UNCITRAL and the PCA
Martin Doe, PCA Legal Counsel

UNCITRAL

- UNCITRAL Arbitration Rules 1976
- UNCITRAL Arbitration Rules, as revised in 2010
- UNCITRAL Rules on Transparency in Treaty-Based Investor-State Arbitration 2013

www.pca-cpa.org
UNCITRAL RULES (1976)

- Created in 1976 for commercial arbitration
- Intended to be compatible with any national legal tradition
- Designed to be principally ad hoc (non-institutional)

- Still need third party to break certain impasses when parties cannot agree (“appointing authority”)
- Asked PCA to fulfill role of selecting appointing authority instead of creating new UN body for this purpose
UNCITRAL RULES (1976)

(b) If no such authority has been previously designated by the parties, or if the appointing authority previously designated refuses to act or fails to appoint the arbitrator within thirty days after receipt of a party's request therefor, the first party may request the Secretary-General of the Permanent Court of Arbitration at The Hague to designate the appointing authority. The first party may then request the appointing authority so designated to appoint the second arbitrator. In either case, the appointing authority may exercise its discretion in appointing the arbitrator.

- Constitution of tribunal
- Challenges for lack of independence and impartiality
- Supervision of tribunal fees and expenses

Appointing Authority Requests

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Growth in PCA Caseload since 1900

UNCITRAL RULES (2010)

- Simplified procedure – no longer waiting for deadlock to occur
- Greater discretion accorded to appointing authority
- Stronger supervision of tribunal fees and expenses
- Default role of SG-PCA in certain cases
TRANSPARENCY

• More common in inter-State than investor-State proceedings

TRANSPARENCY

UNCITRAL Rules Article 25(4):

4. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.

UNCITRAL Rules Article 32(5):

5. The award may be made public only with the consent of both parties.

- Application to future treaties by default or to existing treaties by agreement
- Inclusion in UNCITRAL Rules
- Publication of case documents
- Open hearings


- Submissions by third persons
- Submissions by non-disputing parties to the treaty
- Repository – UNCITRAL or PCA
Thank you!