

ICSID ADDITIONAL FACILITY CONCILIATION RULES

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INTRODUCTORY NOTE

The ICSID Additional Facility Conciliation Rules were adopted by the Administrative Council of the Centre pursuant to Article 7 of the ICSID Convention and Administrative and Financial Regulation 7.

The ICSID Additional Facility Conciliation Rules are supplemented by the ICSID Additional Facility Administrative and Financial Regulations.

The ICSID Additional Facility Conciliation Rules apply from the submission of a Request for conciliation until termination of the conciliation.

CHAPTER I SCOPE

Rule 1 **Application of Rules**

- (1) These Rules shall apply to any conciliation proceeding conducted pursuant to the ICSID Additional Facility Rules.
- (2) The parties may agree to modify the application of any of these Rules other than Rules 1-9.
- (3) If any of these Rules, or any agreement pursuant to paragraph (2), conflicts with a provision of law from which the parties cannot derogate, that provision shall prevail.
- (4) The applicable ICSID Additional Facility Conciliation Rules are those in force on the date of filing the request for conciliation, unless the parties agree otherwise.

CHAPTER II INSTITUTION OF PROCEEDINGS

Rule 2 **The Request**

- (1) Any party wishing to institute conciliation proceedings pursuant to the ICSID Additional Facility Rules shall file a request for conciliation 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 its 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 any representative's authority to act; and
 - (e) if the requesting party is a juridical person, state that it has obtained all necessary internal authorizations to file the Request and attach the authorizations.
- (2) The Request shall include:
 - (a) a description of the investment and of its ownership and control, a summary of the relevant facts and claims, the request for relief, including an estimate of the amount of any damages sought, 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 conciliation pursuant to the ICSID Additional Facility Rules:
 - (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;
 - (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; and
 - (iv) an indication that the requesting party has complied with any condition for submission of the dispute in the instrument of consent;

- (c) if a party is a natural person:
 - (i) information concerning that person's nationality on the date of consent, together with supporting documents demonstrating such nationality; and
 - (ii) a statement that the person is a national of a State other than the State party to the dispute or other than any constituent State of the REIO party to the dispute on the date of consent;
- (d) if a party is a juridical person:
 - (i) information concerning and supporting documents demonstrating that party's nationality on the date of consent; 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 consent, information concerning and supporting documents demonstrating the agreement of the parties to treat the juridical person as a national of another State pursuant to Article 1(5)(b) of the ICSID Additional Facility Rules;
- (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 approval of consent of the State or the REIO, unless the State or the REIO has notified the Centre that no such approval is required.

Rule 4

Recommended Additional Information

It is recommended that the Request:

- (a) contain any procedural proposals or agreements reached by the parties, including with respect to the number and method of appointment of conciliators and the procedural language(s); and
- (b) include the names of the persons and entities that own or control a requesting party which is a juridical person.

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 document may be filed as a supporting document if the extract is not misleading. The Secretary-General may require a fuller extract or a complete version of the document.
- (3) The Secretary-General may require a certified copy of a supporting document.
- (4) 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, provided that the Secretary-General may require a fuller or a complete translation of the document.

Rule 6

Receipt of the Request and Routing of Written Communications

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 ICSID 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 conciliators, unless such information has already been provided, and to constitute a Commission without delay;
- (d) remind the parties that registration of the Request is without prejudice to the powers and functions of the Commission in regard to jurisdiction and competence of the Commission, and the issues in dispute; and
- (e) remind the parties to make the disclosure required by Rule 21.

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 is more than one requesting party, that it is withdrawing from the Request. The Secretary-General shall promptly notify the parties of the withdrawal, unless the Request has not yet been transmitted pursuant to Rule 6(b).

CHAPTER III

GENERAL PROVISIONS

Rule 10

Party and Party Representative

- (1) For the purposes of these Rules, "party" includes all parties acting as claimant or as respondent.
- (2) Each party may be represented or assisted by agents, counsel, advocates or other advisors, whose names and proof of authority to act shall be promptly notified by that party to the Secretary-General ("representative(s)").

Rule 11

Method of Filing

- (1) A document to be filed in the proceeding shall be filed with the Secretary-General, who shall acknowledge its receipt.
- (2) Documents shall be filed electronically. In special circumstances, the Commission may order that documents also be filed in a different format.

Rule 12

Supporting Documents

- (1) Supporting documents shall be filed together with the written statement, request, observations or communication to which they relate.
- (2) An extract of a document may be filed as a supporting document if the extract is not misleading. The Commission or a party may require a fuller extract or a complete version of the document.

Rule 13

Routing of Documents

Following the registration of the Request pursuant to Rule 7, the Secretary-General shall transmit a document filed in the proceeding to:

- (a) the other party, unless the parties communicate directly with each other; and
- (b) the Commission, unless the parties communicate directly with the Commission on request of the Commission or by agreement of the parties.

Rule 14

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 Commission and the Secretary-General regarding the use of a language that is not an official language of the Centre. If the parties do not agree on the procedural language(s), each party may select one of the official languages of the Centre.

- (2) In a proceeding with one procedural language:
 - (a) documents shall be filed and meetings shall be conducted in that procedural language;
 - (b) documents in another language shall be accompanied by a translation into that procedural language; and
 - (c) oral statements in another language shall be interpreted into that procedural language.
- (3) In a proceeding with two procedural languages:
 - (a) documents may be filed and meetings may be conducted in either procedural language, unless the Commission orders that a document be filed in both procedural languages or that a meeting be conducted with interpretation into both procedural languages;
 - (b) documents in another language shall be accompanied by a translation into either procedural language, unless the Commission orders translation into both procedural languages;
 - (c) oral statements in another language shall be interpreted into either procedural language, unless the Commission orders interpretation into both procedural languages;
 - (d) the Commission and the Secretary-General may communicate in either procedural language; and
 - (e) all orders, decisions, recommendations and the Report shall be rendered in both procedural languages, unless the parties agree otherwise.
- (4) Translation of only the relevant part of a supporting document is sufficient, unless the Commission orders a party to provide a fuller or a complete translation. If the translation is disputed, the Commission may order a party to provide a certified translation.

Rule 15

Calculation of Time Limits

Time limits referred to in these Rules shall be calculated from the day after the date on which the procedural step starting the period is taken, based on the time at the seat of the Centre. A time limit shall be satisfied if a procedural step is taken on the relevant date, or on the subsequent business day if the date falls on a Saturday or Sunday.

Rule 16

Costs of the Proceeding

Unless the parties agree otherwise:

- (a) the fees and expenses of the Commission and the administrative charges and direct costs of the Centre shall be borne equally by the parties; and
- (b) each party shall bear any other costs it incurs in connection with the proceeding.

Rule 17

Confidentiality of the Conciliation

All information relating to the conciliation, and all documents generated in or obtained during the conciliation, shall be confidential, unless:

- (a) the parties agree otherwise;
- (b) the information is to be published by the Centre pursuant to ICSID Additional Facility Administrative and Financial Regulation 3;
- (c) the information or document is independently available; or
- (d) disclosure is required by law.

Rule 18

Use of Information in Other Proceedings

Unless the parties to the dispute agree otherwise, a party shall not rely on any of the following in other proceedings:

- (a) views expressed, statements, admissions, offers of settlement or positions taken by the other party in the conciliation; or
- (b) the Report, order, decision or any recommendation made by the Commission in the conciliation.

CHAPTER IV

ESTABLISHMENT OF THE COMMISSION

Rule 19 **General Provisions, Number of Conciliators** **and Method of Constitution**

- (1) The Commission shall be constituted without delay after registration of the Request.
- (2) The number of conciliators and the method of their appointment must be determined before the Secretary-General can act on any appointment proposed by a party.
- (3) The parties shall endeavor to agree on a Sole Conciliator or any uneven number of conciliators and the method of their appointment. If the parties do not advise the Secretary-General of an agreement within 45 days after the date of registration, either party may inform the Secretary-General that the Commission shall consist of a Sole Conciliator, appointed by agreement of the parties.
- (4) The composition of a Commission shall remain unchanged after it has been constituted, except as provided in Chapter V.
- (5) References in these Rules to a Commission or a President of a Commission shall include a Sole Conciliator.

Rule 20 **Qualifications of Conciliators**

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

Rule 21 **Notice of Third-Party Funding**

- (1) A party shall file a written notice disclosing the name and address of any non-party from which the party, directly or indirectly, has received funds for the conciliation through a donation or grant, or in return for remuneration dependent on the outcome of the conciliation ("third-party funding"). If the non-party providing funding is a juridical person, the notice shall include the names of the persons and entities that own and control that juridical person.

- (2) A party shall file the notice referred to in paragraph (1) with the Secretary-General upon registration of the Request, or immediately upon concluding a third-party funding arrangement after registration. The party shall immediately notify the Secretary-General of any changes to the information in the notice.
- (3) The Secretary-General shall transmit the notice of third-party funding and any notification of changes to the information in such notice to the parties, and to any conciliator proposed for appointment or appointed in a proceeding for purposes of completing the conciliator declaration required by Rule 24(3)(b).
- (4) The Commission may request further information regarding the funding agreement and the non-party providing funding pursuant to Rule 32(4)(a).

Rule 22

Assistance of the Secretary-General with Appointment

The parties may jointly request that the Secretary-General assist with the appointment of the Sole Conciliator or any uneven number of conciliators.

Rule 23

Appointment of Conciliators by the Secretary-General

- (1) If a Commission 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 conciliator(s) who have not yet been appointed.
- (2) The Secretary-General shall appoint the President of the Commission 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 a conciliator and shall use best efforts to appoint any conciliator(s) within 30 days after receipt of the request to appoint.

Rule 24

Acceptance of Appointment

- (1) A party appointing a conciliator shall notify the Secretary-General of the appointment and provide the appointee's name, nationality and contact information.

- (2) Upon receipt of a notification pursuant to paragraph (1), the Secretary-General shall request an acceptance from the appointee and shall transmit to the appointee the information received from the parties relevant to completion of the declaration referred to in paragraph (3)(b).
- (3) Within 20 days after receipt of the request for acceptance of an appointment, the appointee shall:
 - (a) accept the appointment; and
 - (b) provide a signed declaration in the form published by the Centre, addressing matters including the conciliator's independence, impartiality, availability and commitment to maintain the confidentiality of the proceeding.
- (4) The Secretary-General shall notify the parties of the acceptance of appointment by each conciliator and transmit the signed declaration to them.
- (5) The Secretary-General shall notify the parties if a conciliator 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 conciliator in accordance with the method followed for the previous appointment.
- (6) Each conciliator shall have a continuing obligation promptly to disclose any change of circumstances relevant to the declaration referred to in paragraph (3)(b).
- (7) Unless the parties and the conciliator agree otherwise, a conciliator may not act as arbitrator, counsel, expert, judge, mediator, witness or in any other capacity in any proceeding relating to the dispute that is the subject of the conciliation.

Rule 25

Replacement of Conciliators Prior to Constitution of the Commission

- (1) At any time before the Commission is constituted:
 - (a) a conciliator may withdraw an acceptance;
 - (b) a party may replace a conciliator whom it appointed; or
 - (c) the parties may agree to replace any conciliator.
- (2) A replacement conciliator shall be appointed as soon as possible, in accordance with the method by which the withdrawing or replaced conciliator was appointed.

Rule 26

Constitution of the Commission

- (1) The Commission shall be deemed to be constituted on the date the Secretary-General notifies the parties that each conciliator has accepted the appointment and signed the declaration required by Rule 24(3)(b).
- (2) As soon as the Commission is constituted, the Secretary-General shall transmit the Request, the supporting documents, the notice of registration and communications with the parties to each conciliator.

CHAPTER V

DISQUALIFICATION OF CONCILIATORS AND VACANCIES

Rule 27

Proposal for Disqualification of Conciliators

- (1) A party may file a proposal to disqualify one or more conciliators ("proposal") on the ground that circumstances exist that give rise to justifiable doubts as to the qualities of the conciliator required by Rule 20.
- (2) The following procedure shall apply:
 - (a) the proposal shall be filed after the constitution of the Commission and within 21 days after the later of:
 - (i) the constitution of the Commission; or
 - (ii) the date on which the party proposing the disqualification first knew or first should have known of the facts upon which the proposal is based;
 - (b) the proposal shall include the grounds on which it is based, a statement of the relevant facts, law and arguments, and any supporting documents;
 - (c) the other party shall file its response and any supporting documents within 21 days after receipt of the proposal;
 - (d) the conciliator to whom the proposal relates may file a statement that is limited to factual information relevant to the proposal. The statement shall be filed within five days after the earlier of receipt of the response or expiry of the time limit referred to in paragraph (2)(c); and

- (e) each party may file a final written submission on the proposal within seven days after the earlier of receipt of the statement or expiry of the time limit referred to in paragraph (2)(d).
- (3) If the other party agrees to the proposal prior to the dispatch of the decision referred to in Rule 28, the conciliator shall resign in accordance with Rule 30.
- (4) The proceeding shall be suspended upon the filing of the proposal until a decision on the proposal has been made, except to the extent that the parties agree to continue the proceeding.

Rule 28

Decision on the Proposal for Disqualification

- (1) The Secretary-General shall make the decision on the proposal.
- (2) The Secretary-General shall use best efforts to decide any proposal within 30 days after the expiry of the time limit referred to in Rule 27(2)(e).

Rule 29

Incapacity or Failure to Perform Duties

If a conciliator becomes incapacitated or fails to perform the duties required of a conciliator, the procedure in Rules 27 and 28 shall apply.

Rule 30

Resignation

- (1) A conciliator may resign by notifying the Secretary-General and the other members of the Commission.
- (2) A conciliator shall resign upon the joint request of the parties.

Rule 31

Vacancy on the Commission

- (1) The Secretary-General shall notify the parties of any vacancy on the Commission.
- (2) The proceeding shall be suspended from the date of notice of the vacancy until the vacancy is filled.

- (3) A vacancy on the Commission 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 Commission has been reconstituted, the conciliation shall continue from the point it had reached at the time the vacancy was notified.

CHAPTER VI

CONDUCT OF THE CONCILIATION

Rule 32

Functions of the Commission

- (1) The Commission shall clarify the issues in dispute and assist the parties in reaching a mutually acceptable resolution of all or part of the dispute.
- (2) In order to bring about agreement between the parties, the Commission may, at any stage of the proceeding, after consulting with the parties, recommend:
 - (a) specific terms of settlement to the parties; or
 - (b) that the parties refrain from taking specific action that might aggravate the dispute while the conciliation is ongoing.
- (3) Recommendations may be made orally or in writing. Either party may request that the Commission provide reasons for any recommendation. The Commission may invite each party to provide observations concerning any recommendation made.
- (4) At any stage of the proceeding, the Commission may:
 - (a) request explanations, documents or other information from either party or other persons;
 - (b) communicate with the parties jointly or separately; or
 - (c) visit any place connected with the dispute or conduct inquiries with the agreement and participation of the parties.

Rule 33

General Duties of the Commission

- (1) The Commission shall conduct the proceeding in good faith and in an expeditious and cost-effective manner.

- (2) The Commission shall treat the parties equally and provide each party with a reasonable opportunity to appear and participate in the proceeding.

Rule 34

Orders, Decisions and Agreements

- (1) The Commission shall make the orders and decisions required for the conduct of the conciliation.
- (2) The Commission shall make decisions by a majority of the votes of all its members. Abstentions shall count as a negative vote.
- (3) Orders and decisions may be made by any appropriate means of communication and may be signed by the President on behalf of the Commission.
- (4) The Commission shall apply any agreement of the parties on procedural matters, subject to Rule 1(3), and to the extent that the agreement does not conflict with the ICSID Additional Facility Administrative and Financial Regulations.

Rule 35

Quorum

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

Rule 36

Deliberations

- (1) The deliberations of the Commission shall take place in private and remain confidential.
- (2) The Commission may deliberate at any place and by any means it considers appropriate.
- (3) The Commission may be assisted by the Secretary of the Commission at its deliberations. No other person shall assist the Commission at its deliberations, unless the Commission decides otherwise and notifies the parties.

Rule 37

Cooperation of the Parties

- (1) The parties shall cooperate with the Commission and with one another, and shall conduct the conciliation in good faith and in an expeditious and cost-effective manner.
- (2) At the request of the Commission, the parties shall provide all relevant explanations, documents or other information. They shall facilitate visits to any place connected with the dispute in accordance with Rule 32(4)(c) and use best efforts to facilitate the participation of other persons as requested by the Commission.
- (3) The parties shall comply with any time limit agreed upon or fixed by the Commission.
- (4) The parties shall give their most serious consideration to the Commission's recommendations.

Rule 38

Written Statements

- (1) Each party shall simultaneously file a brief, initial written statement describing the issues in dispute and its views on these issues 30 days after the constitution of the Commission, or on such other date as the Commission may fix in consultation with the parties, and in any event before the first session.
- (2) Either party may file further written statements at any stage of the conciliation within the time limits fixed by the Commission.

Rule 39

First Session

- (1) The Commission shall hold a first session with the parties to address the procedure, including the matters listed in paragraph (4).
- (2) The first session may be held in person or remotely, by any means that the Commission deems appropriate. The agenda, method and date of the first session shall be determined by the Commission after consulting with the parties.
- (3) The first session shall be held within 60 days after the constitution of the Commission or such other period as the parties may agree.

- (4) Before the first session, the Commission shall invite the parties' views on procedural matters, including:
- (a) the applicable conciliation rules;
 - (b) the division of advances payable pursuant to ICSID Additional Facility Administrative and Financial Regulation 7;
 - (c) the procedural language(s), translation and interpretation;
 - (d) the method of filing and routing of documents;
 - (e) a schedule for further written statements and meetings;
 - (f) the place of meetings between the Commission and the parties and whether a meeting will be held in person or remotely;
 - (g) the manner of recording or keeping minutes of meetings, if any;
 - (h) the treatment of information relating to, and documents generated in or obtained during, the proceeding;
 - (i) any agreement between the parties:
 - (i) concerning the treatment of information disclosed by one party to the Commission by way of separate communication pursuant to Rule 32(4)(b);
 - (ii) not to initiate or pursue any other proceeding in respect of the dispute during the conciliation;
 - (iii) concerning the application of prescription or limitation periods;
 - (iv) concerning the disclosure of any settlement agreement resulting from the conciliation; and
 - (v) pursuant to Rule 18; and
 - (j) any other procedural matter raised by either party or the Commission.
- (5) At the first session or within any other period determined by the Commission, each party shall:
- (a) identify a person or entity authorized to negotiate and settle the dispute on its behalf; and
 - (b) describe the process that would be followed to conclude and implement a settlement agreement.
- (6) The Commission shall issue summary minutes recording the parties' agreements and the Commission's decisions on the procedure within 15 days after the later of the first session or the last written statement on procedural matters addressed at the first session.

Rule 40

Meetings

- (1) The Commission may meet with the parties jointly or separately.
- (2) The Commission shall determine the date, time and method of holding meetings, after consulting with the parties.
- (3) A meeting in person may be held at any place agreed to by the parties after consulting with the Commission and the Secretary-General. If the parties do not agree on the place of a meeting, it shall be held at a place determined by the Commission.
- (4) Meetings shall remain confidential. The parties may agree to observation of meetings by persons in addition to the parties and the Commission.

Rule 41

Preliminary Objections

- (1) A party may file a preliminary objection that the dispute is not within the jurisdiction or competence of the Commission ("preliminary objection").
- (2) A party shall notify the Commission and the other party of its intent to file a preliminary objection as soon as possible. The objection shall be made no later than the date of the initial written statement referred to in Rule 38(1), unless the facts on which the objection is based are unknown to the party at the relevant time.
- (3) The Commission may address a preliminary objection separately or with other issues in dispute. If the Commission decides to address the objection separately, it may suspend the conciliation on the other issues in dispute to the extent necessary to address the objection.
- (4) The Commission may at any time on its own initiative consider whether the dispute is within its own jurisdiction or competence.
- (5) If the Commission decides that the dispute is not within its jurisdiction or competence, it shall issue a reasoned Report to that effect. Otherwise, the Commission shall issue a reasoned decision on the preliminary objection and fix any time limit necessary for the further conduct of the conciliation.

CHAPTER VII

TERMINATION OF THE CONCILIATION

Rule 42 **Discontinuance Prior to the** **Constitution of the Commission**

- (1) If the parties notify the Secretary-General prior to the constitution of the Commission that they have agreed to discontinue the proceeding, the Secretary-General shall issue an order taking note of the discontinuance.
- (2) If a party requests the discontinuance of the proceeding prior to the constitution of the Commission, the Secretary-General 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 Secretary-General 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.
- (3) If, prior to the constitution of the Commission, the parties fail to take any steps in the proceeding for more than 150 consecutive days, the Secretary-General shall notify them of the time elapsed since the last step taken in the proceeding. If the parties fail to take a step within 30 days after the notice, they shall be deemed to have discontinued the proceeding and the Secretary-General shall issue an order taking note of the discontinuance. If either party takes a step within 30 days after the Secretary-General's notice, the proceeding shall continue.

Rule 43 **Report Noting the Parties' Agreement**

- (1) If the parties reach agreement on some or all of the issues in dispute, the Commission shall issue its Report noting the issues in dispute and recording the issues upon which the parties have agreed.
- (2) The parties may provide the Commission with the complete and signed text of their settlement agreement and may request that the Commission embody such settlement in the Report.

Rule 44

Report Noting the Failure of the Parties to Reach Agreement

At any stage of the proceeding, and after notice to the parties, the Commission shall issue its Report noting the issues in dispute and recording that the parties have not reached agreement on the issues in dispute during the conciliation if:

- (a) it appears to the Commission that there is no likelihood of agreement between the parties; or
- (b) the parties advise the Commission that they have agreed to discontinue the conciliation.

Rule 45

Report Recording the Failure of a Party to Appear or Participate

If one party fails to appear or participate in the proceeding, the Commission shall, after notice to the parties, issue its Report noting the submission of the dispute to conciliation and recording the failure of that party to appear or participate.

Rule 46

The Report

- (1) The Report shall be in writing and shall contain, in addition to the information specified in Rules 43-45:
 - (a) a precise designation of each party;
 - (b) the names of the representatives of the parties;
 - (c) a statement that the Commission was established pursuant to these Rules and a description of the method of its constitution;
 - (d) the name of each member of the Commission and of the appointing authority of each;
 - (e) the date and place of the first session and the meetings of the Commission with the parties;
 - (f) a brief summary of the proceeding;
 - (g) the complete and signed text of the parties' settlement agreement if requested by the parties pursuant to Rule 43(2);

- (h) a statement of the costs of the proceeding, including the fees and expenses of each member of the Commission and the costs to be paid by each party pursuant to Rule 16; and
 - (i) any agreement of the parties pursuant to Rule 18.
- (2) The Report shall be signed by the members of the Commission. It may be signed by electronic means if the parties agree. If a member does not sign the Report, such fact shall be recorded.

Rule 47

Issuance of the Report

- (1) Once the Report has been signed by the members of the Commission, the Secretary-General shall promptly:
- (a) dispatch a certified copy of the Report to each party, indicating the date of dispatch on the Report; and
 - (b) deposit the Report in the archives of the Centre.
- (2) The Secretary-General shall provide additional certified copies of the Report to a party upon request.