

2. Where an investor or respondent Party claims that a dispute involves measures adopted or maintained by the respondent Party relating to financial institutions of the other Party or investors of the other Party and their investments in financial institutions in the respondent Party's area, or where the respondent Party invokes Articles 11(6) (Transfers), 17(2) or 17(3) (General Exceptions), the arbitrators shall, in addition to the criteria set out in Article 25(2) (Arbitrators), have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

3. Where an investor submits a claim to arbitration under this Section, and the respondent Party invokes Article 11(6) (Transfers), 17(2) or 17(3) (General Exceptions), at the request of that Party, the Tribunal shall request a report in writing from the Parties on the issue of whether and to what extent the invoked paragraph is a valid defence to the claim of the investor. The Tribunal may not proceed pending receipt of a report under this Article.

4. Where the Tribunal requests a report under paragraph 3, the Parties shall prepare a written report. If the Parties cannot agree, they shall submit the issue to an arbitral panel constituted in accordance with Section D (Settlement of Disputes between the Parties) that shall prepare the written report. The report shall be transmitted to the Tribunal and be binding on it.

5. The Tribunal may decide the matter where, within 70 days of the referral by the Tribunal, no request for the constitution of an arbitral panel pursuant to paragraph 4 has been made and no report has been received by the Tribunal.

ARTICLE 23

Submission of a Claim to Arbitration

1. An investor that meets the conditions precedent in Article 21 (Conditions Precedent to Submission of a Claim to Arbitration) may submit a claim to arbitration under the UNCITRAL Arbitration Rules.

2. Except to the extent modified by this Agreement, the arbitration is governed by the arbitration rules applicable under paragraph 1 that are in effect on the date that the claim is submitted to arbitration under this Section.

3. The Parties may adopt supplemental rules of procedure that complement the arbitration rules applicable under paragraph 1 and these rules apply to the arbitration. The Parties shall promptly publish the supplemental rules of procedure that they adopt or otherwise make them available to interested persons.

4. A claim is submitted to arbitration under this Section when the notice of arbitration under Article 3 of the UNCITRAL Arbitration Rules is received by the respondent Party.