

3. An arbitral panel shall be constituted for each dispute. Within two months after receipt through formal 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 State which can be regarded as neutral in relation to the dispute 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, in a personal and individual capacity, to make the necessary appointments. If the President is a national of a State which cannot be regarded as neutral in relation to the dispute, or is otherwise prevented from discharging the said function, the Vice-President or the next most senior Member who is not disqualified on that ground or otherwise prevented from discharging the said function, shall make the appointment.

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 a Party invokes Article 11(6) (Transfers), 17(2) or 17(3) (General Exceptions), the arbitrators shall, in addition to the criteria set out in paragraph 5, have expertise or experience in financial services law 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.

8. Each Party shall bear the costs of its own member of the arbitral panel and of its representation in the arbitral proceedings. The costs related to the Chair and any remaining costs shall be borne equally by the Parties. The arbitral panel may, however, award that a higher proportion of costs be borne by one of the two Parties, and this award shall be binding on both Parties.

9. The Parties may submit requests for clarification of the decision within thirty days after it is received and the arbitral panel shall endeavour to issue such clarification within thirty days of such request.

10. Within 60 days of the decision of an arbitral panel or the issuance of a clarification of such decision, the Parties shall jointly decide on the manner in which to resolve their dispute. That decision must normally implement the decision of the arbitral panel. If the Parties fail to reach a decision, the Party bringing the dispute shall be entitled to compensation or to suspend benefits of equivalent value to those awarded by the arbitral panel.