

## **Section D – State-to-State Dispute Settlement Procedures**

### **ARTICLE 37**

#### **Disputes between the Parties**

1. A Party may request consultations on the interpretation or application of this Agreement. The other Party shall give sympathetic consideration to the request. A dispute between the Parties concerning the interpretation or application of this Agreement shall, whenever possible, be settled amicably through consultations.
2. If a dispute cannot be settled through consultations, it shall, at the request of a Party, be submitted to an arbitral panel for decision.
3. An arbitral panel shall be constituted for each dispute. Within two months after receipt through diplomatic channels of the request for arbitration, each Party shall appoint one member to the arbitral panel. The two members shall then select a national of a non-Party who, upon approval by the two Parties, shall be appointed Chair of the arbitral panel. The Chair shall be appointed within two months from the date of appointment of the other two members of the arbitral panel.
4. If within the periods specified in paragraph 3 the necessary appointments have not been made, a Party may invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of a Party or is otherwise prevented from discharging this function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Party or is prevented from discharging this function, the Member of the International Court of Justice next in seniority, who is not a national of a Party, shall be invited to make the necessary appointments.
5. Arbitrators shall have expertise or experience in public international law, international trade or international investment rules, or the resolution of disputes arising under international trade or international investment agreements. They shall be independent of, and not be affiliated with or take instructions from, a Party.
6. Where a Party determines that the dispute involves measures relating to financial institutions, or to investors or investments of such investors in financial institutions, or where the disputing Party invokes paragraph 6 of Article 11 (Transfers) or paragraph 2 or 3 of Article 17 (General Exceptions), the arbitrators shall, in addition to the criteria set out in paragraph 5, have expertise or experience in financial services or practice, which may include the regulation of financial institutions.
7. The arbitral panel shall determine its own procedure. The arbitral panel shall reach its decision by a majority of votes. The decision is binding on both Parties. Unless otherwise agreed, the decision of the arbitral panel shall be rendered within six months of the appointment of the Chair.