

ARTICLE 21

1. Paragraph 6 of Article XXVI (Mutual Agreement Procedure) of the Convention shall be deleted and replaced by the following:

6. Where, pursuant to a mutual agreement procedure under this Article, the competent authorities have endeavored but are unable to reach a complete agreement in a case, the case shall be resolved through arbitration conducted in the manner prescribed by, and subject to, the requirements of paragraph 7 and any rules or procedures agreed upon by the Contracting States by notes to be exchanged through diplomatic channels, if:

- (a) Tax returns have been filed with at least one of the Contracting States with respect to the taxable years at issue in the case;
- (b) The case:
 - (i) Is a case that:
 - (A) Involves the application of one or more Articles that the competent authorities have agreed in an exchange of notes shall be the subject of arbitration; and
 - (B) Is not a particular case that the competent authorities agree, before the date on which arbitration proceedings would otherwise have begun, is not suitable for determination by arbitration; or
 - (ii) Is a particular case that the competent authorities agree is suitable for determination by arbitration; and
- (c) All concerned persons agree according to the provisions of subparagraph 7(d).