

- (b) where the disputing parties are not in agreement,
    - (i) each disputing party may select arbitrators who meet the qualifications set out in subparagraph (a), and
    - (ii) if the Party complained against invokes Articles 14(6) or 17, the chair of the panel shall meet the qualifications set out in subparagraph (a).
4. The disputing parties should agree upon the arbitrators' remuneration. If the disputing parties do not agree on such remuneration before the constitution of the Tribunal, the prevailing ICSID rate for arbitrators shall apply.
5. The Commission may establish rules relating to expenses incurred by the Tribunal.

### ARTICLE 30

#### **Constitution of a 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 shall serve as appointing authority for an arbitration under this Section.
2. If a Tribunal, other than a Tribunal established under Article 32 (Consolidation), has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, on the request of either disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall not be a national of either Party.

### ARTICLE 31

#### **Agreement to Appointment of Arbitrators**

For purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than citizenship or permanent residence:

- (a) the disputing Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;