(b) The consent given under subparagraph (a) and the submission by a disputing investor of an investment dispute to conciliation or arbitration shall satisfy the requirements of:

(i) Chapter II of the ICSID Convention or the Additional Facility Rules of the International Centre for Settlement of Investment Disputes, for written consent of the parties to a dispute; and

(ii) Article II of the New York Convention for an agreement in writing.

9. Notwithstanding paragraph 8, no investment dispute may be submitted to conciliation or arbitration set forth in paragraph 4, if more than three years have elapsed since the date on which the disputing investor acquired or should have first acquired, whichever is the earlier, the knowledge that the disputing investor had incurred loss or damage referred to in paragraph 1.

10. Notwithstanding paragraph 6, the disputing investor may initiate or continue an action that seeks interim injunctive relief not involving the payment of damages or resolution in substance of the dispute before an administrative tribunal or agency or a court of justice under the law of the disputing Party.

11. Unless the disputing parties agree otherwise, an arbitral tribunal established under paragraph 4 shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties. If the disputing investor or the disputing Party fails to appoint an arbitrator or arbitrators within 60 days from the date on which the investment dispute was submitted to arbitration, the Secretary-General of the International Centre for Settlement of Investment Disputes in the case of arbitration referred to in subparagraph 4 (a) or (b), or the Secretary-General of the Permanent Court of Arbitration, at The Hague in the case of arbitration referred to in subparagraph 4 (c) or (d), may be requested by either of the disputing parties, to appoint the arbitrator or arbitrators not yet appointed, subject to the requirements of paragraph 12.

12. Unless the disputing parties agree otherwise, the third arbitrator shall not be a national of Japan nor citizen of India, nor have his or her usual place of residence in either Party, nor be employed by either of the disputing parties, nor have dealt with the investment dispute in any capacity.

13. Unless the disputing parties agree otherwise, the arbitration shall be held in a country that is a party to the New York Convention.

14. An arbitral tribunal established under paragraph 4 shall decide the issues in dispute in accordance with this Chapter and other provisions of this Agreement as applicable and applicable rules of international law.

15. The disputing Party shall deliver to the other Party:

(a) written notice of the investment dispute submitted to the arbitration no later than 30 days after the date on which the investment dispute was submitted; and

(b) copies of all pleadings filed in the arbitration.

16. On written notice to the disputing parties, the Party which is not the disputing Party may make submission to the arbitral tribunal on a question of interpretation of this Chapter and other provisions of this Agreement as applicable.

17. The arbitral tribunal may order an interim measure of protection to preserve the rights of the disputing investor, or to facilitate the conduct of arbitral proceedings, including an order to preserve evidence in the possession or control of either of the disputing parties. The arbitral tribunal shall not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in paragraph 1.

18. The award rendered by the arbitral tribunal shall include: