(c) an *ad hoc* arbitral tribunal which, unless otherwise agreed upon by the disputing parties, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) adopted on 28 April 1976.

4. Each Party hereby gives its consent to the submission of an investment dispute by a disputing investor to international conciliation or arbitration referred to in paragraph 3 regarding an investment made.

5. Notwithstanding paragraph 4, no investment dispute may be submitted to conciliation or arbitration under paragraph 3, if more than five years have elapsed since the date on which the disputing investor acquired or should have first acquired, whichever is the earlier, knowledge of the incurred loss or damage referred to in paragraph 1.

6. A disputing investor may submit the investment dispute to international conciliation or arbitration if:

(a) the disputing investor has not initiated any proceedings for the resolution of the investment dispute before courts of justice or administrative tribunals or agencies of the disputing Party; or

(b) where the disputing investor has initiated any proceedings for the resolution of the investment dispute before courts of justice or administrative tribunals or agencies of the disputing Party, the disputing investor withdraws the investment dispute from such proceedings. For the purpose of withdrawal, a written waiver shall be included in the written request for conciliation or arbitration by which the disputing investor waives any right to initiate or continue before any courts of justice or administrative tribunals or agencies under the law of either Party, any proceeding with respect to any alleged breach of this Chapter.

It is understood that a disputing investor may initiate or continue an action that seeks interim injunctive relief and does not involve the payment of monetary damages before a judicial or administrative tribunal of the disputing Party, provided that the action is brought for the sole purpose of preserving the disputing investor's rights and interests while the conciliation or arbitration is pending.

7. Unless the disputing parties agree otherwise, the arbitration shall be held in a country that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958.

8. The arbitral tribunal shall decide the investment dispute in accordance with this Chapter and applicable rules of international law. Where the investment dispute includes a claim based on paragraph 2 of Article 86, the arbitral tribunal shall decide on that claim in accordance with this Chapter and the following:

(a) the rules of law specified in the pertinent investment contract, or other rules of law the disputing parties may agree upon; or

(b) in the absence of rules of law referred to in subparagraph (a):

(i) such rules of international law as may be applicable; and

(ii) the law of the respondent, including its rules on the conflict of laws.

9. The disputing Party shall notify the other Party in writing of the investment dispute submitted to international conciliation or arbitration no later than 30 days after the date on which it was submitted, and provide that other Party with copies of all pleadings filed in the arbitration.

10. Upon written notice to the disputing parties, the Party which is not the disputing Party may make submissions to the arbitral tribunal on a question of interpretation of this Chapter.

11. The disputing Party may not assert as a defence its immunity or the fact that the disputing investor has received or will receive, by virtue of an insurance contract, guarantee or indemnity, a compensation covering, in whole or in part, the incurred loss or damage.

12. Neither Party shall give diplomatic protection, or bring an international claim, in respect of an investment dispute submitted to international arbitration, unless the disputing Party has failed to abide by and comply with the award rendered. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the investment dispute.