

ANNEX VI

REFERRED TO IN ARTICLE 41

ESTABLISHMENT AND FUNCTIONING OF THE ARBITRAL TRIBUNAL

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CONSTITUTION AND FUNCTIONING OF THE ARBITRAL TRIBUNAL

1. The procedures for the establishment of the tribunal shall be as follows:
 - (a) The arbitral tribunal shall comprise three members.
 - (b) In its written notification pursuant to Article 41 of this Agreement, the Party referring the dispute to arbitration shall designate one member of the arbitral tribunal, who may be its national.
 - (c) Within 15 days from the receipt of the notification referred to in paragraph (b), the Party to which it was addressed shall, in turn, designate one member, who may be its national.
 - (d) Within 30 days from the receipt of the notification referred to in paragraph (b), the two Parties concerned shall agree on the designation of a third member. The third member shall not be a national of either Party to the dispute, nor permanently reside in the territory of either State. The member thus appointed shall be the President of the arbitral tribunal.
 - (e) If all three members have not been designated or appointed within 30 days from the receipt of the notification referred to in paragraph (b), the necessary designations shall be made, at the request of either Party to the dispute, by the President of the International Court of Justice applying the criteria of paragraphs (c) and (d). If the President is unable to act under this paragraph 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.
2. Unless otherwise agreed between the Parties to the dispute, and subject to Article 41 and this Annex, the Optional Rules for Arbitrating Disputes between Two States of the Permanent Court of Arbitration (PCA) shall apply.
3. The arbitral tribunal shall settle the dispute in accordance with the provisions of this Agreement and any other applicable rules of international law.
4. The arbitral tribunal shall take its decisions by majority vote. Minority opinions shall not be disclosed.
5. A Party that is not a Party to the dispute, on delivery of a written notice to the disputing Parties, shall be entitled to make written submissions to the arbitral tribunal, to receive written submissions of the disputing Parties, attend all hearings and make oral submissions.

6. The arbitral award shall be rendered within six months of the date at which the President of the arbitral tribunal was appointed. This period can be extended by a maximum of three additional months, if the Parties to the dispute so agree.

7. The expenses of the arbitral tribunal, including the remuneration of its members, shall normally be borne by the Parties to the dispute in equal shares.
