

**COMMENTS ON WORKING PAPER # 3**

<b>STATE:</b>	<b>COSTA RICA</b>
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<b>GENERAL</b>	<b>COMMENT</b>
Process, Timing & Effective Date for Adoption of Proposals	No comment.
Approach to gender neutral language in Spanish/French	No comment.
Other:	No comment.

I. ADMINISTRATIVE AND FINANCIAL REGULATIONS FOR ICSID CONVENTION PROCEEDINGS	COMMENT ON PROVISION
Introductory Note	
Chapter I - Procedures of the Administrative Council	
Regulation 1 - Date and Place of the Annual Meeting	No comment.
Regulation 2 - Notice of Meetings	No comment.
Regulation 3 - Agenda for Meetings	No comment.
Regulation 4 - Presiding Officer	No comment.
Regulation 5 - Secretary of the Council	No comment.
Regulation 6 - Attendance at Meetings	No comment.
Regulation 7 - Voting	No comment.
Chapter II - The Secretariat	
Regulation 8 - Election of the Secretary-General and Deputy Secretaries-General	No comment.
Regulation 9 - Acting Secretary-General	No comment.
Regulation 10 - Appointment of Staff Members	No comment.
Regulation 11 - Conditions of Employment	No comment.
Regulation 12 - Authority of the Secretary-General	No comment.
Regulation 13 - Incompatibility of Functions	No comment.
Chapter III - Financial Provisions	
Regulation 14 - Fees, Allowances and Charges	No comment.
Regulation 15 - Payments to the Centre	No comment.
Regulation 16 - Consequences of Default in Payment	Costa Rica appreciates ICSID's comment on WP3 regarding the internal budgeting processes. Even though a solution is offered, Costa Rica considers that the Memorandum in Schedule 2 does not reflect that understanding. Therefore, Costa Rica proposes a modification to Schedule 2 that clarifies that parties can arrange to receive advance notice that a call for funds would be made.
Regulation 17 - Special Services	No comment.
Regulation 18 - Fee for Lodging Requests	No comment.
Regulation 19 - The Budget	No comment.
Regulation 20 - Assessment of Contributions	No comment.
Regulation 21 - Audits	No comment.
Regulation 22 - Administration of Proceedings	No comment.
Chapter IV - General Functions of the Secretariat	

Regulation 23 - List of Contracting States	No comment.
Regulation 24 - Panels of Conciliators and of Arbitrators	No comment.
Regulation 25 - Publication	<p>Costa Rica shares the objective of enhancing transparency through the Administrative and Financial Regulations, and more generally, in the arbitration process. Consequently, Costa Rica considers that publishing the award (allowing for redaction when required) should be mandatory. Given the specific characteristics of ISDS and the fact that public interests are involved, this would be a very relevant step towards promoting greater transparency.</p> <p>Costa Rica also suggests mentioning in the rule the specific documents that should be published for greater certainty as to the coverage of this rule. In its view, the documents to be included should be the ones that provide value to external observers in terms of accountability, and not all documents. In Costa Rica's experience, it has been observed that some documents are merely procedural, and their publication could negatively affect the proceedings' good governance and may create greater confusion if taken out of context. Costa Rica suggests an alternative drafting below for consideration, listing the main documents, which in any case, contain the relevant substantive and procedural information.</p> <p><b>Regulation 25 Publication</b>  With a view to furthering the development of international law in relation to investment, the Centre shall publish:  (a) information about the operation of the Centre; and  (b) <del>documents generated in proceedings, in accordance with the rules applicable to the individual proceeding</del> the following documents generated in proceedings: request for arbitration, memorial, counter-memorial, reply, rejoinder, decisions on jurisdiction, awards and decisions on interpretation, revision and annulment.</p>
Regulation 26 - The Registers	No comment.
Regulation 27 - Communications with Contracting States	No comment.
Regulation 28 - Secretary	No comment.
Regulation 29 - Depositary Functions	No comment.
Chapter V - Immunities and Privileges	
Regulation 30 - Certificates of Official Travel	No comment.
Regulation 31 - Waiver of Immunities	No comment.
Chapter VI - Official Languages	
Regulation 32 - Languages of Regulations	No comment.

II. INSTITUTION RULES FOR ICSID CONVENTION PROCEEDINGS	COMMENT ON PROVISION
Introductory Note	
Rule 1 - The Request	No comment.
Rule 2 - Contents of the Request	<p>Costa Rica considers that this article could be reduced to only one chapeau containing a list of requirements to be submitted with the Request for Arbitration. The different elements could serve for different purposes other than establishing the jurisdiction of the Centre.</p> <p>Alongside the requirements already included in Rule 2, it is also important for the Request to include a description of the corporate structure of the investment and the investor. There is no stage, either before or during the arbitration, where it is mandatory for claimants to reveal this information. This information is relevant for the preparation of the case at different stages. For example, in the jurisdictional phase this information is relevant when the treaty has limitations to shareholders claims and to determine if the claimant complies with the definition of an investor. Later on, this information can be used if the respondent state requests security for cost, and at the end of the arbitration if the state is granted with the cost of the proceeding.</p> <p>As other delegations have also explained, it is important to address two situations: (i) confirm that the claimant complies with the definition of investor and (ii) to obtain knowledge on features of the claimant's corporate structure that might affect the case.</p> <p>(2) The Request shall include:</p> <p>(a) a description of the investment, a description of the investor's ownership and control of the investment, 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 directly out of the investment;</p> <p>....</p> <p>(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; (ii) information concerning the shareholding and corporate structure of the party; and (iii) if that party had the nationality of the Contracting State party to the dispute on the date of consent, information identifying the agreement of the parties to treat the juridical person as a national of another Contracting State pursuant to Article 25(2)(b) of the Convention, together with supporting documents demonstrating such agreement.</p>
Rule 3 - Recommended Additional Information	No comment.

Rule 4 - Filing of the Request and Supporting Documents	No comment.
Rule 5 - Receipt of the Request and Routing of Written Communications	No comment.
Rule 6 - Review and Registration of the Request	No comment.
Rule 7 - Notice of Registration	No comment.
Rule 8 - Withdrawal of the Request	No comment.
Rule 9 - Final Provisions	No comment.

III. ARBITRATION RULES FOR ICSID CONVENTION PROCEEDINGS	COMMENT ON PROVISION
Introductory Note	
Chapter I - General Provisions	
Rule 1 - Application of Rules	No comment.
Rule 2 - General Duties	No comment.
Rule 3 - Party and Party Representative	No comment.
Rule 4 - Method of Filing	No comment.
Rule 5 - Supporting Documents	<p>Costa Rica welcomes the addition of paragraph three because it will provide security to the proceeding, in cases when the authenticity of a supporting document is questioned. For greater certainty, Costa Rica suggests to also clarify that the certification relates to the legislation of the jurisdiction in which it was issued, since an eventual misunderstanding of the Rule could lead to higher costs and duration to the proceeding.</p> <p><b>Rule 5 Supporting Documents</b></p> <p>(1) Supporting documents, including witness statements, expert reports, exhibits and legal authorities, shall be filed together with the request, written submission, observations or communication to which they relate.</p> <p>(2) An extract of a document may be filed as a supporting document if the extract is not misleading. The Tribunal or a party may require a fuller extract or a complete version of the document.</p> <p>(3) If the authenticity of a supporting document is disputed, the Tribunal may order a party to provide a certified copy <b>according to the legislation of the jurisdiction where the document was issued</b> or to make the original available for examination.</p>
Rule 6 - Routing of Documents	No comment.
Rule 7 - Procedural Languages, Translation and Interpretation	No comment.

Rule 8 - Correction of Errors	No comment.
Rule 9 - Calculation of Time Limits	No comment.
Rule 10 - Fixing Time Limits	No comment.
Rule 11 - Extension of Time Limits Applicable to Parties	No comment.
Rule 12 - Time Limits Applicable to the Tribunal	<p>In the interest of certainty and considering that the objective of this process is to reduce the duration of the proceedings, we suggest to include an obligation in paragraph one that can guide the expectations of the parties and paragraph two contains the exception, which provides flexibility to the tribunals, when needed.</p> <p><b>Rule 12. Time Limits Applicable to the Tribunal</b>  (1) The Tribunal shall <del>use best efforts to</del> meet time limits to render orders, decisions and the Award.  (2) If the Tribunal cannot comply with an applicable time limit, it shall advise the parties of special circumstances that justify the delay and the date when it anticipates rendering the order, decision or Award.</p>
Chapter II - Constitution of the Tribunal	
Rule 13 - General Provisions Regarding the Constitution of the Tribunal	No comment.
Rule 14 - Notice of Third-Party Funding	<p>Costa Rica appreciates ICSID's efforts to strengthen transparency in arbitration through the disclosure of third-party funding (TPF). However, after the last two meetings it has become evident to Costa Rica that this provision merits further examination beyond the effects in the constitution of the Tribunal and the potential conflict of interest.</p> <p>While Costa Rica is flexible with regard to the language and is able to withdraw its previous proposal, it hereby proposes three modifications to reflect the fundamental conditions that, in its view, this article must contain. These are: granting powers to the Tribunal to request further information on third-party funding once the party has disclosed that it has a funder; the need for this information to include corporate structure and the powers to consider such information when deciding on security for cost and on cost.</p> <p>The rationale behind this is that, in Costa Rica's view this discussion should necessarily consider the following objectives: support a request for security for costs, refrain from becoming an obstacle to reach amicable solutions or submitting counterclaims, and foster transparency in general.</p> <p>Also, Costa Rica suggests to delete paragraph (2) so as not to limit the range of situations new developments of new methods of funding.</p>

	<p style="text-align: center;"><b>Rule 14</b> <b>Notice of Third-Party Funding</b></p> <p>(1) A party shall file a written notice disclosing the name, <a href="#">address and, where applicable, shareholding and corporate structure</a> of any non-party from which the party, its affiliate or its representative has, <a href="#">directly or indirectly</a>, received funds for the pursuit or defense of the proceeding through a donation or grant, or in return for remuneration dependent on the outcome of the dispute (“third-party funding”).</p> <p><del>(2) A non-party referred to in paragraph (1) does not include a representative of a party.</del></p> <p>(3) A party shall file the notice referred to in paragraph (1) with the Secretary-General upon registration of the Request for arbitration, 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.</p> <p>(4) The Secretary-General shall transmit the notice of third-party funding and any changes to such notice to the parties and to any arbitrator proposed for appointment or appointed in a proceeding for purposes of completing the arbitrator declaration required by Rule 19(3)(b).</p> <p><a href="#">(5) The Tribunal may order disclosure of further information related to the funding agreement.</a></p> <p><a href="#">(6) The Tribunal may, in its decisions on security for cost and on costs, take into account the information provided on third party funding.</a></p>
Rule 15 - Method of Constituting the Tribunal	No comment.
Rule 16 - Appointment of Arbitrators to a Tribunal Constituted in Accordance with Article 37(2)(b) of the Convention	No comment.
Rule 17 - Assistance of the Secretary-General with Appointment	No comment.
Rule 18 - Appointment of Arbitrators by the Chair in accordance with Article 38 of the Convention	No comment.
Rule 19 - Acceptance of Appointment	As already suggested, Costa Rica considers that this provision should mention a possible Code of Conduct that should be attached to the Arbitrator Declaration in Schedule 2.
Rule 20 - Replacement of Arbitrators Prior to Constitution of the Tribunal	No comment.

Rule 21 - Constitution of the Tribunal	No comment.
Chapter III - Disqualification of Arbitrators and Vacancies	
Rule 22 - Proposal for Disqualification of Arbitrators	<p>Costa Rica appreciates ICSID's efforts of increasing the time limit to file a proposal for disqualification. However, Costa Rica shares the view expressed by several members during November session, regarding the seven-day period indicated in paragraph (1)(ii)(e). A seven-day period to respond to the arbitrator's statement is too short. Due to the nature of the disqualification, States may require internal consultations and request legal opinions from external counsel before drafting an official position.</p> <p>Regarding paragraph 2 of WP3, Costa Rica would like to reiterate the importance of maintaining the suspension of the proceeding until a decision on the disqualification is made. The suspension is an important element to protect the legitimacy of the arbitration and to prevent any biased decision.</p>
Rule 23 - Decision on the Proposal for Disqualification	No comment.
Rule 24 - Incapacity or Failure to Perform Duties	No comment.
Rule 25 - Resignation	No comment.
Rule 26 - Vacancy on the Tribunal	No comment.
Chapter IV - Conduct of the Proceeding	
Rule 27 - Orders and Decisions	No comment.
Rule 28 - Waiver	No comment.
Rule 29 - First Session	No comment.
Rule 30 - Written Submissions	<p>Costa Rica appreciates ICSID's comments on Rule 30, and proposes the following adjustment to reflect that this provision does not limit any arguments that are based on new documents or fact:</p> <p><b>Rule 30 Written Submissions</b></p> <p>(1) The parties shall file the following written submissions:</p> <p>(a) a memorial by the requesting party;</p> <p>(b) a counter-memorial by the other party;</p> <p>and, unless the parties agree otherwise:</p> <p>(c) a reply by the requesting party; and</p> <p>(d) a rejoinder by the other party.</p> <p>(2) 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</p>

	<p>to the previous written submission. <b>This provision does not limit arguments based on new documents or newly discovered facts occurring after a party's first written submission.</b></p> <p>(3) A party may file unscheduled written submissions, observations or supporting documents only after obtaining leave of the Tribunal, unless the filing of such documents is provided for by the Convention or these Rules. The Tribunal may grant such leave upon a timely and reasoned application if it finds such written submissions, observations or supporting documents are necessary in view of all relevant circumstances.</p>
Rule 31 - Case Management Conference	No comment.
Rule 32 - Hearings	No comment.
Rule 33 - Quorum	No comment.
Rule 34 - Deliberations	No comment.
Rule 35 - Decisions Made by Majority Vote	No comment.
Chapter V - Evidence	
Rule 36 - Evidence: General Principles	No comment.
Rule 37 - Disputes Arising from Requests for Documents	No comment.
Rule 38 - Witnesses and Experts	No comment.
Rule 39 - Tribunal-Appointed Experts	No comment.
Rule 40 - Visits and Inquiries	No comment.
Chapter VI - Special Procedures	
Rule 41 - Manifest Lack of Legal Merit	No comment.
Rule 42 - Bifurcation	No comment.
Rule 43 - Preliminary Objections	No comment.
Rule 44 - Bifurcation of Preliminary Objections	No comment.
Rule 45 - Consolidation or Coordination of Arbitrations	No comment.
Rule 46 - Provisional Measures	No comment.
Rule 47 - Ancillary Claims	No comment.
Rule 48 - Default	No comment.
Chapter VII - Costs	
Rule 49 - Costs of the Proceeding	No comment.
Rule 50 - Statement of and Submission on Costs	No comment.

Rule 51 - Decisions on Costs	In line with comments expressed in the last ICSID meeting, it is Costa Rica's view, that when a claim is dismissed due to manifest lack of legal merit, there should be a presumption that the Claimant has to bear the cost of the proceedings without prejudice to the possibility of considering special circumstances which justify a different allocation of costs.
Rule 52 - Security for Costs	Costa Rica appreciates ICSID's efforts to include third-party funding as evidence in deciding whether or not to order security for costs. However, we deem necessary to clarify that the existence of third-party funding by itself is not sufficient for the Tribunal to conclude that one or more of the circumstances in paragraph (3) exist, this is important for legal certainty.
Chapter VIII - Suspension, Settlement and Discontinuance	
Rule 53 - Suspension of the Proceeding	No comment.
Rule 54 - Settlement and Discontinuance	No comment.
Rule 55 - Discontinuance at Request of a Party	No comment.
Rule 56 - Discontinuance for Failure of Parties to Act	No comment.
Chapter IX - The Award	
Rule 57 - Timing of the Award	<p>Costa Rica suggests clarifying the language in section a), as follows:</p> <p><b>“Rule 57 Timing of the Award</b>  (1) The Tribunal shall render the Award as soon as possible, and in any event no later than:</p> <p>(a) 60 days after the latest of either of the following: (i) the Tribunal constitution, (ii) the last written submission or (iii) the last oral submission, if the Award is rendered pursuant to Rule 410(3);  (...)”</p>
Rule 58 - Contents of the Award	<p>Costa Rica suggests including an additional requirement for the contents of the award. The suggested language would require for the Tribunal to include legal analysis, clearly linking the facts to the legal grounds. This would provide more certainty on the grounds on which the Tribunal is rendering its decision.</p> <p><b>Rule 58</b>  <b>Contents of the Award</b>  (1) The Award shall be in writing and shall contain:</p> <p>(a) a precise designation of each party;</p> <p>(b) the names of the representatives of the parties;</p>

	<p>(c) a statement that the Tribunal was established in accordance with the Convention, and a description of the method of its constitution;</p> <p>(d) the name of each member of the Tribunal and the appointing authority of each;</p> <p>(e) the dates and place(s) of the first session, case management conferences and hearings;</p> <p>(f) a brief summary of the proceeding;</p> <p>(g) a statement of the relevant facts as found by the Tribunal;</p> <p>(h) a brief summary of the submissions of the parties, including the relief sought;</p> <p>(i) the decision of the Tribunal on every question submitted to it, and the <b>legal reasoning reasons</b> on which the Award is based; and</p> <p>(j) a statement of the costs of the proceeding, including the fees and expenses of each member of the Tribunal, and a reasoned decision on the allocation of costs.</p> <p>(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.</p> <p>(3) Any member of the Tribunal may attach an individual opinion or a statement of dissent to the Award before the Award is rendered.</p>
Rule 59 - Rendering of the Award	No comment.
Rule 60 - Supplementary Decision and Rectification	No comment.
Chapter X - Publication, Access to Proceedings and Non-Disputing Party Submissions	
Rule 61 - Publication of Awards and Decisions on Annulment	<p>Costa Rica will like to insist on the point that it had made in previous occasions regarding the importance of providing the reasons for an objection to the publication of the Award.</p> <p>Regarding the paragraph 3), Costa Rica considers that 60 days term is too long will result in unnecessary delays of the procedure.</p> <p><b>Rule 61 Publication of Awards and Decisions on Annulment</b></p> <p>(1) With consent of the parties, the Centre shall publish every Award, supplementary decision on an Award, rectification, interpretation, and revision of an Award, and decision on annulment.</p>

	<p>(2) The parties may consent to publication of the full text or to a jointly redacted text of the documents referred to in paragraph (1).</p> <p>(3) Consent to publish the documents referred to in paragraph (1) shall be deemed to have been given if no party objects in writing to such publication within 60 days after the dispatch of the document. <b>If a party declines such publication it shall submit the reasoning of its objection.</b></p> <p>(4) Absent consent of the parties in accordance with-paragraphs (1) (3), the Centre shall publish excerpts of the documents. The following procedure shall apply to publication of excerpts:</p> <p>(a) the Secretary-General shall propose excerpts to the parties within 60 days after the date upon which a party declines consent to publication of the document;</p> <p>(b) the parties may send comments on the proposed excerpts to the Secretary-General within <del>60</del> 30 days after their receipt; and</p> <p>(c) the Secretary-General shall consider anycomments received on the proposed excerpts, <del>and</del> publish excerpts within 30 days after receipt of such comments.</p>
<p>Rule 62 - Publication of Orders and Decisions</p>	<p>As previously mentioned, it is Costa Rica’s view that the documents to be published should be the ones that provide value to external observers in terms of accountability, and not all documents of the process. In Costa Rica’s experience, it has been observed that some documents are merely procedural, and their publication could negatively affect the proceedings’ good governance and may create greater confusion if taken out of context. Furthermore, they may create greater confusion and affect the reputation of individuals acting in the process if taken out of context.</p> <p><b>Rule 62 Publication of <del>Orders and</del> Decisions</b></p> <p>(1) The Centre shall publish <del>orders and</del> decisions, with any redactions agreed to by the parties and jointly notified to the Secretary-General 60 days after the <del>order or</del> decision is issued.</p> <p>(2) If either party notifies the Secretary-General within the 60-day period referred to in paragraph (1) that the parties disagree on any proposed redactions, the Secretary-General shall refer the <del>order or</del> decision to the Tribunal to determine any disputed redactions. The Centre shall publish the <del>order or</del> decision in accordance with the determination of the Tribunal.</p> <p>(3) In determining disputes pursuant to paragraph (2), the Tribunal shall ensure that publication does not disclose any confidential or protected information.</p>

<p>Rule 63 - Publication of Documents Filed in the Proceeding</p>	<p>As previously mentioned, it is Costa Rica’s view that the documents to be published should be the ones that provide value to external observers in terms of accountability, and not all documents of the process. In Costa Rica’s experience, it has been observed that some documents are merely procedural, and their publication could negatively affect the proceedings’ good governance and may create greater confusion if taken out of context. Furthermore, they may create greater confusion and affect the reputation of individuals acting in the process if taken out of context.</p> <p>Following the concept expressed above, an important part of good governance is also assuring legal certainty through the protection of some information, preventing the disclosure of sensitive personal data and guaranteeing the safety and integrity of individuals. For example, in the case of experts and witnesses.</p> <p>Furthermore, although redaction is a possibility when this is considered as confidential information such course of action might result in an excessive burden on the parties.</p> <p>Costa Rica suggests the following wording:</p> <p><b>Rule 63</b>  <b>Publication of Documents Filed by a Party</b></p> <p>(1) Upon request of a party, the Centre shall publish <del>the following documents generated in proceedings: request for arbitration, memorial, counter-memorial, reply, rejoinder, requests on interpretation, revision and annulment ,documents which that party filed in the proceeding</del>, with redactions agreed to by the parties.</p> <p>(2) The parties may refer any dispute regarding the publication or redaction of a document in paragraph (1) to the Tribunal for determination. The Centre shall publish the document in accordance with the determination of the Tribunal.</p> <p>(3) In determining disputes pursuant to paragraph (2), the Tribunal shall ensure that publication does not disclose any confidential or protected information.</p>
<p>Rule 64 - Observation of Hearings</p>	<p>No comment.</p>
<p>Rule 65 - Confidential or Protected Information</p>	<p>For legal certainty, Costa Rica considers that the reference to “protected from disclosure pursuant to the applicable law” in Rule 65(b) should be further specified to include the domestic legislation of the repondent state.</p>
<p>Rule 66 - Submission of Non-Disputing Parties</p>	<p>No comment.</p>

<p>Rule 67 - Participation of Non-Disputing Treaty Party</p>	<p>Costa Rica favours the proposal of a separate rule for non-disputing Treaty Parties because they may provide useful insight as to the context, object and purpose intended by the parties when they subscribed the treaty. Costa Rica has had a positive experience with this figure as a tool to assist tribunals with interpretation of the international investment agreement, in both the written and oral phases of the proceeding. For this reason, it is Costa Rica’s position that the non- disputing Treaty Party’s participation should not be limited by specific conditions imposed by the Tribunal. Therefore, we suggest deleting paragraph two.</p> <p><b>Rule 67 Participation of Non-Disputing Treaty Party</b></p> <p>(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 <b>or oral</b> submission on the interpretation of the treaty at issue in the dispute and upon which consent to arbitration is based.</p> <p><del>(2) The Tribunal may impose conditions on the filing of a written submission by the non-disputing Treaty Party, including with respect to the format, length or scope of the submission and the time limit to file the submission.</del></p> <p>(3) The parties shall have the right to make observations on the submission of the non-disputing Treaty Party.</p>
<p>Chapter XI - Interpretation, Revision and Annulment of the Award</p>	
<p>Rule 68 - The Application</p>	<p>No comment.</p>
<p>Rule 69 - Interpretation or Revision: Reconstitution of the Tribunal</p>	<p>No comment.</p>
<p>Rule 70 - Annulment: Appointment of the ad hoc Committee</p>	<p>No comment.</p>
<p>Rule 71 - Procedure Applicable to Interpretation, Revision and Annulment</p>	<p>No comment.</p>
<p>Rule 72 - Stay of Enforcement of the Award</p>	<p>No comment.</p>
<p>Rule 73 - Resubmission of Dispute after an Annulment</p>	<p>No comment.</p>
<p>Chapter XII - Expedited Arbitration</p>	
<p>Rule 74 - Consent of Parties to Expedited Arbitration</p>	<p>We appreciate ICSID’s efforts to provide an alternative to reduce costs and times of the process under certain circumstances. An important feature that we would like to highlight from these Rules is the fact that expedited procedure requires consent from both disputing parties because this guarantees an adequate opportunity of defense, even within a shorter proceeding.</p>

Rule 75 - Number of Arbitrators and Method of Constituting the Tribunal for Expedited Arbitration	No comment.
Rule 76 - Appointment of Sole Arbitrator for Expedited Arbitration	No comment.
Rule 77 - Appointment of Three-Member Tribunal for Expedited Arbitration	No comment.
Rule 78 - Acceptance of Appointment in Expedited Arbitration	No comment.
Rule 79 - First Session in Expedited Arbitration	No comment.
Rule 80 - Procedural Schedule in Expedited Arbitration	No comment.
Rule 81 - Default in Expedited Arbitration	No comment.
Rule 82 - Procedural Schedule for Supplementary Decision and Rectification in Expedited Arbitration	No comment.
Rule 83 - Procedural Schedule for Interpretation, Revision or Annulment in Expedited Arbitration	No comment.
Rule 84 - Resubmission of a Dispute after Annulment in Expedited Arbitration	No comment.
Rule 85 - Opting Out of Expedited Arbitration	No comment.

<b>IV. CONCILIATION RULES FOR ICSID CONVENTION PROCEEDINGS</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Rule 1 - Application of Rules	No comment.
Rule 2 - Party and Party Representative	No comment.
Rule 3 - Method of Filing	No comment.
Rule 4 - Supporting Documents	<p>Costa Rica welcomes the addition of paragraph three because it will provide security to the proceeding, in cases when the authenticity of a supporting document is questioned. For greater certainty, Costa Rica suggests to also clarify that the certification relates to the legislation of the jurisdiction in which it was issued, since an eventual misunderstanding of the Rule could lead to higher costs and duration to the proceeding.</p> <p><b>Rule 4 Supporting Documents</b></p>

	<p>(1) Supporting documents, including witness statements, expert reports, exhibits and legal authorities, shall be filed together with the request, written submission, observations or communication to which they relate.</p> <p>(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.</p> <p>(3) If the authenticity of a supporting document is disputed, the Commission may order a party to provide a certified copy <b>according to the legislation of the jurisdiction where the document was issued</b> or to make the original available for examination.</p>
Rule 5 - Routing of Documents	No comment.
Rule 6 - Procedural Languages, Translation and Interpretation	No comment.
Rule 7 - Calculation of Time Limits	No comment.
Rule 8 - Costs of the Proceeding	No comment.
Rule 9 - Confidentiality of the Conciliation	No comment.
Rule 10 - Use of Information in Other Proceedings	No comment.
<b>Chapter II - Constitution of the Commission</b>	
Rule 11 - General Provisions, Number of Conciliators and Method of Constitution	No comment.
Rule 12 - Notice of Third-Party Funding	<p>Costa Rica appreciates ICSID's efforts to strengthen transparency in Conciliation through the disclosure of third-party funding (TPF). However, after the last two meetings it has become evident to Costa Rica that this provision merits further examination beyond the effects in the constitution of the Commission and the potential conflict of interest.</p> <p>While Costa Rica is flexible with regard to the language and is able to withdraw its previous proposal, it hereby proposes three modifications to reflect the fundamental conditions that, in its view, this article must contain. These are: granting powers to the Commission to request further information on third-party funding once the party has disclosed that it has a funder; the need for this information to include corporate structure and the powers to consider such information when deciding on security for cost and on cost.</p> <p>The rationale behind this is that, in Costa Rica's view this discussion should necessarily consider the following objectives: support a request for security for costs, refrain from becoming an obstacle to reach amicable solutions or submitting counterclaims, and foster transparency in general. Thus Costa Rica suggests to replicate the proposed language in Rule 14 of the Arbitration Rules.</p>

Rule 13 - Appointment of Conciliators to a Commission Constituted in Accordance with Article 29(2)(b) of the Convention	No comment.
Rule 14 - Assistance of the Secretary-General with Appointment	No comment.
Rule 15 - Appointment of Conciliators by the Chair in Accordance with Article 30 of the Convention	No comment.
Rule 16 - Acceptance of Appointment	As already suggested, Costa Rica considers that this provision should mention a possible Code of Conduct that should be attached to the Conciliator Declaration.
Rule 17 - Replacement of Conciliators Prior to Constitution of the Commission	No comment.
Rule 18 - Constitution of the Commission	No comment.
Chapter III - Disqualification of Conciliators and Vacancies	
Rule 19 - Proposal for Disqualification of Conciliators	<p>Costa Rica appreciates ICSID's efforts of increasing the time limit to file a proposal for disqualification. However, Costa Rica shares the view expressed by several members during November session, regarding the seven-day period indicated in paragraph (1)(ii)(e). A seven-day period to respond to the Conciliators's statement is too short. Due to the nature of the disqualification, States may require internal consultations and request legal opinions from external counsel before drafting an official position.</p> <p>Regarding paragraph 2 of WP3, Costa Rica would like to reiterate the importance of maintaining the suspension of the proceeding until a decision on the disqualification is made. The suspension is an important element to protect the legitimacy of the arbitration and to prevent any biased decision.</p>
Rule 20 - Decision on the Proposal for Disqualification	No comment.
Rule 21 - Incapacity or Failure to Perform Duties	No comment.
Rule 22 - Resignation	No comment.
Rule 23 - Vacancy on the Commission	No comment.
Chapter IV - Conduct of the Conciliation	
Rule 24 - Functions of the Commission	No comment.
Rule 25 - General Duties of the Commission	No comment.
Rule 26 - Orders, Decisions and Agreements	No comment.
Rule 27 - Quorum	No comment.
Rule 28 - Deliberations	No comment.
Rule 29 - Cooperation of the Parties	No comment.

Rule 30 - Written Statements	No comment.
Rule 31 - First Session	No comment.
Rule 32 - Meetings	No comment.
Rule 33 - Preliminary Objections	No comment.
Chapter V - Termination of the Conciliation	
Rule 34 - Discontinuance Prior to the Constitution of the Commission	No comment.
Rule 35 - Report Noting the Parties' Agreement	No comment.
Rule 36 - Report Noting the Failure of the Parties to Reach Agreement	No comment.
Rule 37 - Report Recording the Failure of a Party to Appear or Participate	No comment.
Rule 38 - The Report	No comment.
Rule 39 - Issuance of the Report	No comment.

<b>V. THE ADDITIONAL FACILITY RULES</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Article 1 - Definitions	Costa Rica suggests that the definitions should be placed in alphabetical order.
Article 2 - Additional Facility Proceedings	No comment.
Article 3 - Convention Not Applicable	No comment.
Article 4 - Final Provisions	No comment.

<b>VI. (ADDITIONAL FACILITY) ADMINISTRATIVE AND FINANCIAL REGULATIONS</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Regulation 1 - Application of these Regulations	No comment.
Chapter II - General Functions of the Secretariat	
Regulation 2 - Secretary	No comment.
Regulation 3 - The Registers	No comment.
Regulation 4 - Depositary Functions	No comment.
Regulation 5 - Certificates of Official Travel	No comment.
Chapter III - Financial Provisions	

Regulation 6 - Fees, Allowances and Charges	No comment.
Regulation 7 - Payments to the Centre	No comment.
Regulation 8 - Consequences of Default in Payment	Based in our experience in procedures, Costa Rica suggests a 45 day-term in paragraph 2(a). Sometimes, countries face challenges to meet the 30 days term, merely due to compliance with internal administrative proceedings.
Regulation 9 - Special Services	No comment.
Regulation 10 - Fee for Lodging Requests	No comment.
Regulation 11 - Administration of Proceedings	No comment.
Chapter IV - Official Languages and Limitation of Liability	
Regulation 12 - Languages of Regulations	No comment.
Regulation 13 - Prohibition Against Testimony and Limitation of Liability	No comment.

<b>VII. (ADDITIONAL FACILITY) ARBITRATION RULES (ANNEX B)</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - Scope	
Rule 1 - Application of Rules	No comment.
Chapter II - Institution of Proceedings	
Rule 2 - The Request	No comment.
Rule 3 - Contents of the Request	No comment.
Rule 4 - Recommended Additional Information	No comment.
Rule 5 - Filing of the Request and Supporting Documents	No comment.
Rule 6 - Receipt of the Request and Routing of Written Communications	No comment.
Rule 7 - Review and Registration of the Request	No comment.
Rule 8 - Notice of Registration	No comment.
Rule 9 - Withdrawal of the Request	No comment.
Chapter III - General Provisions	
Rule 10 - General Duties	No comment.
Rule 11 - Party and Party Representative	No comment.
Rule 12 - Method of Filing	No comment.
Rule 13 - Supporting Documents	No comment.

Rule 14 - Routing of Documents	No comment.
Rule 15 - Procedural Languages, Translation and Interpretation	No comment.
Rule 16 - Correction of Errors	No comment.
Rule 17 - Calculation of Time Limits	No comment.
Rule 18 - Fixing Time Limits	No comment.
Rule 19 - Extension of Time Limits Applicable to Parties	No comment.
Rule 20 - Time Limits Applicable to Tribunal	<p>In the interest of certainty and considering that the objective of this process is to reduce the duration of the proceedings, we suggest to include an obligation in paragraph one that can guide the expectations of the parties and paragraph two contains the exception, which provides flexibility to the tribunals, when needed.</p> <p><b>Rule 20 Time Limits Applicable to the Tribunal</b>  (1) The Tribunal shall <del>use best efforts to</del> meet-time limits to render orders, decisions and the Award.  (2) If the Tribunal cannot comply with an applicable time limit, it shall advise the parties of the special circumstances that justify the delay and the date when it anticipates rendering the order, decision or Award.</p>
Chapter IV - Constitution of the Tribunal	
Rule 21 - General Provisions Regarding the Constitution of the Tribunal	No comment.
Rule 22 - Qualifications of Arbitrators	No comment.
Rule 23 - Notice of Third-Party Funding	<p>Costa Rica appreciates ICSID's efforts to strengthen transparency in arbitration through the disclosure of third-party funding (TPF). However, after the last two meetings it has become evident to Costa Rica that this provision merits further examination beyond the effects in the constitution of the Tribunal and the potential conflict of interest.</p> <p>While Costa Rica is flexible with regard to the language and is able to withdraw its previous proposal, it hereby proposes three modifications to reflect the fundamental conditions that, in its view, this article must contain. These are: granting powers to the Tribunal to request further information on third-party funding once the party has disclosed that it has a funder; the need for this information to include corporate structure and the powers to consider such information when deciding on security for cost and on cost.</p> <p>The rationale behind this is that, in Costa Rica's view this discussion should necessarily consider the following objectives: support a request for security for costs, refrain from becoming an obstacle to reach</p>

	amicable solutions or submitting counterclaims, and foster transparency in general. Thus Costa Rica suggests to replicate the proposed language of Rule 14 of Arbitration Rules.
Rule 24 - Method of Constituting the Tribunal	No comment.
Rule 25 - Assistance of the Secretary-General with Appointment	No comment.
Rule 26 - Appointment of Arbitrators by the Secretary-General	No comment.
Rule 27 - Acceptance of Appointment	As already suggested, Costa Rica considers that this provision should mention a possible Code of Conduct that should be attached to the Arbitrator Declaration.
Rule 28 - Replacement of Arbitrators Prior to Constitution of the Tribunal	No comment.
Rule 29 - Constitution of the Tribunal	No comment.
Chapter V - Disqualification of Arbitrators and Vacancies	
Rule 30 - Proposal for Disqualification of Arbitrators	Costa Rica appreciates ICSID's efforts of increasing the time limit to file a proposal for disqualification. However, Costa Rica shares the view expressed by several members during November session, regarding the seven-day period indicated in paragraph (1)(ii)(e). A seven-day period to respond to the arbitrator's statement is too short. Due to the nature of the disqualification, States may require internal consultations and request legal opinions from external counsel before drafting an official position.
Rule 31 - Decision on the Proposal for Disqualification	No comment.
Rule 32 - Incapacity or Failure to Perform Duties	No comment.
Rule 33 - Resignation	No comment.
Rule 34 - Vacancy on the Tribunal	No comment.
Chapter VI - Conduct of the Proceeding	
Rule 35 - Orders, Decisions and Agreements	No comment.
Rule 36 - Waiver	No comment.
Rule 37 - Filling of Gaps	No comment.
Rule 38 - First Session	No comment.
Rule 39 - Written Submissions	<p>ICSID has explained that the limitation to the Reply and to the rejoinder does not exclude arguments based on new documents or new discovered facts that have occurred after a Party has filed its first submission. Therefore, Costa Rica suggests reflecting this clearly in the language of rule 39.</p> <p><b>Rule 39 Written Submissions</b>  (1) The parties shall file the following written submissions:</p>

	<p>(a) a memorial by the requesting party;</p> <p>(b) a counter-memorial by the other party;</p> <p>and, unless the parties agree otherwise:</p> <p>(c) a reply by the requesting party; and</p> <p>(d) a rejoinder by the other party.</p> <p>(2) 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. <b>This provision does not limit arguments based on new documents or newly discovered facts occurring after a party's first written submission.</b></p> <p>(3) A party may file unscheduled written submissions, observations, or supporting documents only after obtaining leave of the Tribunal, unless the filing of such documents is provided for by these Rules. The Tribunal may grant such leave upon a timely and reasoned application if it finds such written submissions, observations or supporting documents are necessary in view of all relevant circumstances.</p>
Rule 40 - Case Management Conferences	No comment.
Rule 41 - Seat of Arbitration	No comment.
Rule 42 - Hearings	No comment.
Rule 43 - Quorum	No comment.
Rule 44 - Deliberations	No comment.
Rule 45 - Decisions Made by Majority Vote	No comment.
Chapter VII - Evidence	
Rule 46 - Evidence: General Principles	No comment.
Rule 47 - Disputes Arising from Requests for Documents	No comment.
Rule 48 - Witnesses and Experts	No comment.
Rule 49 - Tribunal-Appointed Experts	No comment.
Rule 50 - Visits and Inquiries	No comment.
Chapter VIII - Special Procedures	
Rule 51 - Manifest Lack of Legal Merit	No comment.
Rule 52 - Bifurcation	No comment.

Rule 53 - Preliminary Objections	No comment.
Rule 54 - Bifurcation of Preliminary Objections	No comment.
Rule 55 - Consolidation or Coordination of Arbitrations	No comment.
Rule 56 - Provisional Measures	No comment.
Rule 57 - Ancillary Claims	No comment.
Rule 58 - Default	No comment.
Chapter IX - Costs	
Rule 59 - Costs of the Proceeding	No comment.
Rule 60 - Statement of and Submission on Costs	No comment.
Rule 61 - Decisions on Costs	In line with comments expressed in the last ICSID meeting, it is Costa Rica's view, that when a claim is dismissed due to manifest lack of legal merit, there should be a presumption that the Claimant has to bear the cost of the proceedings without prejudice to the possibility of considering special circumstances which justify a different allocation of costs
Rule 62 - Security for Costs	Costa Rica appreciates ICSID's efforts to include third-party funding as evidence in deciding whether or not to order security for costs. However, we deem necessary to clarify that the existence of third-party funding by itself is not sufficient for the Tribunal to conclude that one or more of the circumstances in paragraph (3) exist, this is important for legal certainty.
Chapter X - Suspension, Settlement and Discontinuance	
Rule 63 - Suspension of the Proceeding	No comment.
Rule 64 - Settlement and Discontinuance	No comment.
Rule 65 - Discontinuance at Request of a Party	No comment.
Rule 66 - Discontinuance for Failure of Parties to Act	No comment.
Chapter XI - The Award	
Rule 67 - Applicable Law	No comment.
Rule 68 - Timing of the Award	Costa Rica suggests clarifying the language in section a), as follows:  <b>"Rule 68 Timing of the Award</b> (1) The Tribunal shall render the Award as soon as possible, and in any event no later than:  (a) 60 days after the latest of either of the following: (i) the Tribunal constitution, (ii) the last written submission or (iii) the last oral submission, if the Award is rendered pursuant to Rule 51(4); (...)"
Rule 69 - Contents of the Award	Costa Rica suggests including an additional requirement for the contents of the award. The suggested language would require for the Tribunal to include legal analysis, clearly linking the facts to the legal

grounds. This would provide more certainty on the grounds on which the Tribunal is rendering its decision.

**Rule 69**

**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 pursuant to 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 dates and place(s) of the first session, case management conferences and hearings;

(f) a brief summary of the proceeding;

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

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

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

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

(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 70 - Rendering of the Award

No comment.

Rule 71 - Supplementary Decision, Rectification and Interpretation of an Award	No comment.
Chapter XII - Publication, Access to Proceedings and Non-Disputing Party Submissions	
Rule 72 - Publication of Orders, Decisions and Awards	<p>As previously mentioned, it is Costa Rica’s view that the documents to be published should be the ones that provide value to external observers in terms of accountability, and not all documents of the process. In Costa Rica’s experience, it has been observed that some documents are merely procedural, and their publication could negatively affect the proceedings’ good governance and may create greater confusion if taken out of context. Furthermore, they may create greater confusion and affect the reputation of individuals acting in the process if taken out of context.</p>
Rule 73 - Publication of Documents Filed in the Proceeding	<p>As previously mentioned, it is Costa Rica’s view that the documents to be published should be the ones that provide value to external observers in terms of accountability, and not all documents of the process. In Costa Rica’s experience, it has been observed that some documents are merely procedural, and their publication could negatively affect the proceedings’ good governance and may create greater confusion if taken out of context. Furthermore, they may create greater confusion and affect the reputation of individuals acting in the process if taken out of context.</p> <p>Following the concept expressed above, an important part of good governance is also assuring legal certainty through the protection of some information, preventing the disclosure of sensitive personal data and guaranteeing the safety and integrity of individuals. For example, in the case of experts and witnesses.</p> <p>Furthermore, although redaction is a possibility when this is considered as confidential information such course of action might result in an excessive burden on the parties.</p> <p>Costa Rica suggests the following wording:</p> <p><b>Rule 73</b>  <b>Publication of Documents Filed in the Proceeding</b></p> <p>(1) Upon request of either party, the Centre shall publish <del>the following documents generated in proceedings: request for arbitration, memorial, counter-memorial, reply, rejoinder, requests on interpretation, revision and annulment any document filed in the proceeding, with any redactions agreed to by the parties and jointly notified to the Secretary General.</del></p> <p>(2) Either party may refer any dispute regarding the publication or redaction of a document in paragraph (1) to the Tribunal for determination. The Centre shall publish the document in accordance with the determination of the Tribunal.</p>

	(3) In determining disputes pursuant to paragraph (2), the Tribunal shall ensure that publication does not disclose any confidential or protected information.
Rule 74 - Observation of Hearings	No comment.
Rule 75 - Confidential or Protected Information	For legal certainty, Costa Rica considers that the reference to “protected from disclosure pursuant to the applicable law” in Rule 75(b) should be further specified to include the domestic legislation of the repondent state.
Rule 76 - Submission of Non-Disputing Parties	No comment.
Rule 77 - Participation of Non-Disputing Treaty Party	Costa Rica favours the proposal of a separate rule for non-disputing Treaty Parties because they may provide useful insight as to the context, object and purpose intended by the parties when they subscribed the treaty. Costa Rica has had a positive experience with this figure as a tool to assist tribunals with interpretation of the international investment agreement, in both the written and oral phases of the proceeding. For this reason, it is Costa Rica’s position that the non- disputing Treaty Party’s participation should not be limited by specific conditions imposed by the Tribunal. Therefore, we suggest deleting paragraph two and to include the possibility to have oral participation.
Chapter XIII - Expedited Arbitration	
Rule 78 - Consent of Parties to Expedited Arbitration	We appreciate ICSID’s efforts to provide an alternative to reduce costs and times of the process under certain circumstances. An important feature that we would like to highlight from these Rules is the fact that expedited procedure requires consent from both disputing parties because this guarantees an adequate opportunity of defense, even within a shorter proceeding.
Rule 79 - Number of Arbitrators and Method of Constituting the Tribunal for Expedited Arbitration	No comment.
Rule 80 - Appointment of Sole Arbitrator for Expedited Arbitration	No comment.
Rule 81 - Appointment of Three-Member Tribunal for Expedited Arbitration	No comment.
Rule 82 - Acceptance of Appointment in Expedited Arbitration	No comment.
Rule 83 - First Session in Expedited Arbitration	No comment.
Rule 84 - Procedural Schedule in Expedited Arbitration	No comment.
Rule 85 - Default in Expedited Arbitration	No comment.
Rule 86 - Procedural Schedule for Supplementary Decision, Rectification and Interpretation in Expedited Arbitration	No comment.
Rule 87 - Opting Out of Expedited Arbitration	No comment.

<b>VIII. (ADDITIONAL FACILITY) CONCILIATION RULES</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - Scope	
Rule 1 - Application of Rules	No comment.
Chapter II - Institution of the Proceedings	
Rule 2 - The Request	No comment.
Rule 3 - Contents of the Request	No comment.
Rule 4 - Recommended Additional Information	No comment.
Rule 5 - Filing of the Request and Supporting Documents	No comment.
Rule 6 - Receipt of the Request and Routing of Written Communications	No comment.
Rule 7 - Review and Registration of the Request	No comment.
Rule 8 - Notice of Registration	No comment.
Rule 9 - Withdrawal of the Request	No comment.
Chapter III - General Provisions	
Rule 10 - Party and Party Representative	No comment.
Rule 11 - Method of Filing	No comment.
Rule 12 - Supporting Documents	No comment.
Rule 13 - Routing of Document	No comment.
Rule 14 - Procedural Languages, Translation and Interpretation	No comment.
Rule 15 - Calculation of Time Limits	No comment.
Rule 16 - Costs of the Proceeding	No comment.
Rule 17 - Confidentiality of the Conciliation	No comment.
Rule 18 - Use of Information in Other Proceedings	No comment.
Chapter IV - Constitution of the Commission	
Rule 19 - General Provisions, Number of Conciliators and Method of Constitution	No comment.
Rule 20 - Qualifications of Conciliators	No comment.
Rule 21 - Notice of Third-Party Funding	Costa Rica appreciates ICSID's efforts to strengthen transparency in arbitration through the disclosure of third-party funding (TPF). However, after the last two meetings it has become evident to Costa Rica

	<p>that this provision merits further examination beyond the effects in the constitution of the Tribunal and the potential conflict of interest.</p> <p>While Costa Rica is flexible with regard to the language and is able to withdraw its previous proposal, it hereby proposes three modifications to reflect the fundamental conditions that, in its view, this article must contain. These are: granting powers to the Tribunal to request further information on third-party funding once the party has disclosed that it has a funder; the need for this information to include corporate structure and the powers to consider such information when deciding on security for cost and on cost.</p> <p>The rationale behind this is that, in Costa Rica's view this discussion should necessarily consider the following objectives: support a request for security for costs, refrain from becoming an obstacle to reach amicable solutions or submitting counterclaims, and foster transparency in general. Thus, Costa Rica suggests to include the proposed language of Rul 14 of the Arbitration Rules.</p>
Rule 22 - Assistance of the Secretary-General with Appointment	No comment.
Rule 23 - Appointment of Conciliators by the Secretary-General	No comment.
Rule 24 - Acceptance of Appointment	As already suggested, Costa Rica considers that this provision should mention a possible Code of Conduct that should be attached to the Conciliator Declaration in Schedule 2.
Rule 25 - Replacement of Conciliators Prior to Constitution of the Commission	No comment.
Rule 26 - Constitution of the Commission	No comment.
Chapter V - Disqualification of Conciliators and Vacancies	
Rule 27 - Proposal for Disqualification of Conciliators	Costa Rica appreciates ICSID's efforts of increasing the time limit to file a proposal for disqualification. However, Costa Rica shares the view expressed by several members during November session, regarding the seven-day period indicated in paragraph (2)(e). A seven-day period to respond to the arbitrator's statement is too short. Due to the nature of the disqualification, States may require internal consultations and request legal opinions from external counsel before drafting an official position.
Rule 28 - Decision on the Proposal for Disqualification	No comment.
Rule 29 - Incapacity or Failure to Perform Duties	No comment.
Rule 30 - Resignation	No comment.
Rule 31 - Vacancy on the Commission	No comment.

Chapter VI - Conduct of the Conciliation	
Rule 32 - Functions of the Commission	No comment.
Rule 33 - General Duties of the Commission	No comment.
Rule 34 - Orders, Decisions and Agreements	No comment.
Rule 35 - Quorum	No comment.
Rule 36 - Deliberations	No comment.
Rule 37 - Cooperation of the Parties	No comment.
Rule 38 - Written Statements	No comment.
Rule 39 - First Session	No comment.
Rule 40 - Meetings	No comment.
Rule 41 - Preliminary Objections	No comment.
Chapter VII - Termination of the Conciliation	
Rule 42 - Discontinuance Prior to the Constitution of the Commission	No comment.
Rule 43 - Report Noting the Parties' Agreement	No comment.
Rule 44 - Report Noting the Failure of the Parties to Reach Agreement	No comment.
Rule 45 - Report Recording the Failure of a Party to Appear or Participate	No comment.
Rule 46 - The Report	No comment.
Rule 47 - Issuance of the Report	No comment.

<b>IX. ICSID FACT-FINDING RULES</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Rule 1 - Definitions	No comment.
Rule 2 - Fact-Finding Proceedings	No comment.
Rule 3 - Application of Rules	No comment.
Chapter II - Institution of the Fact-Finding Proceeding	
Rule 4 - The Request	No comment.
Rule 5 - Contents and Filing of the Request	No comment.
Rule 6 - Receipt and Registration of the Request	No comment.
Chapter III - The Fact-Finding Committee	

Rule 7 - Qualifications of Members of the Committee	No comment.
Rule 8 - Number of Members and Method of Constituting the Committee	No comment.
Rule 9 - Acceptance of Appointment	No comment.
Rule 10 - Constitution of the Committee	No comment.
Chapter IV - Conduct of the Fact-Finding Proceeding	
Rule 11 - Sessions and Work of the Committee	No comment.
Rule 12 - General Duties	No comment.
Rule 13 - Calculation of Time Limits	No comment.
Rule 14 - Costs of the Proceeding	No comment.
Rule 15 - Confidentiality of the Proceeding	No comment.
Rule 16 - Use of Information in Other Proceedings	No comment.
Chapter V - Termination of the Fact-Finding Proceeding	
Rule 17 - Manner of Terminating the Proceeding	No comment.
Rule 18 - Failure of a Party to Participate or Cooperate	No comment.
Rule 19 - Report of the Committee	No comment.
Rule 20 - Issuance of the Report	No comment.

<b>X. (FACT-FINDING) ADMINISTRATIVE AND FINANCIAL REGULATIONS</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Regulation 1 - Application of these Regulations	No comment.
Chapter II - General Functions of the Secretariat	
Regulation 2 - Secretary	No comment.
Regulation 3 - The Registers	No comment.
Regulation 4 - Depository Functions	No comment.
Regulation 5 - Certificates of Official Travel	No comment.
Chapter III - Financial Provisions	
Regulation 6 - Fees, Allowances and Charges	No comment.
Regulation 7 - Payments to the Centre	No comment.

Regulation 8 - Consequences of Default in Payment	No comment.
Regulation 9 - Special Services	No comment.
Regulation 10 - Fee for Lodging Requests	No comment.
Regulation 11 - Administration of Proceedings	No comment.
Chapter IV - Official Languages and Limitation of Liability	
Regulation 12 - Languages of Regulations	No comment.
Regulation 13 - Prohibition Against Testimony and Limitation of Liability	No comment.

<b>XI. RULES FOR MEDIATION PROCEEDINGS</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Rule 1 - Definitions	No comment.
Rule 2 - Mediation Proceedings	No comment.
Rule 3 - Application of Rules	No comment.
Chapter II - Institution of the Mediation	
Rule 4 - Institution of Mediation Based on Prior Party Agreement	No comment.
Rule 5 - Institution of Mediation Absent a Prior Party Agreement	No comment.
Rule 6 - Registration of the Request	No comment.
Chapter III - General Procedural Provisions	
Rule 7 - Calculations of Time Limits	No comment.
Rule 8 - Costs of the Mediation	No comment.
Rule 9 - Confidentiality of the Mediation	No comment.
Rule 10 - Use of Information in Other Proceedings	No comment.
Chapter IV - The Mediator	
Rule 11 - Qualifications of the Mediator	No comment.
Rule 12 - Number of Mediators and Method of Appointment	No comment.
Rule 13 - Acceptance of Appointment	No comment.
Rule 14 - Transmittal of the Request	No comment.
Rule 15 - Resignation and Replacement of Mediator	No comment.
Chapter V - Conduct of the Mediation	

Rule 16 - Role and Duties of the Mediator	No comment.
Rule 17 - Duties of the Parties	No comment.
Rule 18 - Initial Written Statements	No comment.
Rule 19 - First Session	No comment.
Rule 20 - Conduct of the Mediation	No comment.
Rule 21 - Termination of the Mediation	No comment.

<b>XII. (MEDIATION) ADMINISTRATIVE AND FINANCIAL REGULATIONS)</b>	<b>COMMENT ON PROVISION</b>
Introductory Note	
Chapter I - General Provisions	
Regulation 1 - Application of these Regulations	No comment.
Chapter II - General Functions of the Secretariat	
Regulation 2 - Secretary	No comment.
Regulation 3 - The Registers	No comment.
Regulation 4 - Depositary Functions	No comment.
Regulation 5 - Certificates of Official Travel	No comment.
Chapter III - Financial Provisions	
Regulation 6 - Fees, Allowances and Charges	No comment.
Regulation 7 - Payments to the Centre	No comment.
Regulation 8 - Consequences of Default in Payment	No comment.
Regulation 9 - Special Services	No comment.
Regulation 10 - Fee for Lodging Requests	No comment.
Regulation 11 - Administration of Proceedings	No comment.
Chapter IV - Official Languages and Limitation of Liability	
Regulation 12 - Languages of Regulations	No comment.
Regulation 13 - Prohibition Against Testimony and Limitation of Liability	No comment.