

2. Subject to the other terms of this Section, when a claim is submitted to arbitration for a breach of an agreement referred to in Articles 22(3) and 23(3), a Tribunal established under this Section shall apply:

- (a) the rules of law specified in the agreement, or as the disputing parties may otherwise agree; or
- (b) if the rules of law have not been specified or otherwise agreed:
 - (i) the law of the disputing Party, including its rules on the conflict of laws;⁹ and
 - (ii) such rules of international law as may be applicable.

3. An interpretation by the Commission of a provision of this Agreement shall be binding on a Tribunal established under this Section, and any award under this Section shall be consistent with such interpretation.

ARTICLE 41

Interpretation of Annexes

1. Where a disputing Party asserts as a defence that the measure alleged to be a breach is within the scope of a reservation or exception set out in Annex I, Annex II or Annex III, on request of the disputing Party, the Tribunal shall request the interpretation of the Commission on the issue. The Commission, within 60 days of delivery of the request, shall submit in writing its interpretation to the Tribunal.

2. Further to Article 40(3) (Governing Law), a Commission interpretation submitted under paragraph 1 shall be binding on the Tribunal. If the Commission fails to submit an interpretation within 60 days, the Tribunal shall decide the issue.

⁹ The "law of the disputing Party" means the law that a domestic court or tribunal of proper jurisdiction would apply in the same case.