

4. If a Tribunal, other than a Tribunal established under Article 27 (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 ICSID to appoint the arbitrator or arbitrators not yet appointed. The Secretary-General of ICSID 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 ICSID may not appoint as presiding arbitrator a national of a Party.

ARTICLE 26

Agreement to Appointment of Arbitrators

For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the ICSID Additional Facility Rules, and without prejudice to an objection to an arbitrator based on a ground other than nationality:

- (a) the respondent Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the ICSID Additional Facility Rules;
- (b) an investor referred to in Article 20(1) (Claim by an Investor of a Party on Its Own Behalf or on Behalf of an Enterprise) may submit a claim to arbitration or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only if the investor agrees in writing to the appointment of each member of the Tribunal; and
- (c) an investor referred to in Article 20(2) (Claim by an Investor of a Party on Its Own Behalf or on Behalf of an Enterprise) may submit a claim to arbitration or continue a claim under the ICSID Convention or the ICSID Additional Facility Rules only if the investor and the enterprise agree in writing to the appointment of each member of the Tribunal.

ARTICLE 27

Consolidation

1. A disputing party that seeks a consolidation order under this Article shall request that the Secretary-General of ICSID 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.