VI. ANNEX A: (ADDITIONAL FACILITY) ADMINISTRATIVE AND FINANCIAL REGULATIONS

Introductory Note

The (Additional Facility) Administrative and Financial Regulations apply to Additional Facility proceedings. They contain provisions that apply generally in proceedings and are complementary to the Additional Facility Rules, and the (Additional Facility) Arbitration, Conciliation, Fact-Finding, and Mediation Rules.

Chapter I
General Provisions

Regulation 1
Application of these Regulations

(1) These Regulations apply to arbitration, conciliation, fact-finding and mediation proceedings which the Secretariat of the Centre is authorized to administer under Article 2 of the Additional Facility Rules.

(2) These applicable Regulations are those in force on the date of filing of the requests under the Additional Facility Rules unless the parties agree otherwise.

(3) These Regulations may be referred to as the “(Additional Facility) Administrative and Financial Regulations” of the Centre.

Chapter II
General Functions of the Secretariat

Regulation 2
Secretary

The Secretary-General of the Centre, the principal officer of the Centre pursuant to Article 11 of the Convention, shall appoint a Secretary for each Commission, Tribunal and Committee, and for Mediator(s). The Secretary may be drawn from the Secretariat, and shall be considered as a member of its staff while serving as a Secretary. The Secretary shall:
(a) represent the Secretary-General and may perform all functions assigned to the Secretary-General by these Regulations or the (Additional Facility) Arbitration, Conciliation, Fact-Finding and Mediation Rules in Annexes B to E with regard to individual proceedings and delegated to the Secretary; and

(b) assist the parties and the Commission, Tribunal, Committee or Mediator(s) with all aspects of the proceedings.

**Regulation 3**

**Publication**

With a view to furthering the development of international law in relation to investment, the Centre shall publish:

(a) information about the operation of the Centre; and

(b) documents generated in proceedings, in accordance with the applicable rules.

**Regulation 4**

**The Registers**

The Secretary-General shall maintain and publish a Register for each case containing all significant data concerning the institution, conduct and disposition of the proceeding, including the method of constitution, the membership of each Commission, Tribunal and Committee, and the names of appointed Mediators.

**Regulation 5**

**Depositary Functions**

(1) The Secretary-General shall deposit in the archives of the Centre and arrange for the permanent retention of:

(a) all requests for arbitration, conciliation, fact-finding, mediation, supplementary decisions, rectification and interpretation;

(b) all written submissions, observations, supporting documents and communications filed in a proceeding;
(c) the recordings and transcripts of hearings, sessions or meetings in the proceeding; and

(d) any decision, order, recommendation, Report or Award by a Commission, Tribunal, Committee or Mediator(s).

(2) Subject to the applicable rules and the agreement of the parties to the proceedings, and upon payment of any charges required by the schedule of fees, the Secretary-General shall make certified copies of the documents referred to in paragraph (1)(b)-(d) available to the parties. Certified copies of the documents referred to in paragraph (1)(d) shall reflect any interpretation, rectification or supplementary decision.

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**Regulation 6**

**Certificates of Official Travel**

The Secretary-General may issue certificates of official travel to members of Commissions, Tribunals or Committees and to Mediators, to persons assisting them, to members of the Secretariat, and to the parties, agents, counsel, advocates, witnesses or experts appearing in proceedings, indicating that they are traveling in connection with a proceeding under the Additional Facility.

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**Chapter III**

**Financial Provisions**

**Regulation 7**

**Costs of Proceedings**

(1) Each member of a Commission, Tribunal or Committee and each Mediator shall receive:

(a) a fee for each hour of work performed in connection with the proceeding;

(b) when not travelling to attend a hearing, session or meeting, reimbursement of expenses reasonably incurred for the sole purpose of the proceeding; and

(c) when required to travel to attend a hearing, session or meeting held away from the place of residence of the member or Mediator:
(i) reimbursement of the cost of ground transportation between the points of departure and arrival;

(ii) reimbursement of the cost of air and ground transportation to and from the city in which the hearing, session or meeting is held; and

(iii) a *per diem* allowance for each day the member or Mediator spends away from their place of residence.

(2) The Secretary-General shall determine and publish the amount of the fee and the *per diem* allowance referred to in paragraph (1)(a) and (c). Any request by a member or Mediator for a higher amount shall be made through the Secretary-General, and not directly to the parties. Such a request must be made before the first session of the Commission, Tribunal, Committee or Mediator(s) and shall justify the increase requested.

(3) The Secretary-General shall determine and publish an annual administrative charge payable by the parties for the services of the Centre.

(4) All payments, including reimbursement of expenses, shall be made by the Centre to:

(a) members of Commissions, Tribunals and Committees, Mediators, and any assistants approved by the parties;

(b) witnesses and experts called by a Commission, Tribunal, Committee or the Mediator(s) and not by a party;

(c) service providers that the Centre engages for a proceeding; and

(d) the host of any hearing, session or meeting held away from an ICSID facility.

(5) To enable the Centre to pay the costs referred to in paragraphs (1)-(4), the parties shall make payments to the Centre in accordance with the following:

(a) upon registration of a Request for arbitration, conciliation, fact-finding, or mediation, the Secretary-General shall ask the requesting party(ies) to make a payment to defray the estimated costs of the proceeding through the first session of the Commission, Tribunal, Committee, or the Mediator(s) which shall be considered partial payment by the requesting party(ies) of the payment referred to in paragraph (5)(b);

(b) upon constitution of a Commission, Tribunal, or Committee, or the notice of acceptance of appointment by the Mediator(s), the Secretary-General shall request the parties to make a payment to defray the estimated costs of the subsequent phase of the proceeding;
(c) the Secretary-General may request that the parties make supplementary payments at any time if required to defray the estimated costs of the proceeding. The Centre shall provide a statement of account to the parties with any request for a supplementary payment;

(d) in conciliation, fact-finding and mediation proceedings, each party shall pay one half of the payments referred to in paragraph (5)(b) and (c), unless the parties agree on a different division. In arbitration proceedings, each party shall pay one half of the payments referred to in paragraph (5)(b) and (c) unless a different division is agreed to by the parties or ordered by the Tribunal. Payment of these sums is without prejudice to the Tribunal’s final decision on the payment of costs in accordance with the applicable rules;

(e) payments shall be payable on the date of the request from the Secretary-General. The following procedure shall apply in the event of non-payment:

(i) if the amounts requested are not paid in full within 30 days after the date of the request, the Secretary-General may notify both parties of the default and give them an opportunity to make the required payment;

(ii) if any part of the required payment remains outstanding 15 days after the date of the notice in paragraph (5)(e)(i), the Secretary-General may, after notice to and as far as possible in consultation with the parties and the Commission, Tribunal, Committee, if constituted, or Mediator(s) if appointed, suspend the proceeding until payment is made; and

(iii) if any proceeding is suspended for non-payment for more than 90 consecutive days, the Secretary-General may, after notice to and as far as possible in consultation with the parties and the Commission, Tribunal, or Committee, if constituted, or Mediator(s) if appointed, discontinue the proceeding.

(6) The Centre shall not be required to provide any service in connection with a proceeding or to pay the fees, allowances or reimbursements of the members of any Commission, Tribunal or Committee, or of any Mediator, unless the parties have made sufficient payments to defray the costs of the proceeding.

(7) For the purposes of this Regulation, “party” includes, where the context so admits, all parties acting as claimants or as respondents.
Regulation 8
Special Services

(1) The Centre may perform any special services related to disputes if the requestor deposits in advance an amount sufficient to defray the charge for such services.

(2) Charges for special services shall normally be based on a schedule of fees published by the Secretary-General.

Regulation 9
Fee for Lodging Requests

The party or parties (if a request is made jointly) wishing to institute an arbitration, conciliation, fact-finding or mediation proceeding, or requesting a supplementary decision, rectification or interpretation, shall pay the Centre a non-refundable lodging fee determined by the Secretary-General and published in the schedule of fees.

Chapter IV
Official Languages

Regulation 10
Languages of Regulations

(1) These Regulations are published in English, French and Spanish.

(2) The texts of these Regulations in each of these languages are equally authentic.