

selected shall be appointed, at the joint request of the parties, by the Secretary-General of ICSID. If there is no such joint request, or if the Secretary-General shall fail to make the appointment within thirty days of the request, either party may request the President of the International Court of Justice to make the appointment.

- (c) No party shall have the right to change the arbitrator appointed by it once the hearing of the dispute has commenced. In case any arbitrator (including the President of the Tribunal) shall resign, die, or become incapacitated, a successor shall be appointed in the manner followed in the appointment of his predecessor and such successor shall have the same powers and duties of the arbitrator he succeeds.
- (d) The Tribunal shall convene first at such time and place as shall be determined by the President. Thereafter, the Tribunal shall determine the place and dates of its meetings.
- (e) Unless otherwise provided in this Annex or agreed upon by the parties, the Tribunal shall determine its procedure and shall be guided in this regard by the arbitration rules adopted pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.
- (f) The Tribunal shall be the judge of its own competence except that, if an objection is raised before the Tribunal to the effect that the dispute falls within the jurisdiction of the Board or the Council under Article 56 or within the jurisdiction of a judicial or arbitral body designated in an agreement under Article 1 of this Annex and the Tribunal is satisfied that the objection is genuine, the objection shall be referred by the Tribunal to the Board or the Council or the designated body, as the case may be, and the arbitration proceedings shall be stayed until a decision has been reached on the matter, which shall be binding upon the Tribunal.
- (g) The Tribunal shall, in any dispute within the scope of this Annex, apply the provisions of this Convention, any relevant agreement between the parties to the dispute, the Agency's by-laws and regulations, the applicable rules of international law, the domestic law of the member concerned as well as the applicable provisions of the investment contract, if any. Without prejudice to the provisions of this Convention, the Tribunal may decide a dispute *ex aequo et bono* if the Agency and the member concerned so agree. The Tribunal may not bring a finding of *non liquet* on the ground of silence or obscurity of the law.
- (h) The Tribunal shall afford a fair hearing to all the parties. All decisions of the Tribunal shall be taken by a majority vote and shall state the reasons on which they are based. The award of the Tribunal shall be in writing, and shall be signed by at least two arbitrators and a copy thereof shall be transmitted to each party. The award shall be final and binding upon the parties and shall not be subject to appeal, annulment or revision.