

- (18) if the determination of the arbitration board is accepted in accordance with paragraph (17) of this Note, that determination constitutes a resolution by mutual agreement of the case under Article 23 (Mutual Agreement Procedure) of the Convention at the time it is accepted by the concerned person(s) and is binding on both Contracting States. The resolution resulting from the determination of the arbitration board shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
- (19) The application of any associated interest or penalties shall be determined by the domestic law of the Contracting State(s) concerned.
- (20) Information relating to the arbitration proceeding (including the board's determination) may not be disclosed by the members of the arbitration board or their staff or by either competent authority, except as permitted by the Convention and the domestic laws of the Contracting States. In addition, all material prepared in the course of, or relating to, the arbitration proceeding is considered to be information exchanged between the Contracting States pursuant to Article 24 (Exchange of Information) of the Convention and is remitted to the competent authority of the Contracting State where the mutual agreement procedure was initiated in the case once a decision has been rendered. The competent authorities of the Contracting States shall ensure that all members of the arbitration board and their staff sign and send written statements to each Contracting State, prior to their acting in the arbitration proceeding, in which they consent to abide by and be subject to the confidentiality and nondisclosure provisions of Articles 23 (Mutual Agreement Procedure) and 24 (Exchange of Information) of the Convention and the applicable domestic law of the Contracting States (in the event that any of those provisions conflict with the applicable domestic law, the most restrictive condition applies). Such statement shall also include the board members' acceptance to serve on the arbitration board.
- (21) The fees and expenses of members of the arbitration board are set in accordance with the *International Centre for Settlement of Investment Disputes (ICSID) Schedule of Fees for arbitrators*, as in effect on the date on which the arbitration proceedings begin, and are borne equally by the Contracting States. Any fees for language translation are also borne equally by the Contracting States. Any other costs are borne by the Contracting State that incurs them.

If the above proposal is acceptable to your Government, I further propose that this Note, which is authentic in English and in French, and your reply Note reflecting such acceptance shall constitute an agreement between our two Governments which shall enter into force and have effect on the date of the second note by which our two Governments notify each other that they have completed their internal procedure required to bring into force this Note.