Proposals for Amendment of the ICSID Rules — Consolidated Draft Rules
III. ICSID CONVENTION ARBITRATION RULES

Introductory Note

The Rules of Procedure for Arbitration Proceedings (the Arbitration Rules) were adopted by the Administrative Council of the Centre pursuant to Article 6(1)(c) of the ICSID Convention.

The Arbitration Rules are supplemented by the Administrative and Financial Regulations of the Centre, in particular by Regulation 14.

The Arbitration Rules apply from the date of registration of a Request for arbitration until an Award is rendered and to any post-Award remedy proceedings.

Chapter I
General Provisions

Rule 1
Application of Rules

(1) These Rules shall apply to any arbitration proceeding conducted under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (“Convention”) in accordance with Article 44 of the Convention.

(2) The official languages of the Centre are English, French and Spanish. The texts of these Rules are equally authentic in each official language.

(3) These Rules may be cited as the “Arbitration Rules” of the Centre.

Chapter II
Conduct of the Proceeding

Rule 2
Meaning of Party and Party Representation

(1) For the purposes of these Rules, “party” may include, where the context so admits:

(a) all parties acting as claimants or as respondents; and
(b) an authorized representative of a party.

(2) Each party may be represented or assisted by agents, counsel or advocates ("representative(s)") whose names and proof of authority to act shall be notified by that party to the Secretariat.

Rule 3
Method of Filing

(1) Written submissions, observations, supporting documents and communications shall be filed electronically, unless the parties agree or the Tribunal orders otherwise. They shall be introduced into the proceeding by filing them with the Secretariat, which shall acknowledge receipt and distribute them in accordance with Rule 4.

(2) Supporting documents, including witness statements, expert reports, exhibits and legal authorities, shall be filed together with the written submissions to which they relate, within the time limit fixed to file such written submissions.

(3) An extract of a supporting document may be filed if the omission of the text does not render the extract misleading. The Tribunal may require a fuller extract or a complete version of the document.

Rule 4
Routing of Written Communications

(1) The Secretariat shall be the official channel of written communications among the parties, the Tribunal, and the Chairman of the Administrative Council ("Chairman"), except that:

(a) the parties may communicate directly with each other, provided that the Secretariat is copied on all communications to be introduced into the proceeding;

(b) the members of the Tribunal shall communicate directly with each other; and

(c) a party may communicate directly with the Tribunal if requested to do so by the Tribunal, provided that the other party and the Secretariat are copied on the communications.
(2) The Secretariat shall acknowledge receipt of all communications filed by a party and, subject to paragraph (1)(a) and (c), distribute them to the other party and the Tribunal.

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**Rule 5**

**Procedural Languages, Translation and Interpretation**

(1) The parties may agree to use one or two procedural languages in the proceeding. The parties shall consult with the Tribunal and the Secretariat regarding the use of a language that is not an official language of the Centre.

(2) If the parties do not agree on the procedural language(s), each party may select one of the official languages of the Centre.

(3) Written submissions, observations, supporting documents and communications shall be filed in a procedural language. In a proceeding with two procedural languages, the Tribunal may require a party to file any document in both procedural languages.

(4) A document in a language other than a procedural language shall be accompanied by a translation into a procedural language. In a proceeding with two procedural languages, the Tribunal may require a party to translate any document into both procedural languages. Translation of only the relevant part of a document is sufficient, provided that the Tribunal may require a fuller or a complete translation. If the translation is disputed, the Tribunal may require a certified translation.

(5) Any written communication from the Tribunal or the Secretariat shall be in a procedural language. In a proceeding with two procedural languages, the Tribunal and, where applicable the Secretary-General, shall render orders, decisions, and the Award in both procedural languages, unless the parties agree otherwise.

(6) Any oral communication shall be in a procedural language. In a proceeding with two procedural languages, the Tribunal may require interpretation into the other procedural language. The recordings and transcripts of a hearing shall be kept in the procedural language(s) used at the hearing.

(7) The testimony of a witness or an expert in a language other than a procedural language shall be interpreted into the procedural language(s) used at the hearing.
Rule 6
Correction of Errors and Deficiencies

(1) A party may correct an accidental error in any written submission, observation, supporting document or communication at any time before the Award is rendered, with agreement of the other party or with leave of the Tribunal.

(2) The Secretariat may request that a party correct any deficiency in a filing, at the party’s own cost.

Rule 7
Calculation of Time Limits

(1) Any time limit expressed as a period of time shall be calculated from the day after the date:

(a) of the relevant notice;

(b) on which the Tribunal announces the period; or

(c) on which the procedural step starting the period is taken.

(2) A time limit expires at 11:59 p.m. at the seat of the Centre on the relevant date. Where the end of a time limit falls on a Saturday, Sunday, or a holiday observed by the Secretariat, it shall be satisfied if the relevant step is taken or the relevant document is received by the Secretariat on the subsequent business day.

Rule 8
Time Limits Specified by the Convention and these Rules or Fixed by the Secretary-General

(1) The parties may agree to extend a time limit fixed by the Secretary-General or specified by the Convention or these Rules if such time limit is not mandatory under the Convention.

(2) Any step taken by the parties after expiry of a time limit fixed by the Secretary-General or specified by the Convention or these Rules shall be disregarded, unless the Secretary-General or the Tribunal, as applicable, concludes that there are special circumstances justifying the delay.
(3) Where these Rules prescribe time limits for orders, decisions and the Award, the Tribunal, or the Chairman, where applicable, shall use best efforts to meet those time limits. If special circumstances arise which prevent the Tribunal from complying with a time limit, it shall advise the parties of the reason for delay and the date when it anticipates the order, decision or Award will be delivered.

Rule 9
Time Limits Fixed by the Tribunal

(1) The Tribunal shall fix time limits for completion of each step in the proceeding, other than time limits specified by the Convention or these Rules.

(2) The Tribunal may extend a time limit it fixed upon reasoned application by a party made prior to the expiry of the time limit. The Tribunal may delegate this power to its President.

(3) The Tribunal shall disregard any step taken after expiry of a time limit it fixed unless it concludes that there are special circumstances justifying the delay.

Rule 10
Waiver

Subject to Article 45 of the Convention, if a party knows or should have known that an applicable rule, agreement of the parties, or any order or decision of the Tribunal or the Secretary-General has not been complied with, and does not promptly object, then that party shall be deemed to have waived its right to object to that non-compliance.

Rule 11
General Duties

(1) The Tribunal shall treat the parties equally and provide each party with a reasonable opportunity to present its case.

(2) The Tribunal shall consult with the parties prior to making an order or decision authorized by these Rules to be made by a Tribunal on its own initiative.
(3) The Tribunal and the parties shall conduct the proceeding in an expeditious and cost-effective manner.

(4) The parties shall cooperate in implementing the Tribunal’s orders and decisions.

**Rule 12**
**Orders, Decisions and Agreements**

(1) The Tribunal shall make the orders and decisions required for the conduct of the proceeding.

(2) Orders and decisions may be taken by any appropriate means of communication and may be signed by the President on behalf of the Tribunal, unless the parties agree otherwise.

(3) The Tribunal shall apply any agreement of the parties on procedural matters to the extent that it conforms with the Convention and the Administrative and Financial Regulations.

**Rule 13**
**Written Submissions and Observations**

(1) The parties shall file the following written submissions, with any supporting documents, within the time limits fixed by the Tribunal:

(a) a memorial by the requesting party, subject to paragraph (2);

(b) a counter-memorial by the other party;

and, if the parties so agree or the Tribunal finds it necessary:

(c) a reply by the requesting party; and

(d) a rejoinder by the other party.

(2) The requesting party may elect to have the Request for arbitration considered as the memorial.

(3) A memorial shall contain a statement of the relevant facts, law and arguments, and the request for relief. A counter-memorial shall contain a statement of the relevant
facts, including an admission or denial of facts stated in the memorial, and any necessary additional facts, a statement of law in reply to the memorial, arguments, and the request for relief. A reply and rejoinder shall be limited to responding to the previous written submission.

(4) The Tribunal shall grant leave to file unscheduled written submissions, observations or supporting documents upon a timely and reasoned application and only if these are necessary in view of all relevant circumstances.

**Rule 14**

**Case Management Conference**

With a view to expediting the proceeding, the Tribunal may convene a case management conference with the parties at any time to:

(a) identify uncontested facts;

(b) narrow the issues in dispute; and

(c) address any other procedural or substantive issue related to the resolution of the dispute.

**Rule 15**

**Hearings**

(1) There shall be one or more hearings before the Tribunal, unless the parties agree otherwise.

(2) The President of the Tribunal shall determine the date, time and method of holding hearings, after consulting with the other members of the Tribunal and the parties.

(3) If a hearing is to be held in person, it may be held at any place agreed to by the parties after consulting with the Tribunal and the Secretariat. If the parties do not agree on the place of a hearing, it shall be held at the seat of the Centre pursuant to Article 62 of the Convention.

(4) Any member of the Tribunal may put questions to the parties and ask for explanations at any time during a hearing.
Rule 16
Deliberations

(1) The deliberations of the Tribunal shall take place in private and remain confidential.

(2) The Tribunal may deliberate at any place it considers convenient.

(3) Only members of the Tribunal shall take part in its deliberations. No other person shall be admitted unless the Tribunal decides otherwise.

(4) The Tribunal shall deliberate on any matter for decision immediately after the last written or oral submission on that matter.

Rule 17
Quorum

The participation of a majority of the members of the Tribunal shall be required at the first session, hearings and deliberations, by any appropriate means of communication, unless the parties agree otherwise.

Rule 18
Decisions Taken by Majority Vote

The Tribunal shall take decisions by a majority of the votes of all its members. Abstention shall count as a negative vote.

Rule 19
Payment of Advances and Costs of the Proceeding

(1) The Tribunal shall determine the portion of the advances payable by each party in accordance with Administrative and Financial Regulation 14(5) to defray the costs of the Tribunal and the Centre in connection with the proceeding.

(2) The costs of the proceeding are all costs incurred by the parties in connection with the proceeding, including:
(a) the legal fees and expenses of the parties;
(b) the fees and expenses of the members of the Tribunal; and
(c) the administrative charges and direct costs of the Centre.

(3) The Tribunal shall request that each party file a statement of costs before allocating the costs of the proceeding between the parties.

(4) In determining and allocating the costs of the proceeding, the Tribunal shall consider all relevant circumstances, including:

(a) the outcome of any part of the proceeding or overall;
(b) the parties’ conduct during the proceeding, including the extent to which they acted in an expeditious and cost-effective manner;
(c) the complexity of the issues; and
(d) the reasonableness of the costs claimed.

(5) The Tribunal may at any time make interim decisions on the costs of any part of a proceeding.

(6) The Tribunal shall ensure that all decisions on costs are reasoned and form part of the Award.

Chapter III
Constitution of the Tribunal

Rule 20
General Provisions Regarding the Constitution of the Tribunal

(1) The parties shall constitute a Tribunal without delay after registration of the Request for arbitration.

(2) The majority of the arbitrators on a Tribunal shall be nationals of States other than the State party to the dispute and the State whose national is a party to the dispute, unless the Sole Arbitrator or each individual member of the Tribunal is appointed by agreement of the parties.
(3) A party may not appoint an arbitrator who is a national of the State party to the
dispute or the State whose national is a party to the dispute without agreement of the
other party.

(4) A person previously involved in the resolution of the parties’ dispute as a judge,
mediator, conciliator or in a similar capacity may be appointed as an arbitrator only
by agreement of the parties.

Rule 21
Disclosure of Third-party Funding

(1) “Third-party funding” is the provision of funds or other material support for the
pursuit or defense of a proceeding, by a natural or juridical person that is not a party
to the dispute (“third-party funder”), to a party to the proceeding, an affiliate of that
party, or a law firm representing that party. Such funds or material support may be
provided:

(a) through a donation or grant; or

(b) in return for a premium or in exchange for remuneration or reimbursement
wholly or partially dependent on the outcome of the proceeding.

(2) A party shall file a written notice disclosing that it has third-party funding and the
name of the third-party funder. Such notice shall be sent to the Secretariat
immediately upon registration of the Request for arbitration, or upon concluding a
third-party funding arrangement after registration.

(3) Each party shall have a continuing obligation to disclose any changes to the
information referred to in paragraph (2) occurring after the initial disclosure,
including termination of the funding arrangement.

Rule 22
Method of Constituting the Tribunal

(1) The number of arbitrators and the method of their appointment must be determined
before the Secretary-General can act on any appointment proposed by a party.

(2) The parties shall endeavor to agree on any uneven number of arbitrators and the
method of their appointment. If the parties do not advise the Secretary-General of an
agreement within 60 days after the date of registration, the Tribunal shall be constituted in accordance with Article 37(2)(b) of the Convention.

Rule 23
Appointment of Arbitrators to a Tribunal Constituted in Accordance with Article 37(2)(b) of the Convention

If the Tribunal is to be constituted in accordance with Article 37(2)(b) of the Convention, each party shall appoint an arbitrator and the parties shall jointly appoint the President of the Tribunal.

Rule 24
Assistance of the Secretary-General with Appointment

The parties may jointly request that the Secretary-General assist with the appointment of a President of the Tribunal or a Sole Arbitrator.

Rule 25
Appointment of Arbitrators by the Chairman of the Administrative Council in Accordance with Article 38 of the Convention

(1) If the Tribunal has not been constituted within 90 days after the date of registration, or such other period as the parties may agree, either party may request that the Chairman appoint the arbitrator(s) who have not yet been appointed pursuant to Article 38 of the Convention.

(2) The Chairman shall appoint the President of the Tribunal after appointing any members who have not yet been appointed.

(3) The Chairman shall consult with the parties as far as possible before appointing an arbitrator and shall use best efforts to appoint any arbitrator(s) within 30 days after receipt of the request to appoint.
Rule 26
Acceptance of Appointment

(1) A party appointing an arbitrator shall notify the Secretariat of the appointment and provide the appointee’s name, nationality(ies) and contact information.

(2) The Secretariat shall request an acceptance from the appointee upon receipt of the notice referred to in paragraph (1). The Secretariat shall also transmit to each appointee the information received from the parties relevant to completion of the declaration referred to in paragraph (3)(b).

(3) Within 20 days after the receipt of the request for acceptance of an appointment, an appointee shall:

(a) accept the appointment; and

(b) provide a signed declaration in the form published by the Centre, addressing matters including the arbitrator’s independence, impartiality, availability and commitment to maintain the confidentiality of the proceedings.

(4) The Secretariat shall notify the parties of the acceptance of appointment by each arbitrator and provide their signed declaration.

(5) The Secretariat shall notify the parties if an arbitrator fails to accept the appointment or provide a signed declaration within the time limit referred to in paragraph (3), and another person shall be appointed as arbitrator in accordance with the method followed for the previous appointment.

(6) Each arbitrator shall have a continuing obligation to disclose any change of circumstances relevant to the declaration referred to in paragraph (3)(b).

Rule 27
Replacement of Arbitrators Prior to Constitution of the Tribunal

(1) At any time before the Tribunal is constituted:

(a) an arbitrator may withdraw an acceptance;

(b) a party may replace an arbitrator whom it appointed; or

(c) the parties may agree to replace any arbitrator.
(2) A replacement arbitrator shall be appointed as soon as possible, in accordance with the method by which the withdrawing or replaced arbitrator was appointed.

**Rule 28**  
**Constitution of the Tribunal**

(1) The Tribunal shall be deemed to be constituted on the date the Secretary-General notifies the parties that all the arbitrators have accepted their appointments.

(2) As soon as the Tribunal is constituted, the Secretary-General shall transmit the Request for arbitration, the supporting documents, the notice of registration and communications with the parties to each member.

**Chapter IV**  
**Disqualification of Arbitrators and Vacancies**

**Rule 29**  
**Proposal for Disqualification of Arbitrators**

(1) A party may propose the disqualification of one or more arbitrators (“proposal”) pursuant to Article 57 of the Convention.

(2) The following procedure shall apply:

(a) any proposal shall be filed after the constitution of the Tribunal and within 20 days after the later of:

(i) the constitution of the Tribunal; or

(ii) the date on which the party proposing the disqualification first knew or first should have known of the facts on which the proposal is based;

(b) the party proposing the disqualification shall file a written submission, specifying the grounds on which it is based and including a statement of the relevant facts, law and arguments, with any supporting documents;

(c) the other party shall file its response and supporting documents within seven days after receipt of the written submission;
(d) the arbitrator to whom the proposal relates may file a statement limited to factual information relevant to the proposal. This statement shall be filed within five days after receipt of the written submissions referred to in paragraph (2)(c); and

(e) the parties may file final written submissions on the proposal within seven days after expiry of the time limit referred to in paragraph (2)(d).

(3) The proceeding shall continue while the proposal is pending unless it is suspended, in whole or in part, by agreement of the parties. If the proposal results in a disqualification, either party may request that any order or decision issued by the Tribunal while the proposal was pending, be reconsidered by the reconstituted Tribunal.

**Rule 30**

**Decision on the Proposal for Disqualification**

(1) The decision on a proposal shall be taken by the arbitrators not subject to the proposal or by the Chairman in accordance with Article 58 of the Convention.

(2) For the purposes of Article 58 of the Convention:

(a) if the arbitrators not subject to a proposal are unable to decide the proposal for any reason, they shall notify the Secretary-General and shall be considered equally divided;

(b) if a subsequent proposal is filed while the decision on a prior proposal is pending, both proposals shall be decided by the Chairman as if they were a proposal to disqualify a majority of the Tribunal.

(3) The decision on any proposal shall be made within 30 days after the later of the expiry of the time limit referred to in Rule 29(2)(e) or the notice in Rule 30(2)(a).

**Rule 31**

**Incapacity or Failure to Perform Duties**

If an arbitrator becomes incapacitated or fails to perform the duties required of an arbitrator, the procedure in Rules 29 and 30 shall apply.
Rule 32  
Resignation

(1) An arbitrator may resign by notifying the Secretary-General and the other members of the Tribunal and providing reasons for the resignation.

(2) If the arbitrator was appointed by a party, the other members of the Tribunal shall promptly notify the Secretary-General whether they consent to the arbitrator’s resignation for the purposes of Rule 33(3)(a).

Rule 33  
Vacancy on the Tribunal

(1) The Secretary-General shall notify the parties of any vacancy on the Tribunal.

(2) The proceeding shall be suspended from the date of notice of the vacancy until the vacancy is filled.

(3) A vacancy on the Tribunal shall be filled by the method used to make the original appointment, except that the Chairman shall fill the following vacancies from the Panel of Arbitrators:

(a) a vacancy caused by the resignation of a party-appointed arbitrator without the consent of the other members of the Tribunal; or

(b) a vacancy that has not been filled within 45 days after the notice of vacancy.

(4) Once a vacancy has been filled and the Tribunal has been reconstituted, the proceeding shall continue from the point it had reached at the time the vacancy was notified. A newly appointed arbitrator may require that any portion of a hearing be recommenced if necessary to decide a pending matter.
Chapter V
Initial Procedures

Rule 34
First Session

(1) Subject to paragraph (2), the Tribunal shall hold a first session with the parties to address the procedure, including the matters listed in paragraph (4).

(2) The first session shall be held within 60 days after the Tribunal’s constitution or such other period as the parties may agree. If the President of the Tribunal determines that it is not possible to convene the parties and the other members within this period, the first session shall be held solely among the Tribunal members after consulting with the parties in writing on the matters listed in paragraph (4).

(3) The first session may be held in person or remotely, by any means that the Tribunal deems appropriate. The agenda, method and date of the first session shall be determined by the President of the Tribunal after consulting with the other members and the parties.

(4) Before the first session, the Tribunal shall circulate an agenda to the parties and invite their views on procedural matters, including:

(a) the applicable arbitration rules;

(b) the number of members required to constitute a quorum of the Tribunal;

(c) the division of advances payable pursuant to the Administrative and Financial Regulation 14(5);

(d) the procedural language(s), translation and interpretation;

(e) the method of filing and routing of written communications;

(f) the number, type and format of written submissions;

(g) the place of hearings;

(h) the scope, timing and procedure for requests for production of documents between the parties, if any;

(i) the procedural calendar, including written submissions, hearings, the Tribunal’s orders, decisions and the Award;

(j) the manner of keeping the recordings and transcripts of hearings;
(k) the publication of documents and recordings; and

(l) the protection of confidential information.

(5) The Tribunal shall issue an order recording the parties’ agreements and any Tribunal decisions on the procedure within 15 days after the later of the first session or the last written submission on procedural matters addressed at the first session.

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**Rule 35**

**Manifest Lack of Legal Merit**

(1) A party may object that a claim is manifestly without legal merit. The objection may relate to the substance of the claim, the jurisdiction of the Centre, or the competence of the Tribunal.

(2) The following procedure shall apply:

(a) a party shall file a written submission no later than 30 days after the constitution of the Tribunal, specifying the grounds on which the objection is based, and including a statement of the relevant facts, law and arguments, with any supporting documents;

(b) the Tribunal shall fix time limits for written or oral submissions, as required, on the objection;

(c) if a party files the objection before constitution of the Tribunal, the Secretary-General shall fix time limits for written submissions on the objection, so that the Tribunal may consider the objection promptly upon its constitution; and

(d) the Tribunal shall issue its decision on the objection within 60 days after the latest of:

(i) the constitution of the Tribunal;

(ii) the last written submission on the objection; or

(iii) the last oral submission on the objection.

(3) The decision of the Tribunal shall be without prejudice to the right of a party to file a preliminary objection pursuant to Rule 36 or to argue subsequently in the proceeding that a claim is without legal merit.
(4) If the Tribunal decides that all claims are manifestly without legal merit, it shall render an Award to that effect. Otherwise, the Tribunal shall issue a decision on the objection and fix any time limit necessary for the further conduct of the proceeding.

**Rule 36**

**Preliminary Objections**

(1) A party may file a preliminary objection that the dispute or any ancillary claim is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal.

(2) The following procedure shall apply:

   (a) a preliminary objection shall be made as soon as possible. Unless the facts on which the objection is based are unknown to the party at the relevant time, the objection shall be made no later than:

      (i) the date to file the counter-memorial if the objection relates to the main claim; or

      (ii) the date to file the next written submission after an ancillary claim is raised, if the objection relates to the ancillary claim;

   (b) the party shall file a written submission, specifying the grounds on which the preliminary objection is based and including a statement of relevant facts, law and arguments, with any supporting documents; and

   (c) the Tribunal shall fix time limits for written or oral submissions, as required, on the preliminary objection.

(3) The Tribunal may address a preliminary objection in a separate phase of the proceeding pursuant to Rule 37 or join the objection to the merits. If the Tribunal decides to address the preliminary objection in a separate phase, it may suspend the proceeding on the merits.

(4) If a party files a preliminary objection it shall also file its counter-memorial on the merits, or file its next written submission after an ancillary claim is raised if the objection relates to the ancillary claim, unless the Tribunal has ordered otherwise.

(5) The Tribunal may at any time on its own initiative consider whether a claim is within the jurisdiction of the Centre or within its own competence.
(6) The Tribunal shall issue its decision on the preliminary objection within 180 days after the last written or oral submission on the objection.

(7) If the Tribunal decides that the dispute is not within the jurisdiction of the Centre, or for other reasons is not within its competence, it shall render an Award to that effect. Otherwise, the Tribunal shall issue a decision on the objection and fix any time limit necessary for the further conduct of the proceeding.

**Rule 37**

**Bifurcation**

(1) A party may request that a question be addressed in a separate phase of the proceeding (“request for bifurcation”).

(2) The following procedure shall apply:

(a) if the request for bifurcation relates to a preliminary objection, a party shall file the request within 30 days after the filing of the memorial on the merits or, if the objection relates to an ancillary claim, within 30 days after the filing of the written submission containing the ancillary claim, unless the facts on which the objection is based are unknown to the party at the relevant time;

(b) the request for bifurcation shall specify the questions to be bifurcated;

(c) the Tribunal shall fix time limits for written or oral submissions, as required, on the request for bifurcation; and

(d) the Tribunal shall issue its decision on a request for bifurcation within 30 days after the last written or oral submission on the request.

(3) The Tribunal may at any time on its own initiative decide whether a question is to be addressed in a separate phase of the proceeding.

(4) In determining whether to bifurcate, the Tribunal shall consider all relevant circumstances, including whether bifurcation would materially reduce the time and cost of the proceeding.
Rule 38  
Consolidation or Coordination on Consent of Parties  

(1) Parties to two or more pending arbitrations administered by the Centre may agree to consolidate or coordinate these arbitrations.

(2) The parties referred to in paragraph (1) shall provide the Secretary-General with written terms of reference, specifying the terms of consolidation or coordination to which they would consent.

(3) The Secretary-General shall take all necessary administrative steps to implement the agreement of the parties if the consolidation or coordination requested would promote a fair and efficient resolution of all or any claims asserted in the arbitrations.

Chapter VI  
Evidence  

Rule 39  
Evidence: General Principle  

The Tribunal shall determine the admissibility and probative value of the evidence adduced.

Rule 40  
Tribunal Order to Produce Documents or Other Evidence  

(1) The Tribunal shall decide any dispute arising out of a party’s request for production of documents or other evidence. In doing so, it shall consider all relevant circumstances including the scope and timeliness of the request, the relevance of the documents and evidence requested, the time and burden of production and any objections raised by the other party.

(2) The Tribunal may at any time on its own initiative order a party to produce documents or other evidence.
Rule 41
Witnesses and Experts

(1) A party intending to rely on evidence given by a witness shall file a written statement by that witness. The statement shall identify the witness, contain the evidence of the witness and be signed and dated.

(2) A witness who has filed a written statement may be called for examination at a hearing.

(3) The Tribunal shall determine the manner in which the examination is conducted.

(4) A witness shall be examined before the Tribunal, by the parties, and under the control of the President. Any member of the Tribunal may put questions to the witness.

(5) A witness shall be examined in person unless the Tribunal determines that another means of examination is appropriate in the circumstances.

(6) Paragraphs (1)-(5) shall apply, with necessary modifications, to evidence given by an expert.

(7) Each witness shall make the following declaration before giving evidence:

“I solemnly declare upon my honor and conscience that I shall speak the truth, the whole truth, and nothing but the truth.”

(8) Each expert shall make the following declaration before giving evidence:

“I solemnly declare upon my honor and conscience that my statement will be in accordance with my sincere belief.”

Rule 42
Tribunal-Appointed Experts

(1) The Tribunal may appoint one or more independent experts to report to it on specific matters.

(2) The Tribunal shall consult with the parties on the appointment of an expert, including on the terms of reference of the expert.
(3) The parties shall provide the Tribunal-appointed expert with any information, document or other evidence that the expert may require. The Tribunal shall decide any dispute regarding the evidence required by the Tribunal-appointed expert.

(4) The parties shall have the right to make written or oral submissions on the report of the Tribunal-appointed expert.

(5) Rule 41(1)-(5) and (8) shall apply, with necessary modifications, to the Tribunal-appointed expert.

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**Rule 43**

**Visits and Inquiries**

(1) The Tribunal may order a visit to any place connected with the dispute, on its own initiative or upon a party’s request, if it deems the visit necessary, and may conduct inquiries there as appropriate.

(2) The order shall define the scope of the visit and the subject of any inquiry, the procedure to be followed, the applicable time limits and other terms.

(3) The parties shall have the right to participate in any visit or inquiry.

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**Chapter VII**

**Publication, Access to Proceedings and Non-Disputing Party Submissions**

**Rule 44**

**Publication of Awards and Decisions on Annulment**

(1) With consent of the parties, the Centre shall publish every Award, supplementary decision on an Award, rectification, interpretation, and revision of an Award, and decision on annulment.

(2) Consent to publish the documents referred to in paragraph (1) shall be deemed to have been given if no party objects in writing to such publication within 60 days after the date of dispatch of the document.

(3) Absent consent of the parties referred to in paragraphs (1) or (2), the Centre shall publish excerpts of the legal reasoning in such documents (“excerpts”). The following procedure shall apply to publication of excerpts:
(a) the Centre shall propose excerpts to the parties within 30 days after receiving notice that a party declines consent to publication of a document referred to in paragraph (1);

(b) the parties may send comments on the proposed excerpts to the Centre within 30 days after their receipt; and

(c) the Centre shall publish excerpts within 30 days after receipt of the parties’ comments on the proposed excerpts, if any.

Rule 45
Publication of Orders and Decisions

(1) The Centre shall publish orders and decisions within 60 days after their issuance, with any redactions agreed to by the parties and jointly notified to the Centre within the 60-day period.

(2) If either party notifies the Centre within the 60-day period referred to in paragraph (1) that the parties disagree on the redactions, the Centre shall refer the order or decision to the Tribunal to determine any redactions, and shall publish the order or decision with the redactions approved by the Tribunal.

Rule 46
Publication of Documents Filed by a Party

Upon request of a party, the Centre shall publish any written submissions, observations or other documents which that party filed in the proceeding, with redactions agreed to by the parties.

Rule 47
Observation of Hearings

(1) The Tribunal shall allow persons in addition to the parties, their representatives, witnesses and experts during their testimony, and persons assisting the Tribunal to observe hearings, unless either party objects.
(2) The Tribunal shall establish procedures to prevent the disclosure of confidential information to persons observing the hearings.

(3) The Centre shall publish recordings and transcripts of hearings, unless either party objects.

**Rule 48**

**Submission of Non-disputing Parties**

(1) Any person or entity that is not a disputing party (“non-disputing party”) may apply for permission to file a written submission in the proceeding.

(2) In determining whether to permit a non-disputing party submission, the Tribunal shall consider all relevant circumstances, including:

   (a) whether the submission would address a matter within the scope of the dispute;

   (b) how the submission would assist the Tribunal to determine a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;

   (c) whether the non-disputing party has a significant interest in the proceeding;

   (d) the identity, activities, organization and ownership of the non-disputing party, including any direct or indirect affiliation between the non-disputing party, a party or a non-disputing Treaty Party; and

   (e) whether any person or entity will provide the non-disputing party with financial or other assistance to file the submission.

(3) The parties shall have the right to make observations on whether a non-disputing party should be permitted to file a written submission in the proceeding and on the conditions for filing such a submission, if any.

(4) The Tribunal shall ensure that non-disputing party participation does not disrupt the proceeding or unduly burden or unfairly prejudice either party. To this end, the Tribunal may impose conditions on the non-disputing party, including with respect to:

   (a) the format, length or scope of the submission;

   (b) the date of filing; and
(c) the payment of funds to defray the increased costs of the proceeding attributable to the non-disputing party’s participation.

(5) The Tribunal may provide the non-disputing party with access to relevant documents filed in the proceeding, unless either party objects.

(6) If the Tribunal permits a non-disputing party to file a written submission, the parties shall have the right to make observations on the submission.

Rule 49
Participation of Non-disputing Treaty Party

(1) The Tribunal shall permit a Party to a treaty that is not a party to the dispute (“non-disputing Treaty Party”) to make a written submission on the application or interpretation of a treaty at issue in the dispute.

(2) A Tribunal may allow a non-disputing Treaty Party to make a written submission on any other matter within the scope of the dispute, in accordance with the procedure in Rule 48.

(3) The parties shall have the right to make observations on the submission of the non-disputing Treaty Party.

Chapter VIII
Special Procedures

Rule 50
Provisional Measures

(1) A party may at any time request that the Tribunal recommend provisional measures to preserve that party’s rights, including measures to:

(a) prevent action that is likely to cause:

   (i) current or imminent harm to the other party; or

   (ii) prejudice to the arbitral process;

(b) maintain or restore the status quo pending determination of the dispute; and
(c) preserve evidence that may be relevant to the resolution of the dispute.

(2) The following procedure shall apply:

(a) the request shall specify the rights to be preserved, the measures requested, and the circumstances that require such measures;

(b) the Tribunal shall fix time limits for written or oral submissions, as required, on the request;

(c) if a party requests provisional measures before the constitution of the Tribunal, the Secretary-General shall fix time limits for written submissions on the request, so that the Tribunal may consider the request promptly upon its constitution; and

(d) the Tribunal shall issue its decision on the request within 30 days after the latest of:

   (i) the constitution of the Tribunal;

   (ii) the last written submission on the request; or

   (iii) the last oral submission on the request.

(3) In deciding whether to recommend provisional measures, the Tribunal shall consider all relevant circumstances. The Tribunal shall only recommend provisional measures if it determines that they are urgent and necessary.

(4) The Tribunal may recommend provisional measures on its own initiative. The Tribunal may also recommend provisional measures different from those requested by a party.

(5) A party must promptly disclose any material change in the circumstances upon which the Tribunal recommended provisional measures.

(6) The Tribunal may at any time modify or revoke the provisional measures, on its own initiative or upon a party’s request.

(7) A party may request any judicial or other authority to order provisional measures if such recourse is available in the instrument recording the parties’ consent to arbitration.
Rule 51
Security for Costs

(1) A party may request that the Tribunal order the other party to provide security for the costs of the proceeding and determine the appropriate terms for provision of the security.

(2) The following procedure shall apply:

(a) the request shall specify the circumstances that require security for costs;

(b) the Tribunal shall fix time limits for written or oral submissions, as required, on the request;

(c) if a party requests security for costs before the constitution of the Tribunal, the Secretary-General shall fix time limits for written submissions on the request, so that the Tribunal may consider the request promptly upon its constitution; and

(d) the Tribunal shall issue its decision on the request within 30 days after the latest of:

   (i) the constitution of the Tribunal;

   (ii) the last written submission on the request; or

   (iii) the last oral submission on the request.

(3) In determining whether to order a party to provide security for costs, the Tribunal shall consider the party’s ability to comply with an adverse decision on costs and any other relevant circumstances.

(4) If a party fails to comply with an order for security for costs, the Tribunal may suspend the proceeding until the security is provided. If the proceeding is suspended for more than 90 days, the Tribunal may, after consulting with the parties, order the discontinuance of the proceeding.

(5) A party must promptly disclose any material change in the circumstances upon which the Tribunal ordered security for costs.

(6) The Tribunal may at any time modify or revoke its order for security for costs, on its own initiative or upon a party’s request.
**Rule 52**  
**Ancillary Claims**

(1) Unless the parties agree otherwise, a party may file an incidental or additional claim or a counter-claim (“ancillary claim”) arising directly out of the subject-matter of the dispute, provided that such ancillary claim is within the scope of the consent of the parties and the jurisdiction of the Centre.

(2) An incidental or additional claim shall be presented no later than the date to file the reply, and a counter-claim shall be presented no later than the date to file the counter-memorial, unless the Tribunal decides otherwise.

**Rule 53**  
**Default**

(1) A party is in default if it fails to appear or present its case, or indicates that it will not appear or present its case.

(2) If a party is in default at any stage of the proceeding, the other party may request that the Tribunal address the questions submitted to it and render an Award.

(3) Upon receipt of the request referred to in paragraph (2), the Tribunal shall notify the defaulting party of the request and grant a grace period to cure the default, unless it is satisfied that the defaulting party does not intend to appear or present its case. The grace period shall not exceed 60 days without the consent of the other party.

(4) If the default relates to a first session or hearing, the Tribunal may set the grace period as follows:

   (a) reschedule the first session or hearing to a date within 60 days after the original date;

   (b) proceed with the first session or hearing in the absence of the defaulting party and fix a time limit for the defaulting party to file a written submission within 60 days after the first session or hearing; or

   (c) cancel the hearing and fix a time limit for the parties to file written submissions within 60 days after the original date of the first session or hearing.

(5) If the default relates to another scheduled procedural step, the Tribunal may set the grace period to cure the default by fixing a new time limit for the defaulting party to
complete that step within 60 days after the date of the notice of default referred to in paragraph (3).

(6) A party’s default shall not be deemed an admission of the assertions made by the other party.

(7) The Tribunal may invite the party appearing to file observations, produce evidence or make oral submissions.

(8) If the defaulting party fails to act within the grace period or if no such period is granted, the Tribunal shall examine the jurisdiction of the Centre and its own competence before deciding the questions submitted to it and rendering an Award.

Chapter IX
Suspension and Discontinuance

Rule 54
Suspension

(1) Except as otherwise provided in the Administrative and Financial Regulations or these Rules, the Tribunal may suspend the proceeding on:

(a) agreement of the parties;

(b) request of a party; or

(c) its own initiative.

(2) The Tribunal shall give the parties the opportunity to make observations before ordering the suspension of the proceeding pursuant to paragraph (1)(b) or (c).

(3) In its order recording the suspension of the proceeding the Tribunal shall specify:

(a) the period of the suspension;

(b) any appropriate conditions; and

(c) a modified procedural calendar to take effect on resumption of the proceeding.

(4) The Tribunal may extend the period of the suspension prior to its expiry, on its own initiative or upon a party’s request.
(5) The Secretary-General shall suspend the proceedings pursuant to paragraph (1)(a) if the Tribunal has not yet been constituted or if there is a vacancy on the Tribunal. The parties shall inform the Secretary-General of the period of the suspension and any conditions agreed to by the parties.

Rule 55
Settlement and Discontinuance

(1) If the parties notify the Tribunal that they have agreed to discontinue the proceeding, the Tribunal shall issue an order taking note of the discontinuance.

(2) If the parties agree on a settlement of the dispute before the Award is rendered, the Tribunal:

(a) shall issue an order taking note of the discontinuance of the proceeding, if the parties so request; or

(b) may record the settlement in the form of an Award, if the parties file the complete and signed text of their settlement and request that the Tribunal embody such settlement in an Award.

(3) The Secretary-General shall issue the order referred to in paragraphs (1) and (2)(a) if the Tribunal has not yet been constituted or if there is a vacancy on the Tribunal.

Rule 56
Discontinuance at Request of a Party

(1) If a party requests the discontinuance of the proceeding, the Tribunal shall fix a time limit within which the other party may oppose the discontinuance. If no objection in writing is made within the time limit, the other party shall be deemed to have acquiesced in the discontinuance and the Tribunal shall issue an order taking note of the discontinuance of the proceeding. If any objection in writing is made within the time limit, the proceeding shall continue.

(2) The Secretary-General shall fix the time limit and issue the order referred to in paragraph (1) if the Tribunal has not yet been constituted or if there is a vacancy on the Tribunal.
Rule 57
Discontinuance for Failure of Parties to Act

(1) If the parties fail to take any steps in the proceeding for more than 150 days, the Tribunal shall notify them of the time elapsed since the last step taken in the proceeding.

(2) If the parties fail to take a step within 30 days after the notice referred to in paragraph (1), they shall be deemed to have discontinued the proceeding and the Tribunal may issue an order taking note of the discontinuance.

(3) If either party takes a step within 30 days after the notice referred to in paragraph (1), the proceeding shall continue.

(4) The Secretary-General shall issue the notice and the order referred to in paragraphs (1) and (2) if the Tribunal has not yet been constituted or if there is a vacancy on the Tribunal.

Rule 58
Discontinuance for Failure to Pay

If the parties fail to make payments to defray the costs of the proceeding as required by Administrative and Financial Regulation 14, the proceeding may be discontinued pursuant to that Regulation.

Chapter X
The Award

Rule 59
Timing of the Award

(1) The Tribunal shall render the Award as soon as possible and in any event no later than:

(a) 60 days after the last written or oral submission if the Award is rendered pursuant to Rule 35(4);

(b) 180 days after the last written or oral submission if the Award is rendered pursuant to Rule 36(7); or
(c) 240 days after the last written or oral submission on all other matters.

(2) A statement of costs filed in accordance with Rule 19(3) shall not be considered a submission for the purposes of calculating the time limits referred to in paragraph (1).

Rule 60
Contents of the Award

(1) The Award shall be in writing and shall contain:

(a) a precise designation of each party;

(b) the names of the representatives of the parties;

(c) a statement that the Tribunal was established under the Convention, and a description of the method of its constitution;

(d) the name of each member of the Tribunal and the appointing authority of each;

(e) the dates and place(s) of the first session and the hearings;

(f) a brief summary of the proceeding;

(g) a statement of the relevant facts as found by the Tribunal;

(h) a brief summary of the submissions of the parties, including the relief sought;

(i) the decision of the Tribunal on every question submitted to it, and the reasons on which the Award is based; and

(j) a statement of the costs of the proceeding, including the fees and expenses of each member of the Tribunal, and a reasoned decision regarding the allocation of the costs of the proceeding.

(2) The Award shall be signed by the members of the Tribunal who voted for it. It may be signed by electronic means if the parties agree.

(3) Any member of the Tribunal may attach an individual opinion or a statement of dissent to the Award before the Award is rendered.
Rule 61
Rendering of the Award

(1) Once the Award has been signed by the members of the Tribunal who voted for it, the Secretary-General shall promptly:

(a) dispatch a certified copy of the Award to each party, together with any individual opinion and statement of dissent, indicating the date of dispatch on the Award; and

(b) deposit the Award in the archives of the Centre, together with any individual opinion and statement of dissent.

(2) The Award shall be deemed to have been rendered on the date of dispatch.

(3) The Secretary-General shall provide additional certified copies of the Award to a party upon request.

Rule 62
Supplementary Decision and Rectification

(1) A Tribunal may rectify any clerical, arithmetical or similar error in the Award on its own initiative within 30 days after rendering the Award.

(2) A party requesting a supplementary decision on, or the rectification of, an Award pursuant to Article 49(2) of the Convention shall file the request with the Secretary-General within 45 days after the Award was rendered and pay the lodging fee published in the schedule of fees.

(3) The request referred to in paragraph (2) shall:

(a) identify the Award to which it relates;

(b) be signed by each requesting party or its representative and be dated; and

(c) specify:

(i) with respect to a request for a supplementary decision, any question which the Tribunal omitted to decide in the Award; and
(ii) with respect to a request for rectification, any clerical, arithmetical or similar error in the Award.

(4) Upon receipt of the request and the lodging fee, the Secretary-General shall promptly:

(a) transmit the request to the other party;

(b) register the request, or refuse registration if the request is not made within the time limit referred to in paragraph (2); and

(c) notify the parties of the registration or refusal to register.

(5) As soon as the request is registered, the Secretariat shall transmit the request and the notice of registration to each member of the Tribunal.

(6) The President of the Tribunal shall determine the procedure to consider the request, after consulting with the other members of the Tribunal and the parties.

(7) Rules 60-61 shall apply to any decision of the Tribunal pursuant to this Rule.

(8) The Tribunal shall issue the supplementary decision or rectification within 60 days after the last written or oral submission on the request.

(9) The date of dispatch of the supplementary decision or rectification shall be the relevant date for the purposes of calculating the time limits specified in Articles 51(2) and 52(2) of the Convention.

(10) A supplementary decision or rectification under this Rule shall become part of the Award and shall be reflected on all certified copies of the Award.

Chapter XI
Interpretation, Revision and Annulment of the Award

Rule 63
The Application

(1) A party applying for interpretation, revision or annulment of an Award shall file the application with the Secretary-General, together with any supporting documents and pay the lodging fee published in the schedule of fees.

(2) The application shall:
(a) identify the Award to which it relates;

(b) be in a procedural language used in the original proceeding;

(c) be signed by each applicant or its representative and be dated;

(d) attach proof of any representative’s authority to act; and

(e) include the contents and be filed within the time limits referred to in paragraphs (3)-(5).

(3) An application for interpretation made pursuant to Article 50(1) of the Convention may be filed at any time after the dispatch of the Award and shall specify the points in dispute concerning the meaning or scope of the Award.

(4) An application for revision made pursuant to Article 51(1) of the Convention shall be filed within 90 days after the discovery of a fact of such a nature as decisively to affect the Award, and in any event within three years after the Award (or any supplementary decision on or rectification of the Award) was rendered. The application shall specify:

(a) the change sought in the Award;

(b) the newly discovered fact that decisively affects the Award; and

(c) evidence that when the Award was rendered that fact was unknown to the Tribunal and to the applicant, and that the applicant’s ignorance of that fact was not due to negligence.

(5) An application for annulment made pursuant to Article 52(1) of the Convention shall:

(a) be filed within 120 days after the date on which the Award (or any supplementary decision on or rectification of the Award) was rendered if the application is based on any of the grounds in Article 52(1)(a), (b), (d) or (e) of the Convention; or

(b) be filed within 120 days after the discovery of corruption on the part of a member of the Tribunal and in any event within three years after the date on which the Award (or any supplementary decision on or rectification of the Award) was rendered, if the application is based on Article 52(1)(c) of the Convention; and

(c) specify the grounds on which it is based, limited to the grounds in Article 52(1)(a)-(e) of the Convention, and the reasons in support of each ground.
(6) Upon receiving an application and the lodging fee, the Secretary-General shall promptly:

(a) transmit the application and the supporting documents to the other party;

(b) register the application, or refuse registration if the application is not made within the relevant time limits referred to in paragraphs (4) or (5); and

(c) notify the parties of the registration or refusal to register.

(7) The last date for filing an application under this Rule shall be determined in accordance with Rule 7. A complete application and evidence of payment of the lodging fee must be filed by such date.

(8) An applicant may withdraw from its application before it has been registered by filing a written notice of withdrawal with the Secretary-General. The Secretariat shall promptly notify the parties of the withdrawal, unless the application has not yet been transmitted to the other party pursuant to paragraph (5)(a).

**Rule 64**

**Interpretation or Revision: Reconstitution of the Tribunal**

(1) As soon as an application for the interpretation or revision of an Award is registered, the Secretary-General shall:

(a) transmit the notice of registration, the application and any supporting documents to each member of the original Tribunal; and

(b) request each member of the Tribunal to inform the Secretary-General within 10 days whether that member can take part in the consideration of the application.

(2) If all members of the Tribunal can take part in the consideration of the application, the Secretary-General shall notify the Tribunal and the parties of the reconstitution of the Tribunal.

(3) If the Tribunal cannot be reconstituted in accordance with paragraph (2), the Secretary-General shall invite the parties to constitute a new Tribunal without delay. The new Tribunal shall have the same number of arbitrators and be appointed by the same method as the original Tribunal.
**Rule 65**

*Annulment: Appointment of *ad hoc* Committee*

1. As soon as an application for annulment of an Award is registered, the Chairman shall appoint an *ad hoc* Committee in accordance with Article 52(3) of the Convention.

2. Each member of the Committee shall provide a signed declaration in accordance with Rule 26.

3. The Committee shall be deemed to be constituted on the date the Secretary-General notifies the parties that all members have accepted their appointment.

**Rule 66**

*Procedure Applicable to Interpretation, Revision and Annulment*

1. Except as provided below, the provisions of these Rules shall apply, with necessary modifications, to any procedure relating to the interpretation, revision or annulment of an Award and to the decision of the Tribunal or Committee.

2. The procedural agreements and orders on matters addressed at the first session of the original Tribunal shall apply to a proceeding under this Rule, with necessary modifications, unless the parties agree or the Tribunal or Committee orders otherwise.

3. In addition to the application, the written procedure shall consist of one round of written submissions, unless the parties agree or the Tribunal or Committee orders otherwise.

4. A hearing shall be held upon the request of either party, or if ordered by the Tribunal or Committee.

5. The Tribunal or Committee shall issue its decision within 120 days after the last written or oral submission on the application.
Rule 67
Stay of Enforcement of the Award

(1) A party to an interpretation, revision or annulment proceeding may request a stay of enforcement of all or part of the Award at any time before the final decision on the application.

(2) If the stay is requested in the application for revision or annulment of an Award, enforcement shall be stayed provisionally by the Secretary-General until the Tribunal or Committee decides on the request.

(3) The following procedure shall apply:

(a) the request shall specify the circumstances that require the stay;

(b) the Tribunal or Committee shall fix time limits for written or oral submissions, as required, on the request;

(c) if a party files the request before the constitution of the Tribunal or Committee, the Secretary-General shall fix time limits for written submissions on the request, so that the Tribunal or Committee may consider the request promptly upon its constitution; and

(d) the Tribunal or Committee shall issue its decision on the request within 30 days after the latest of:

   (i) the constitution of the Tribunal or Committee;

   (ii) the last written submission on the request; or

   (iii) the last oral submission on the request.

(4) If a Tribunal or Committee decides to stay enforcement of the Award, it may impose conditions for the stay, or for lifting the stay, in view of all relevant circumstances.

(5) A party must promptly disclose to the Tribunal or Committee any change in the circumstances upon which the enforcement was stayed.

(6) The Tribunal or Committee may at any time modify or terminate a stay of enforcement, on its own initiative or upon a party’s request.

(7) A stay of enforcement shall terminate on the date of dispatch of the decision on the application for interpretation, revision or annulment, or on the date of discontinuance of the proceeding.
Rule 68
Resubmission of Dispute after an Annulment

(1) If a Committee annuls all or part of an Award, either party may file with the Secretary-General a request to resubmit the dispute to a new Tribunal, together with any supporting documents and pay the lodging fee published in the schedule of fees. The request shall:

(a) identify the Award to which it relates;

(b) be in a procedural language used in the original proceeding;

(c) be signed by each requesting party or its representative and be dated;

(d) attach proof of any representative’s authority to act; and

(e) specify which aspect(s) of the dispute is resubmitted to the new Tribunal.

(2) Upon receiving a request for resubmission and the lodging fee, the Secretary-General shall promptly:

(a) transmit the request and the supporting documents to the other party;

(b) register the request;

(c) notify the parties of the registration; and

(d) invite the parties to constitute a new Tribunal without delay, which shall have the same number of arbitrators, and be appointed by the same method as the original Tribunal.

(3) If the original Award was annulled in part, the new Tribunal shall only reconsider that part of the dispute pertaining to the annulled portion of the Award.

(4) Except as otherwise provided in paragraphs (1)-(3), these Rules shall apply to the resubmission proceeding.

(5) The procedural agreements and orders on matters addressed at the first session of the original Tribunal shall apply to the resubmission proceeding, with necessary modifications, unless the parties agree or the new Tribunal orders otherwise.
Chapter XII
Expedited Arbitration

Rule 69
Consent of Parties to Expedited Arbitration

(1) The parties to an arbitration conducted under the ICSID Convention may consent to expedite the arbitration in accordance with this Chapter (“expedited arbitration”) by following the procedure in paragraph (2).

(2) The parties shall jointly notify the Secretariat in writing of their consent to an expedited arbitration in accordance with this Chapter. Such notice must be received within 20 days after the date of registration of the Request for arbitration.

(3) Chapters I-XI of the Arbitration Rules shall apply to an expedited arbitration except that:

(a) Rules 8(1), 22, 23, 25, 35, 37, 38, 42, and 43 do not apply in an expedited arbitration pursuant to this Chapter; and

(b) Rules 26, 30, 34, 36, 40, 53, 59, 62 and 66, as modified by Rules 70-78, apply in an expedited arbitration pursuant to this Chapter.

Rule 70
Number of Arbitrators and Method of Constituting the Tribunal for Expedited Arbitration

(1) The Tribunal in an expedited arbitration shall consist of a Sole Arbitrator appointed pursuant to Rule 71 or a three-member Tribunal appointed pursuant to Rule 72.

(2) The parties shall jointly notify the Secretariat in writing of their election of a Sole Arbitrator or a three-member Tribunal within 30 days after the date of registration of the Request for arbitration.

(3) If the parties do not notify the Secretariat of their election within the time limit referred to in paragraph (2), the Tribunal shall consist of a Sole Arbitrator to be appointed in accordance with Rule 71.

(4) An appointment under Rules 71-72 shall be deemed an appointment in accordance with a method agreed by the parties pursuant to Article 37(2)(a) of the Convention.
Rule 71
Appointment of Sole Arbitrator for Expedited Arbitration

(1) A Sole Arbitrator in an expedited arbitration shall be appointed in accordance with the following procedure:

(a) The parties shall jointly advise the Secretary-General in writing of their agreement on a Sole Arbitrator and shall provide the appointee’s name, nationality(ies) and contact information within 20 days after the notice referred to in Rule 70(2); and

(b) The Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73;

(2) The Secretary-General shall appoint the Sole Arbitrator if:

(a) the parties do not agree on the Sole Arbitrator within the time limit referred to in paragraph (1)(a);

(b) the parties notify the Secretary-General that they are unable to agree on the Sole Arbitrator;

(c) the appointee does not accept the appointment within the time limit referred to in Rule 73; or

(d) the appointee declines the appointment.

(3) The following procedure shall apply to an appointment by the Secretary-General of the Sole Arbitrator pursuant to paragraph (2):

(a) the Secretary-General shall transmit a list of five candidates for appointment as Sole Arbitrator to the parties within 10 days after the relevant event referred to in paragraph (2);

(b) each party may strike one name from the list, and shall rank the remaining candidates in order of preference and transmit such ranking to the Secretary-General within 10 days after receipt of the list;

(c) the Secretary-General shall inform the parties of the result of the rankings on the next business day after receipt of the rankings and shall appoint the candidate with the best ranking. If two or more candidates share the best ranking, the Secretary-General shall select one of them;
(d) the Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73; and

(e) if the selected candidate does not accept the appointment, the Secretary-General shall select the next highest-ranked candidate.

Rule 72
Appointment of Three-Member Tribunal for Expedited Arbitration

(1) A three-member Tribunal shall be appointed in accordance with the following procedure:

(a) each party shall appoint an arbitrator (“co-arbitrators”) within 20 days after the notice referred to in Rule 70(2) and shall notify the Secretary-General of the appointees’ names, nationalities and contact information within such time;

(b) the Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73;

(c) the parties shall jointly appoint the President of the Tribunal within 20 days after the receipt of acceptance of both appointments made pursuant to paragraph (1)(a) and shall notify the Secretary-General of the appointee’s name, nationality(ies) and contact information within such time; and

(d) the Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73.

(2) The Secretary-General shall appoint the arbitrators not yet appointed if:

(a) an appointment is not made within the time limits referred to in paragraph (1)(a) or (c);

(b) the parties notify the Secretary-General that they are unable to agree on the President of the Tribunal;

(c) an appointee does not accept the appointment within the time limit referred to in Rule 73; or

(d) an appointee declines the appointment.
(3) The following procedure shall apply to the appointment by the Secretary-General of any arbitrators not yet appointed pursuant to paragraphs (1) and (2):

(a) the Secretary-General shall first appoint the co-arbitrator(s) not yet appointed, after consulting as far as possible with the parties. The Secretary-General shall use best efforts to make the co-arbitrator appointment(s) within 15 days after the relevant event in paragraph (2);

(b) the Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73;

(c) as soon as both co-arbitrators have accepted their appointment, or within 10 days after the relevant event referred to in paragraph (2), the Secretary-General shall transmit a list of five candidates for appointment as President of the Tribunal to the parties;

(d) each party may strike one name from the list, and shall rank the remaining candidates in order of preference and transmit such ranking to the Secretary-General within 10 days after receipt of the list;

(e) the Secretary-General shall inform the parties of the result of the rankings on the next business day after receipt of the rankings and shall appoint the candidate with the best ranking. If two or more candidates share the best ranking, the Secretary-General shall select one of them;

(f) the Secretary-General shall immediately send the request for acceptance of the appointment to the appointee and shall request a reply within 10 days of receipt in accordance with Rule 73; and

(g) if the selected candidate does not accept the appointment, the Secretary-General shall select the next highest-ranked candidate.

Rule 73
Acceptance of Appointment in Expedited Arbitration

An arbitrator appointed in an expedited arbitration shall accept the appointment and provide a declaration pursuant to Rule 26(3) within 10 days after receipt of the request for acceptance.
**Rule 74**

**First Session in Expedited Arbitration**

(1) The Tribunal shall hold a first session pursuant to Rule 34 within 30 days after the constitution of the Tribunal.

(2) The first session shall be held by telephone or electronic means of communication unless both parties and the Tribunal agree it shall be held in person.

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**Rule 75**

**The Procedural Schedule in Expedited Arbitration**

(1) The following schedule for written submissions and the hearing shall apply in the expedited arbitration:

(a) the requesting party shall file a memorial within 60 days after the first session, unless the Request for arbitration is to be considered the memorial pursuant to Rule 13(2);

(b) the other party shall file a counter-memorial within 60 days after the date of filing the memorial, or within 60 days after the first session if the requesting party has elected to use the Request for arbitration as its memorial pursuant to Rule 13(2);

(c) the memorial and counter-memorial referred to in paragraph (1)(a) and (b) shall be no longer than 200 pages in length;

(d) the requesting party shall file a reply within 40 days after the date of filing of the counter-memorial;

(e) the other party shall file a rejoinder within 40 days after the date of filing of the reply;

(f) the reply and rejoinder referred to in paragraph (1)(d) and(e) shall be no longer than 100 pages in length;

(g) the hearing shall be held within 60 days after the last written submission is filed;

(h) the parties shall file statements of costs within 10 days after the last day of the hearing referred to in paragraph (1)(g); and
(i) the Tribunal shall render the Award as soon as possible, and in any event no later than 120 days after the hearing referred to in paragraph (1)(g).

(2) Any preliminary objection, counter-claim, incidental or additional claim shall be joined to the main schedule referred to in paragraph (1). The Tribunal shall adjust the schedule if a party raises any such matter, taking into account the expedited nature of the process.

(3) The Tribunal may extend the time limits in paragraph (1)(a) and (b) by up to 30 days if any party requests that the Tribunal determine a dispute arising from requests to produce documents or other evidence pursuant to Rule 40(1). The Tribunal shall decide such applications based on written submissions and without an in-person hearing.

(4) Any schedule for submissions other than those referred to in paragraphs (1)-(3) shall run in parallel with the main schedule in paragraph (1), unless the Tribunal determines that there are exceptional circumstances that justify the suspension of the main schedule. In fixing time limits for such submissions, the Tribunal shall take into account the expedited nature of the process.

**Rule 76**
Default during Expedited Arbitration

A Tribunal may grant a party in default a grace period not to exceed 30 days pursuant to Rule 53.

**Rule 77**
The Procedural Schedule for Supplementary Decision and Rectification in Expedited Arbitration

The Tribunal shall issue a supplementary decision or rectification pursuant to Rule 62 within 30 days after the last written or oral submission on the request.
Rule 78

The Procedural Schedule for an Application for Interpretation, Revision or Annulment of an Award Rendered in Expedited Arbitration

(1) A Tribunal may rectify any clerical, arithmetical or similar error in the Award on its own initiative within 15 days after rendering the Award.

(2) The following schedule for written submissions and the hearing shall apply to the procedure relating to an interpretation, revision or annulment of an Award rendered in an expedited arbitration:

(a) the applicant shall file a memorial on interpretation, revision or annulment within 30 days after the first session;

(b) the other party shall file a counter-memorial on interpretation, revision or annulment within 30 days after the memorial;

(c) a hearing shall be held within 45 days after the date for filing the counter-memorial;

(d) the parties shall file statements of costs within 5 days after the last day of the hearing referred to in paragraph (2)(c); and

(e) the Tribunal or Committee shall render the decision on interpretation, revision or annulment as soon as possible, and in any event no later than 60 days after the hearing referred to in paragraph (2)(c).

(3) Any schedule for submissions other than those referred to in paragraph (2) shall run in parallel with the main schedule, unless the Tribunal or Committee determines that there are exceptional circumstances that justify the suspension of the main schedule. In fixing time limits for such submissions, the Tribunal or Committee shall take into account the expedited nature of the process.

Rule 79

Resubmission of a Dispute after an Annulment in Expedited Arbitration

The consent of the parties given pursuant to Rule 69 shall not apply to resubmission of the dispute.