

ANNEX VIII ¹

REFERRED TO IN ARTICLE 25 bis

CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL

¹ Article 25 bis and Annex VIII were introduced by Joint Committee Decision No. 5 of 1997 (12 November 1997). The Decision will enter into force when the instruments of acceptance have been deposited by all Parties with the Depositary.

ANNEX VIII

REFERRED TO IN ARTICLE 25 bis

CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL

1. In its written notification made pursuant to Article 25 bis of the Agreement, the Party referring the dispute to arbitration shall designate one member, who may be its national.
2. Within thirty days from the receipt of the notification referred to in paragraph 1, the Party to which it was addressed shall, in turn, designate one member, who may be its national.
3. The parties to the dispute shall mutually determine the subject-matter of the dispute and, if possible, the points on which they agree, and those which are to be referred to the arbitral tribunal for settlement.

If the parties to the dispute fail to do so within a period of 60 days from the date of the written notification, the subject-matter of the dispute and the points which are to be settled shall be determined by the arbitral tribunal.

4. Within sixty days from the receipt of the notification referred to in paragraph 1, the two members already designated shall agree on the designation of a third member who shall be confirmed by the parties to the dispute within 15 days. The third member shall not be a national of either party to the dispute, nor permanently reside on the territory of either Party. The member thus appointed shall be the President of the arbitral tribunal.
5. If all three members have not been designated or appointed within sixty days from the receipt of the notification referred to in paragraph 1, the necessary designations shall be made, at request of either party to the dispute, by the President of the International Court of Justice. If the President is unable to act under this paragraph or is a national of a party to the dispute, the designations shall devolve on the Vice-President of the Court. If the latter, in turn, is unable to act or is a national of a party to the dispute, the designations shall be effected by the next senior member of the Court who is neither unable to act nor a national of a Party.
6. The tribunal shall lay down its own rules of procedure and take its decisions by majority vote.

7. The arbitral award shall be rendered within six months of the date at which the President of the Tribunal was appointed. At the request of the tribunal the parties to the dispute may grant an extension of this time period up to six additional months. The arbitral award is final and binding upon the parties to the dispute. In the event of a dispute over the meaning and scope of the award, any party to the dispute can, within 60 days from the communication of the arbitral award, ask for clarification by the tribunal. The tribunal shall deliver its clarification within 60 days from the day the issue was brought before it.

 8. The expenses of the Tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.
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