

Article 8.26: Constitution of a Tribunal by the Secretary-General

1. The Secretary-General shall serve as appointing authority for an arbitration under this Section if a Party fails to appoint an arbitrator or the disputing parties are unable to agree on a presiding arbitrator.
2. If a Tribunal, other than a Tribunal established pursuant to Article 8.28, is not constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary-General, at the request of either disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The presiding arbitrator shall not be a national of either Party.

Article 8.27: Agreement to Appointment of Arbitrators

For the 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 nationality:

- (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;
- (b) a disputing investor referred to in Article 8.18 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor agrees in writing to the appointment of each individual member of the Tribunal; and
- (c) a disputing investor referred to in Article 8.19.1 may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the ICSID Additional Facility Rules, only if the disputing investor and the enterprise agree in writing to the appointment of each individual member of the Tribunal.

Article 8.28: Consolidation

1. A Tribunal established under this Article shall be established under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, unless otherwise provided in this Section.
2. If a Tribunal established under this Article is satisfied that claims submitted to arbitration under Article 8.23 have a question of law or fact in common, the Tribunal may, in the interests of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:
 - (a) assume jurisdiction over, and hear and determine together, all or part of the claims; or