Proposals for Amendment of the ICSID Rules — Consolidated Draft Rules
ANNEX B: ADDITIONAL FACILITY RULES OF PROCEDURE FOR ARBITRATION PROCEEDINGS
((ADDITIONAL FACILITY) ARBITRATION RULES)

Introductory Note

The Additional Facility Rules of Procedure for Arbitration Proceedings (the (Additional Facility) Arbitration Rules) were adopted by the Administrative Council of the Centre pursuant to Administrative and Financial Regulation 7(1).


The (Additional Facility) Arbitration Rules apply from the submission of a Request for arbitration until an Award is rendered and to any proceedings arising from a request for a supplementary decision on, rectification of, or interpretation of, an Award.

Chapter I
General Provisions

Rule 1
Application of Rules

(1) These Rules shall apply to any arbitration proceeding conducted under the Additional Facility Rules, except to the extent that the parties agree otherwise and subject to paragraph (2).

(2) If any of these Rules, or any aspect of the parties’ agreement to modify the application of these Rules, conflicts with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

(3) The applicable (Additional Facility) Arbitration Rules are those in force on the date of filing of the request for arbitration.

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

(5) These Rules may be cited as the “(Additional Facility) Arbitration Rules” of the Centre.
Chapter II
Institution of the Proceeding

Rule 2
The Request

(1) Any party wishing to institute arbitration proceedings under the Additional Facility Rules shall file a request for arbitration together with the required supporting documents (“Request”) with the Secretary-General and pay the lodging fee published in the schedule of fees.

(2) The Request may be filed by one or more requesting parties, or filed jointly by the parties to the dispute.

Rule 3
Contents of the Request

(1) The Request shall:

(a) be in English, French or Spanish;

(b) identify each party to the dispute and provide their contact information, including electronic mail address, street address and telephone number;

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

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

(e) if the requesting party is a juridical person, state that it has obtained all necessary authorizations to file the Request, and attach the authorizations.

(2) With regard to Article 2(1)(a) of the Additional Facility Rules, the Request shall include:

(a) a description of the investment, a statement of the relevant facts, claims, and request for relief, and an indication that there is a legal dispute between the parties arising out of the investment.

(b) with respect to each party’s consent to submit the dispute to arbitration under the Additional Facility:

(i) the instrument(s) in which each party’s consent is recorded;
(ii) the date of entry into force of the instrument(s) on which consent is based, together with supporting documents demonstrating that date; and

(iii) the date of consent, which is the date on which the parties consented in writing to submit the dispute to the Centre, or, if the parties did not consent on the same date, the date on which the last party to consent gave its consent in writing to submit the dispute to the Centre;

(c) if a party is a natural person:

(i) information concerning that person’s nationality both on the date of consent and on the date of the Request, together with supporting documents demonstrating such nationality; and

(ii) a statement that the person did not have the nationality of the State party to the dispute or of any constituent State of an REIO party to the dispute on the date of consent and on the date of the Request;

(d) if a party is a juridical person:

(i) information concerning that party’s nationality on the date of consent, together with supporting documents demonstrating such nationality; and

(ii) if that party had the nationality of the State party to the dispute or of any constituent State of the REIO party to the dispute on the date of the consent, information identifying the agreement of the parties to treat the juridical person as a national of another State pursuant to Article 1(5)(b) of the Additional Facility Rules, together with supporting documents demonstrating such agreement;

(e) if a party is a constituent subdivision of a State or an agency of a State or of an REIO, supporting documents demonstrating the State’s approval of consent, unless the State or the REIO has notified the Centre that no such approval is required.

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**Rule 4**

**Recommended Additional Information**

It is recommended that the Request also contain:

(a) an estimate of the amount of pecuniary compensation sought, if any;
(b) a proposal concerning the number and method of appointment of arbitrators;

(c) the agreed or proposed seat of arbitration;

(d) the agreed or proposed law applicable to the dispute;

(e) the proposed procedural language(s);

(f) any other procedural proposals; and

(g) any procedural agreements between the parties.

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**Rule 5**  
**Filing of the Request and Supporting Documents**

(1) The Request shall be filed electronically. The Secretary-General may require the Request to be filed in an alternative format if necessary.

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

(3) Any document in a language other than English, French or Spanish shall be accompanied by a translation into one of those languages. Translation of only the relevant part of a document is sufficient. The Secretary-General may require a fuller or a complete translation of the document.

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**Rule 6**  
**Receipt of the Request**

The Secretary-General shall:

(a) promptly acknowledge receipt of the Request to the requesting party;

(b) transmit the Request to the other party upon receipt of the lodging fee; and

(c) act as the official channel of written communications between the parties.
Rule 7
Review and Registration of the Request

(1) Upon receipt of the Request and lodging fee, the Secretary-General shall register the Request if it appears on the basis of the information provided that the Request is not manifestly outside the scope of Article 2(1) of the Additional Facility Rules.

(2) The Secretary-General shall promptly notify the parties of the registration of the Request, or the refusal to register the Request and the grounds for refusal.

Rule 8
Notice of Registration

The notice of registration of the Request shall:

(a) record that the Request is registered and indicate the date of registration;

(b) confirm that all correspondence to the parties in connection with the proceeding will be sent to the contact address appearing on the notice, unless different contact information is indicated to the Centre;

(c) invite the parties to inform the Secretary-General of their agreement regarding the number and method of appointment of arbitrators, unless such information has already been provided;

(d) invite the parties to constitute a Tribunal without delay; and

(e) remind the parties that registration of the Request is without prejudice to the powers and functions of the Tribunal in regard to jurisdiction, competence of the Tribunal, and to the merits.

Rule 9
Withdrawal of the Request

At any time before registration, a requesting party may notify the Secretary-General in writing of the withdrawal of the Request or, if there are several requesting parties, that it is withdrawing from the Request. The Secretary-General shall promptly notify the
Chapter III
Conduct of the Proceeding

Rule 10
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 11
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 12.

(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 12
Routing of Written Communications

(1) Following the registration of the Request pursuant to Rule 7(2), the Secretariat shall be the official channel of written communications among the parties and the Tribunal, 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.

Rule 13
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.

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**Rule 14**

**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.

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**Rule 15**

**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 16
Time Limits Specified by 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 these Rules.

(2) Any step taken by the parties after expiry of a time limit fixed by the Secretary-General or specified by 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 Secretary-General, 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 17
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 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 18
Waiver

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 19
Filling of Gaps

If any question of procedure arises which is not covered by these Rules or by any agreement of the parties, the Tribunal shall decide the question.

Rule 20
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 21
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 (Additional Facility) Administrative and Financial Regulations.

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**Rule 22**  
**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 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 23
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 24
Seat of Arbitration

The seat of arbitration shall be agreed on by the parties or, absent agreement, shall be determined by the Tribunal having regard to the circumstances of the proceeding and after consulting the parties.

Rule 25
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 a place determined by the Tribunal.

(4) Any member of the Tribunal may put questions to the parties and ask for explanations at any time during a hearing.
Rule 26
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 27
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 28
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 29
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 (Additional Facility) Administrative and Financial Regulation 7(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.

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Chapter IV
Constitution of the Tribunal

Rule 30
General Provisions Regarding the Constitution of the Tribunal

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

(2) The majority of the arbitrators on a Tribunal shall be nationals of States other than the State party to the dispute, any constituent State of the REIO 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, any constituent State of the REIO party to the dispute or the State whose national is a party to the dispute without agreement of the other party.
(4) Unless otherwise agreed by the parties, arbitrators appointed by the Secretary-General shall not be nationals of the State party to the dispute, any constituent State of the REIO party to the dispute or the State whose national is a party to the dispute.

(5) 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.

(6) The composition of a Tribunal shall remain unchanged after it has been constituted, except as provided in Chapter V.

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**Rule 31**

**Qualifications of Arbitrators**

Arbitrators shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who are impartial and independent.

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**Rule 32**

**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, 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 33
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 consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the President of the Tribunal, appointed by agreement of the parties.

Rule 34
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 35
Appointment of Arbitrators by the Secretary-General

(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 Secretary-General appoint the arbitrator(s) who have not yet been appointed.

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

(3) The Secretary-General 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 36
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 37
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 38**  
**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, the supporting documents, the notice of registration and communications with the parties to each member.

**Chapter V**  
**Disqualification of Arbitrators and Vacancies**

**Rule 39**  
**Proposal for Disqualification of Arbitrators**

A party may propose the disqualification of one or more arbitrators (“proposal”) on the following grounds:

(a) that the arbitrator was ineligible for appointment to the Tribunal under Rule 30(2), (3) or (4); or

(b) that circumstances exist that give rise to justifiable doubts as to the arbitrator’s qualities required by Rule 31.

(1) 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).

(2) If the other party agrees to the proposal prior to the dispatch of the decision referred to in Rule 40, the arbitrator shall resign in accordance with Rule 42.

(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 40**

**Decision on the Proposal for Disqualification**

(1) The Secretary-General shall take the decision on the proposal.

(2) The decision on any proposal shall be made within 30 days after the expiry of the time limit referred to in Rule 39(2)(e).

**Rule 41**

**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 39 and 40 shall apply.
Rule 42
Resignation

An arbitrator may resign by notifying the Secretary-General and the other members of the Tribunal.

Rule 43
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 Secretary-General shall fill any 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 VI
Initial Procedures

Rule 44
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 (Additional Facility) Administrative and Financial Regulations 7(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 seat of arbitration;

(h) the place of hearings;

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

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

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

(l) the publication of documents and recordings; and

(m) 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.
Rule 45
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 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 46 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 46
Preliminary Objections

(1) The Tribunal shall have the power to rule on its competence. For the purposes of this Rule, an agreement providing for arbitration under the Additional Facility Rules shall be severable from the other terms of the contract in which it may have been included.

(2) A party may file a preliminary objection that the dispute or any ancillary claim is not within the competence of the Tribunal.

(3) 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.

(4) The Tribunal may address a preliminary objection in a separate phase of the proceeding pursuant to Rule 47, 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.

(5) 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.

(6) The Tribunal may at any time on its own initiative consider whether the claim is within its own competence.

(7) the Tribunal shall issue its decision on the preliminary objection within 180 days after the last written or oral submission on the objection.
If the Tribunal decides that the dispute 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 47**

**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 48**

**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 VII

Evidence

Rule 49

Evidence: General Principle

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

Rule 50

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 51
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 52
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 51(1)-(6) and (8) shall apply, with necessary modifications, to the Tribunal-appointed expert.

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**Rule 53**

**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 VIII**

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

**Rule 54**

**Publication of Awards, Orders and Decisions**

(1) The Centre shall publish Awards, 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 redactions, the Centre shall refer the Award, order or decision to the Tribunal to determine any redactions, and shall publish the Award, order or decision with the redactions approved by the Tribunal.
Rule 55  
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 56  
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 57  
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.

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**Rule 58**

**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 57.

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

Rule 59
Provisional Measures

(1) A party may at any time request that the Tribunal order 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 order provisional measures, the Tribunal shall consider all relevant circumstances. The Tribunal shall only order provisional measures if it determines that they are urgent and necessary.
(4) The Tribunal may order provisional measures on its own initiative. The Tribunal may also order 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 ordered 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 interim or conservatory measures. Such a request shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

**Rule 60**

**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 61
Ancillary Claims

(1) Unless the parties agree otherwise, a party may file an incidental or additional claim or a counter-claim (“ancillary claim”), provided that such ancillary claim is within the scope of the agreement of the parties.

(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 62
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 whether the dispute is within its competence before deciding the questions submitted to it and rendering an Award.

Chapter X
Suspension and Discontinuance

Rule 63
Suspension

(1) Except as otherwise provided in the (Additional Facility) 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.

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Rule 64
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) An Award rendered pursuant to paragraph (2)(b) does not need to include the reasons on which it is based.

(4) 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 65**  
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 66**  
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 67**  
Discontinuance for Failure to Pay

If the parties fail to make payments to defray the costs of the proceeding as required by (Additional Facility) Administrative and Financial Regulation 7, the proceeding may be discontinued pursuant to that Regulation.
Chapter XI
The Award

Rule 68
Applicable Law

(1) The Tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Tribunal shall apply:

(a) the law which it determines to be applicable; and

(b) the rules of international law as it considers applicable.

(2) The Tribunal may decide *ex aequo et bono* if the parties have expressly authorized it to do so and if the law applicable to the arbitration so permits.

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Rule 69
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 45(4);

(b) 180 days after the last written or oral submission if the Award is rendered pursuant to Rule 46(8); 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 29(3) shall not be considered a submission for the purposes of calculating the time limits referred to in paragraph (1).

(3) The parties waive any time limits for rendering the Award which may be provided for by the law of the seat of arbitration.
Rule 70
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 these Rules, 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 seat of arbitration, 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 reasons on which the Award is based, unless the parties have agreed that no reasons are to be given; 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 and if allowed by the law of the seat of arbitration.

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

(4) The Award shall be final and binding on the parties.
Rule 71
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) Upon request of the parties that the original text of the Award be filed or registered by the Tribunal pursuant to the law of the seat of arbitration, the Secretary-General shall do so on behalf of the Tribunal.

(3) The Award shall be deemed to have been made at the seat of arbitration and deemed to have been rendered on the date of dispatch.

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

Rule 72
Supplementary Decision, Rectification and Interpretation of an Award

(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 may request a supplementary decision, rectification or interpretation of an Award by filing a request with the Secretary-General within 30 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 in a procedural language used in the proceeding;

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

(i) with respect to a request for a supplementary decision, any question which the Tribunal omitted to decide in the Award;

(ii) with respect to a request for rectification, any clerical, arithmetical or similar error in the Award; and

(iii) with respect to a request for interpretation, the points in dispute concerning the meaning or scope of the Award.

(4) The last date for filing a request under this Rule shall be determined in accordance with Rule 15. A complete request and evidence of payment of the lodging fee must be filed by such date.

(5) 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.

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

(7) 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.

(8) Rules 70-71 shall apply to any decision of the Tribunal pursuant to this Rule.

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

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

Rule 73
Consent of Parties to Expedited Arbitration

(1) The parties to an arbitration conducted under the Additional Facility Rules 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.

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

(a) Rules 45, 47, 48, 52, and 53 do not apply in an expedited arbitration pursuant to this Chapter; and

(b) Rules 36, 40, 44, 46, 50, 62, 69, and 72, as modified by Rules 74-81, apply in an expedited arbitration pursuant to this Chapter.

Rule 74
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 75 or a three-member Tribunal appointed pursuant to Rule 76.

(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.

(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 75.
(4) An appointment under Rules 75-76 shall be deemed an appointment in accordance with a method agreed by the parties.

Rule 75
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 the Sole Arbitrator and shall provide the appointee’s name, nationality(ies) and contact information within 20 days after the notice referred to in Rule 74(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 77;

(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 77; or

(d) the appointee declines the appointment.

(3) The following procedure shall apply to the 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 77; and

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

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**Rule 76**

**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 74(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 77;

(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 77.

(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 77; 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 77;

(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 77; and

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

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**Rule 77**

**Acceptance of Appointment in Expedited Arbitration**

An arbitrator appointed in an expedited arbitration shall accept the appointment and provide a declaration pursuant to Rule 36(3) within 10 days after receipt of the request for acceptance.
Rule 78
First Session in Expedited Arbitration

(1) The Tribunal shall hold a first session pursuant to Rule 44 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.

Rule 79
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 is to be considered the memorial pursuant to Rule 22(2);

(b) the other party shall file a counter-memorial within 60 days after the date of filing of the memorial, or within 60 days after the first session if the requesting party has elected to use the Request as its memorial pursuant to Rule 22(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 50(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 80
Default during Expedited Arbitration

A Tribunal may grant a party in default a grace period not to exceed 30 days pursuant to Rule 62.

Rule 81
The Procedural Schedule for Supplementary Decision, Rectification and Interpretation 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) A request for a supplementary decision, rectification or interpretation of an Award made pursuant to Rule 72 shall be filed within 15 days after the Award was rendered.
(3) The Tribunal shall issue a supplementary decision, rectification or interpretation of an Award pursuant to Rule 72 within 30 days after the last written or oral submission on the request.