

**ARTICLE 23****Special Rules Regarding Financial Services**

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

this Section applies only in respect of claims that the respondent Party has breached an obligation under Article 10, 11 or 19.

2. Where an investor or respondent Party claims that a dispute involves measures adopted or maintained by the respondent Party relating to financial institutions of the other Party or investors of the other Party and their investments in financial institutions in the respondent Party's territory, or where the respondent Party invokes Articles 11(6), 18(2) or 18(3), the arbitrators shall, in addition to the criteria set out in Article 26(2), have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

3. Where an investor submits a claim to arbitration under this Section, and the respondent Party invokes Article 11(6), 18(2) or 18(3), at the request of that Party, the Tribunal shall request a report in writing from the Parties on the issue of whether and to what extent the invoked paragraph is a valid defence to the claim of the investor. The Tribunal may not proceed pending receipt of a report under this Article.

4. Where the Tribunal requests a report under paragraph 3, the Parties shall prepare a written report. If the Parties cannot agree, they shall submit the issue to an arbitral panel established in accordance with Section D that shall prepare the written report. The report shall be transmitted to the Tribunal and be binding on it.

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.