

4. If a Tribunal, other than a Tribunal constituted under Article 26 (Consolidation), has not been constituted within 90 days from the date that a claim is submitted to arbitration, a disputing party may ask the Secretary-General of the PCA to appoint the arbitrator or arbitrators not yet appointed. The Secretary-General of the PCA shall make the appointment at his or her own discretion and, to the extent practicable, this appointment shall be made in consultation with the disputing parties. The Secretary-General of the PCA may not appoint as presiding arbitrator a natural person of a Party.

ARTICLE 26

Consolidation

1. A disputing party that seeks a consolidation order under this Article shall request that the Secretary-General of the PCA establish a Tribunal and shall specify in the request:

- (a) the name of the respondent Party or investors against which the order is sought;
- (b) the nature of the order sought; and
- (c) the grounds for the order sought.

2. The disputing party shall deliver a copy of the request to the respondent Party or investors against which the order is sought.

3. Within 60 days of receiving the request, the Secretary-General of the PCA shall establish a Tribunal composed of three arbitrators. The Secretary-General of the PCA shall appoint one member who is a natural person of the respondent Party, one member who is a natural person of the Party of the investors that submitted the claims, and a presiding arbitrator who is not a natural person of a Party.

4. A Tribunal constituted under this Article shall be constituted under the UNCITRAL Arbitration Rules and shall conduct its proceedings in accordance with those Rules, except as modified by this Agreement.

5. If a Tribunal constituted under this Article is satisfied that claims submitted to arbitration under Article 23 (Submission of a Claim to Arbitration) have a question of law or fact in common, the Tribunal may, in the interest 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
- (b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in resolving the other claims.