

ARTICLE 22

Special Rules Regarding Financial Services

1. With respect to:
 - (a) financial institutions of a Party; and
 - (b) investors of a Party, and investments of such investors, in financial institutions in the disputing Party's territory,

this Section applies only in respect of claims that the disputing Party has breached an obligation under Article 10 (Expropriation), 11 (Transfers) or 18 (Denial of Benefits).

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

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

4. Pursuant to a request received in accordance with paragraph 3, the Parties shall proceed to prepare a written report, either on the basis of agreement following consultations, or by means of an arbitral panel in accordance with Section D (State-to-State Dispute Settlement Procedures). The report shall be transmitted to the Tribunal, and shall be binding on the Tribunal.

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