. The investor-State tribunal may not proceed pending receipt of such a report or of a decision of a State-State arbitral tribunal, should such a State-State arbitral tribunal be established.
- (b) Pursuant to a request for a report received in accordance with subparagraph (a), the financial services authorities of the Contracting Parties shall engage in consultations. If the financial services authorities of the Contracting Parties 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, they shall prepare a written report describing their joint decision. The report shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal.