

September 6, 1992

parties. The third, who shall be the presiding arbitrator, shall be appointed by agreement of the disputing parties.

**Article 1124: Constitution of Tribunal When a Party Fails to Appoint an Arbitrator or the Disputing Parties Are Unable to Agree on a Presiding Arbitrator**

1. The Secretary-General of ICSID shall serve as appointing authority for an arbitration under this Subchapter.
2. If a Tribunal has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, at the request of either disputing party:
  - (a) shall appoint the arbitrator or arbitrators not yet appointed in his discretion, except for the presiding arbitrator; and
  - (b) shall appoint the presiding arbitrator in accordance with paragraph 3.
3. The Secretary-General shall appoint the presiding arbitrator from the list of presiding arbitrators described in paragraph 4. In the event that no such presiding arbitrator is available to serve, the Secretary-General shall appoint a presiding arbitrator who is not a national of any of the Parties from the ICSID Panel of Arbitrators.
4. As of the date of entry into force of this Agreement, the Parties shall have jointly designated, without regard to nationality, 45 presiding arbitrators meeting the qualifications of the rules referred to in Article 1120 and experienced in international law and investment.
5. Subject to paragraph 8, where a disputing investor submits a claim to arbitration under the ICSID Convention or the Additional Facility Rules, each Party agrees:
  - (a) to the appointment by the investor of a national of the Party of the investor as an arbitrator; and
  - (b) to the appointment by the Secretary-General of a national of the Party of the investor as an arbitrator or as a presiding arbitrator.
6. Subject to paragraph 8, a disputing investor described in Article 1116 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the Additional Facility Rules, only on the following conditions: