

- (b) investors of a Party, and investments of such investors, in financial institutions in the other Party's territory,

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

2. Where a disputing investor or 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 Contracting Party's territory, or where the disputing Contracting Party invokes paragraph 6 of Article 11 (Transfers), or paragraphs 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 Contracting Party invokes paragraph 6 of Article 11, or paragraphs 2 or 3 of Article 17, 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. 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.

## **ARTICLE 23**

### **Submission of a Claim to Arbitration**

1. A disputing investor who meets the conditions precedent in Article 21 (Conditions Precedent to Submission of a Claim to Arbitration) may submit the claim to arbitration under:
  - (a) the ICSID Convention, provided that both the disputing Contracting Party and the Party of the disputing investor are parties to that Convention;
  - (b) the Additional Facility Rules of ICSID, provided that either the disputing Contracting Party or the Party of the disputing investor, but not both, is a party to the ICSID Convention;