

PERMANENT COURT
OF ARBITRATION



PCA Arbitration Rules

with Optional Protocols
adopted in 2024



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Introduction

These Rules are for use in arbitrating disputes involving at least one State, State-controlled entity, or intergovernmental organization. They add a new option for arbitration of disputes under the auspices of the Permanent Court of Arbitration (hereinafter the “PCA”) without replacing the previously adopted PCA Rules, which remain valid and available. The Rules are optional and are based on the 2010 UNCITRAL Arbitration Rules with changes made in order to:

- (i) Reflect the public international law elements that may arise in disputes involving a State, State-controlled entity, and/or intergovernmental organization;
- (ii) Indicate the role of the Secretary-General and the International Bureau of the PCA; and
- (iii) Emphasize flexibility and party autonomy. For example:
 - (a) The Rules allow for arbitration of multiparty disputes involving a combination of States, State-controlled entities, intergovernmental organizations, and private parties;
 - (b) The Rules and the services of the Secretary-General and the International Bureau of the PCA are available for use by all States and their entities and enterprises, and are not restricted to disputes in which the State is a party to either the Hague Convention for the Pacific Settlement of International Disputes of 1899 or that of 1907;
 - (c) The Rules allow parties to choose an arbitral tribunal of one, three, or five persons; and
 - (d) The choice of arbitrators is not limited to persons who are listed as Members of the PCA.

Model clauses that parties may consider inserting in treaties, contracts, or other agreements to provide for arbitration of existing or future disputes, or to provide for the application of the Optional Protocols on Emergency Interim Measures, Expedited Procedure, and Scrutiny of Awards, are set forth in the annex to these Rules.

Section I.

Introductory rules

Scope of application¹

Article 1

1. Where a State, State-controlled entity, or intergovernmental organization has agreed with one or more States, State-controlled entities, intergovernmental organizations, or private parties that disputes between them in respect of a defined legal relationship, whether contractual, treaty-based, or otherwise, shall be referred to arbitration under the Permanent Court of Arbitration Arbitration Rules 2012 (hereinafter the “Rules”), then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree.
2. Agreement by a State, State-controlled entity, or intergovernmental organization to arbitrate under these Rules with a party that is not a State, State-controlled entity, or intergovernmental organization constitutes a waiver of any right of immunity from jurisdiction in respect of the proceedings relating to the dispute in question to which such party might otherwise be entitled. A waiver of immunity relating to the execution of an arbitral award must be explicitly expressed.
3. The International Bureau of the Permanent Court of Arbitration at The Hague (hereinafter the “International Bureau”) shall serve as registry for the proceedings and provide secretariat services.
4. The involvement of at least one State, State-controlled entity, or intergovernmental organization as a party to the dispute is not necessary for jurisdiction where all the parties have agreed to settle a dispute under these Rules. However, where the Secretary-General of the Permanent Court of Arbitration determines that no State, State-controlled entity, or intergovernmental organization is a party to the dispute, the Secretary-General may decide to limit the Permanent Court of Arbitration’s role in the proceedings to the function of the Secretary-General as appointing authority, with the role of the International Bureau under these Rules to be assumed by the arbitral tribunal.

Notice and calculation of periods of time

Article 2

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.

1. Model arbitration clauses can be found in the annex to the Rules.

2. If an address has been designated by a party specifically for this purpose or authorized by the arbitral tribunal, any notice shall be delivered to that party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as facsimile or e-mail may only be made to an address so designated or authorized.
3. In the absence of such designation or authorization, a notice is:
 - (a) Received if it is physically delivered to the addressee; or
 - (b) Deemed to have been received if it is delivered at the place of business, habitual residence or mailing address of the addressee.
4. If, after reasonable efforts, delivery cannot be effected in accordance with paragraphs 2 or 3, a notice is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means that provides a record of delivery or of attempted delivery.
5. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraphs 2, 3 or 4, or attempted to be delivered in accordance with paragraph 4. A notice transmitted by electronic means is deemed to have been received on the day it is sent, except that a notice of arbitration so transmitted is only deemed to have been received on the day when it reaches the addressee's electronic address.
6. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

Notice of arbitration

Article 3

1. The party or parties initiating recourse to arbitration (hereinafter the "claimant") shall communicate to the other party or parties (hereinafter the "respondent") and the International Bureau a notice of arbitration.
2. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the respondent.
3. The notice of arbitration shall include the following:
 - (a) A demand that the dispute be referred to arbitration;
 - (b) The names and contact details of the parties;
 - (c) Identification of the arbitration agreement that is invoked;
 - (d) Identification of any rule, decision, agreement, contract, convention, treaty, constituent instrument of an organization or agency, or relationship out of or in relation to which the dispute arises;
 - (e) A brief description of the claim and an indication of the amount involved, if any;

- (f) The relief or remedy sought;
 - (g) A proposal as to the number of arbitrators, language and place of arbitration, if the parties have not previously agreed thereon.
4. The notice of arbitration may also include:
- (a) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
 - (b) Notification of the appointment of an arbitrator referred to in articles 9 or 10.
5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Response to the notice of arbitration

Article 4

1. Within 30 days of the receipt of the notice of arbitration, or such other period as may be set by the International Bureau, the respondent shall communicate to the claimant and the International Bureau a response to the notice of arbitration, which shall include:
- (a) The name and contact details of each respondent;
 - (b) A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 3 (c) to (g).
2. The response to the notice of arbitration may also include:
- (a) Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;
 - (b) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
 - (c) Notification of the appointment of an arbitrator referred to in articles 9 or 10;
 - (d) A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
 - (e) A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.
3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Representation and assistance

Article 5

1. In disputes involving only States and/or intergovernmental organizations, each party shall appoint an agent. Each party may also be assisted by persons of its choice.
2. In other disputes under these Rules, each party may be represented or assisted by persons chosen by it.
3. The names and addresses of agents, party representatives, and other persons assisting the parties must be communicated to all parties, to the International Bureau, and to the arbitral tribunal. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as an agent or representative of a party, the arbitral tribunal, on its own initiative or at the request of any party, may at any time require proof of authority granted to the agent or representative in such a form as the arbitral tribunal may determine.

Appointing authority

Article 6

1. The Secretary-General of the Permanent Court of Arbitration shall serve as appointing authority.
2. In exercising its functions under these Rules, the appointing authority may require from any party and the arbitrators the information it deems necessary and it shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner it considers appropriate.
3. The appointing authority shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

Section II.

Composition of the arbitral tribunal

Number of arbitrators

Article 7

1. If the parties have not previously agreed on the number of arbitrators, and if within 30 days after the receipt by the respondent of the notice of arbitration the parties have not agreed on the number of arbitrators, three arbitrators shall be appointed.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with articles 9 or 10, the appointing authority may, at the request of a party, appoint a sole arbitrator pursuant to the procedure provided for in article 8, paragraph 2 if it determines that, in view of the circumstances of the case, this is more appropriate.

Appointment of arbitrators (articles 8 to 10)

Article 8

1. If the parties have agreed that a sole arbitrator is to be appointed and if within 30 days after receipt by all other parties of a proposal of an individual who would serve as a sole arbitrator the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the appointing authority.
2. The appointing authority shall appoint the sole arbitrator as promptly as possible. In making the appointment, the appointing authority shall use the following list-procedure, unless the parties agree that the list-procedure should not be used or unless the appointing authority determines in its discretion that the use of the list-procedure is not appropriate for the case:
 - (a) The appointing authority shall communicate to each of the parties an identical list containing at least three names;
 - (b) Within 15 days after the receipt of this list, or such other period as may be set by the International Bureau, each party may return the list to the appointing authority, without copying the other party, after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference;
 - (c) After the expiration of the above period of time the appointing authority shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;
 - (d) If for any reason the appointment cannot be made according to this procedure, the appointing authority may exercise its discretion in appointing the sole arbitrator.

Article 9

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal. If five arbitrators are to be appointed, the two party-appointed arbitrators shall choose the remaining three arbitrators and designate one of those three as the presiding arbitrator of the tribunal.
2. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the first party may request the appointing authority to appoint the second arbitrator.
3. If within 30 days after the appointment of the second arbitrator, or such other period as may be set by the International Bureau, the two arbitrators have not agreed on the choice of the remaining arbitrators and/or the presiding arbitrator, the remaining arbitrators and/or the presiding arbitrator shall be appointed by the appointing authority in the same way as a sole arbitrator would be appointed under article 8, paragraph 2.

Article 10

1. For the purposes of article 9, paragraph 1, where three or five arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator.
2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one, three, or five, the arbitrators shall be appointed according to the method agreed upon by the parties.
3. In the event of any failure to constitute the arbitral tribunal under these Rules, the appointing authority shall, at the request of any party, constitute the arbitral tribunal and, in doing so, may revoke any appointment already made and appoint each of the arbitrators and designate one of them as the presiding arbitrator. The appointing authority may, if it deems it appropriate, reappoint previous appointees.
4. In appointing arbitrators pursuant to these Rules, the parties and the appointing authority are free to choose persons who are not Members of the Permanent Court of Arbitration.

Disclosures by and challenge of arbitrators² (articles 11 to 13)

Article 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

2. Model statements of independence pursuant to article 11 can be found in the annex to the Rules.

Article 12

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.
3. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in article 13 shall apply.
4. If an arbitrator on a tribunal of three, five, or more persons fails to participate in the arbitration, the other arbitrators shall, unless the parties agree otherwise, have the power in their sole discretion to continue the arbitration and to make any decision, ruling or award, notwithstanding the failure of one arbitrator to participate. In determining whether to continue the arbitration or to render any decision, ruling or award without the participation of an arbitrator, the other arbitrators shall take into account the stage of the arbitration, the reason, if any, expressed by the arbitrator for such non-participation, and such other matters as they consider appropriate in the circumstances of the case. In the event that the other arbitrators determine not to continue the arbitration without the non-participating arbitrator, the arbitral tribunal shall declare the office vacant, and, subject to article 14, paragraph 2, a substitute arbitrator shall be appointed pursuant to the provisions of articles 8 to 11, unless the parties agree on a different method of appointment.

Article 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 30 days after it has been notified of the appointment of the challenged arbitrator, or within 30 days after the circumstances mentioned in articles 11 and 12 became known to that party.
2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged, to the other arbitrators, and to the International Bureau. The notice of challenge shall state the reasons for the challenge.
3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the appointing authority.
5. In rendering a decision on the challenge, the appointing authority may indicate the reasons for the decision, unless the parties agree that no reasons shall be given.

Replacement of an arbitrator

Article 14

1. Subject to paragraph 2 of this article, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.
2. If, at the request of a party, the appointing authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the appointing authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views, appoint the substitute arbitrator.

Repetition of hearings in the event of the replacement of an arbitrator

Article 15

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

Exclusion of liability

Article 16

The parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration.

Section III.

Arbitral proceedings

General provisions

Article 17

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
4. All communications to the arbitral tribunal by one party shall be communicated by that party to all other parties and the International Bureau. Such communications shall be made at the same time, except as otherwise permitted by the arbitral tribunal if it may do so under applicable law.
5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

Place of arbitration

Article 18

1. If the parties have not previously agreed on the place of arbitration, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case. The award shall be deemed to have been made at the place of arbitration.

2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

Language

Article 19

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statement of claim

Article 20

1. The claimant shall communicate its statement of claim in writing to the respondent, to the International Bureau, and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.
2. The statement of claim shall include the following particulars:
 - (a) The names and contact details of the parties;
 - (b) A statement of the facts supporting the claim;
 - (c) The points at issue;
 - (d) The relief or remedy sought;
 - (e) The legal grounds or arguments supporting the claim.
3. A copy of any rule, decision, agreement, contract, convention, treaty, constituent instrument of an organization or agency, or relationship out of or in relation to which the dispute arises, and of the arbitration agreement shall be annexed to the statement of claim.
4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

Statement of defence

Article 21

1. The respondent shall communicate its statement of defence in writing to the claimant, to the International Bureau, and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in article 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this article.
2. The statement of defence shall reply to the particulars (b) to (e) of the statement of claim (article 20, paragraph 2). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.
3. In its statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.
4. The provisions of article 20, paragraphs 2 to 4 shall apply to a counterclaim, a claim under article 4, paragraph 2(e), and a claim relied on for the purpose of a set-off.

Amendments to the claim or defence

Article 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

Pleas as to the jurisdiction of the arbitral tribunal

Article 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract, treaty, or other agreement shall be treated as an agreement independent of the other terms of the contract, treaty, or other agreement. A decision by the arbitral tribunal that the contract, treaty, or other agreement is null, void, or invalid shall not entail automatically the invalidity of the arbitration clause.

2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a competent authority.

Further written statements

Article 24

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Periods of time

Article 25

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Interim measures

Article 26

1. The arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
 - (a) Maintain or restore the status quo pending determination of the dispute;
 - (b) Take action that would prevent, or refrain from taking action that is likely to cause,
 - (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
 - (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - (d) Preserve evidence that may be relevant and material to the resolution of the dispute.

3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
 - (a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
 - (b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.
6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
9. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Evidence

Article 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. Witnesses, including expert witnesses, who are presented by the parties to testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in any way related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.
3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitral tribunal shall determine. The arbitral tribunal may also, after consultation with the parties, perform a site visit.
4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Hearings

Article 28

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
2. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.
3. Hearings shall be held *in camera* unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.
4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

Experts appointed by the arbitral tribunal

Article 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.
2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.
3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert relied in his or her report.

5. If a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of the report, participate in a hearing where the parties have the opportunity to put questions to him or her and to present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

Default

Article 30

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:
 - (a) The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;
 - (b) The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.
2. If a party, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.
3. If a party, duly invited by the arbitral tribunal to produce documents, exhibits or other evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

Closure of proceedings

Article 31

1. When it is satisfied that the parties have had a reasonable opportunity to present their cases, the arbitral tribunal shall declare the proceedings closed.
2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own initiative or upon application of a party, to reopen the proceedings at any time before the award is made.

Waiver of right to object

Article 32

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

Section IV.

The award

Decisions

Article 33

1. When there is more than one arbitrator, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide alone, subject to revision, if any, by the arbitral tribunal.

Form and effect of the award

Article 34

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards without delay.
3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
4. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.
5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority.
6. Copies of the award signed by the arbitrators shall be communicated to the parties by the International Bureau.
7. In cases involving only States, the parties shall communicate to the International Bureau the laws, regulations, or other documents evidencing the execution of the award.

Applicable law, *amiable compositeur*

Article 35

1. The arbitral tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall:
 - (a) In cases involving only States, decide such disputes in accordance with international law by applying:
 - i. International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
 - ii. International custom, as evidence of a general practice accepted as law;
 - iii. The general principles of law recognized by civilized nations;
 - iv. Judicial and arbitral decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
 - (b) In cases involving only States and intergovernmental organizations, apply the rules of the organization concerned and the law applicable to any agreement or relationship between the parties, and, where appropriate, the general principles governing the law of intergovernmental organizations and the rules of general international law.
 - (c) In cases involving intergovernmental organizations and private parties, have regard both to the rules of the organization concerned and to the law applicable to the agreement or relationship out of or in relation to which the dispute arises, and, where appropriate, to the general principles governing the law of intergovernmental organizations and to the rules of general international law. In such cases, the arbitral tribunal shall decide in accordance with the terms of the agreement and shall take into account relevant trade usages.
 - (d) In all other cases, apply the law which it determines to be appropriate. In such cases, the arbitral tribunal shall decide in accordance with the terms of the agreement and shall take into account relevant trade usages.
2. The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorized the arbitral tribunal to do so.

Settlement or other grounds for termination

Article 36

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.
3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties. Where an arbitral award on agreed terms is made, the provisions of article 34, paragraphs 2, 4 and 5 shall apply.

Interpretation of the award

Article 37

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and the International Bureau, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 34, paragraphs 2 to 6, shall apply.

Correction of the award

Article 38

1. Within 30 days after the receipt of the award, a party, with notice to the other parties and the International Bureau, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of article 34, paragraphs 2 to 6, shall apply.

Additional award

Article 39

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties and the International Bureau, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.

2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.
3. When such an award or additional award is made, the provisions of article 34, paragraphs 2 to 6, shall apply.

Definition of costs

Article 40

1. The arbitral tribunal shall fix the costs of arbitration in the final award and, if it deems appropriate, in another decision.
2. The term “costs” includes only:
 - (a) The fees of the arbitral tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with article 41;
 - (b) The reasonable travel and other expenses incurred by the arbitrators;
 - (c) The reasonable costs of expert advice and of other assistance required by the arbitral tribunal;
 - (d) The reasonable travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
 - (e) The legal and other costs incurred by the parties in relation to the arbitration to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;
 - (f) The fees and expenses of the International Bureau, including the fees and expenses of the appointing authority.
3. In relation to interpretation, correction or completion of any award under articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 2 (b) to (f), but no additional fees.

Fees and expenses of arbitrators

Article 41

1. The costs referred to in article 40, paragraphs 2 (a), (b) and (c) shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the time spent by the arbitrators and any experts appointed by the arbitral tribunal, and any other relevant circumstances of the case.
2. Promptly after its constitution, the arbitral tribunal shall inform the parties as to how it proposes to determine its fees and expenses, including any rates it intends to apply. Within 15 days of receiving that proposal, any party may refer the proposal to the appointing authority for review. If the appointing authority finds that the proposal of the arbitral tribunal is inconsistent with paragraph 1, it shall make any necessary adjustments thereto, which shall be binding upon the arbitral tribunal.

3. (a) Before fixing the costs of arbitration pursuant to article 40, the arbitral tribunal shall submit its determination of the costs referred to in article 40, paragraphs 2 (a), (b) and (c), with an explanation of the manner in which the corresponding amounts have been calculated, to the appointing authority for review;
(b) If the appointing authority finds that the arbitral tribunal's determination is inconsistent with the criteria in paragraph 1 or with the arbitral tribunal's proposal (and any adjustments thereto) under paragraph 2, it shall make any necessary adjustments to the arbitral tribunal's determination. Any such adjustments shall be binding upon the arbitral tribunal when it fixes the costs of arbitration pursuant to article 40.
4. Throughout the procedure under paragraphs 2 and 3 of this article, the arbitral tribunal shall proceed with the arbitration, in accordance with article 17, paragraph 1.

Allocation of costs

Article 42

1. The costs of arbitration shall in principle be borne by the unsuccessful party or parties. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
2. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.

Deposit of costs

Article 43

1. The International Bureau, following the commencement of the arbitration, may request the parties to deposit an equal amount as an advance for the costs referred to in article 40, paragraphs 2 (a), (b), (c), and (f). All amounts deposited by the parties pursuant to this paragraph and paragraph 2 of this article shall be directed to the International Bureau, and disbursed by it for such costs, including, *inter alia*, fees to the arbitrators, to the appointing authority, and to the International Bureau. The International Bureau shall ensure that any disbursements of arbitral tribunal fees and expenses made prior to the fixing of the costs of arbitration pursuant to article 40 are consistent with the criteria in article 41, paragraph 1 and with the arbitral tribunal's proposal (and any adjustments thereto) under article 41, paragraph 2.
2. During the course of the arbitral proceedings the International Bureau may request supplementary deposits from the parties.
3. Any deposit of security for costs ordered by the arbitral tribunal pursuant to article 26 shall be directed to the International Bureau and disbursed by it upon order from the arbitral tribunal.

4. If the requested deposits are not paid in full within 30 days after the receipt of the request or such other period as may be set by the International Bureau, the International Bureau shall so inform the parties in order that one or more of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.
5. After a termination order or final award has been made, the International Bureau shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

Permanent Court of Arbitration Optional Protocol on Emergency Interim Measures

As adopted by the Administrative Council of the Permanent Court of Arbitration on 10 September 2024

Article 1: Scope of Application

1. This Protocol shall apply to arbitration proceedings only if the parties have agreed to the application of this Protocol.
2. Subject to paragraph 1, this Protocol may apply to arbitration proceedings under any arbitration rules adopted by the Administrative Council of the Permanent Court of Arbitration at The Hague, under other arbitration rules, or in *ad hoc* arbitration proceedings, where not incompatible with this Protocol. This Protocol may apply to arbitration proceedings whether or not administered by the International Bureau of the Permanent Court of Arbitration (hereinafter the “International Bureau”).

Article 2: Emergency Interim Measures

1. An emergency interim measure is any temporary measure by which, prior to the constitution of the arbitral tribunal, an emergency arbitrator orders a party, for example and without limitation, to:
 - (a) maintain or restore the status quo pending determination of the dispute;
 - (b) take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
 - (c) provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - (d) preserve evidence that may be relevant and material to the resolution of the dispute.
2. An emergency interim measure under paragraph 1(a) to (c) above shall be granted only if the party requesting a measure satisfies the emergency arbitrator that:
 - (a) the request cannot await the constitution of the arbitral tribunal;
 - (b) harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
 - (c) there is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
3. With regard to a request for emergency interim measures under paragraph 1(d), the requirements in paragraph 2(a) to (c) shall apply only to the extent the emergency arbitrator considers appropriate.

4. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.
5. A request for emergency interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Article 3: Request for Emergency Interim Measures

1. A party seeking the appointment of an emergency arbitrator and emergency interim measures shall submit a request for emergency interim measures to the International Bureau.
2. A request for emergency interim measures may be submitted concurrently with or following the communication of the notice of arbitration, but only prior to the constitution of the tribunal.
3. The requesting party shall, concurrently with its request for emergency interim measures, send a copy of the request to all other parties.
4. The request for emergency interim measures shall include:
 - (a) a description of the dispute and the circumstances giving rise to the request;
 - (b) a statement of the nature of the emergency interim measures sought;
 - (c) an explanation of the reasons why such emergency interim measures are required on an emergency basis that cannot await the constitution of an arbitral tribunal;
 - (d) an explanation of the reasons why the party is entitled to be granted such emergency interim measures, bearing in mind Article 2(2)(b) and 2(2)(c) above;
 - (e) copies of any relevant agreements and, in particular, the arbitration agreement;
 - (f) a copy of the notice of arbitration, any response to the notice of arbitration and any other submissions already made;
 - (g) the names and contact details of the parties and their representatives;
 - (h) an indication of any agreement as to the place of arbitration, the applicable rules of law, or the language of the arbitration;
 - (i) a certification that all other parties have been provided with a copy of the request, failing which, an explanation of the steps taken in good faith by the party to provide a copy or notification of the request to all other parties; and
 - (j) proof of payment to the International Bureau of the initial deposit, in the amount stated on the International Bureau's website on the date the request is submitted.
5. The request for emergency interim measures may include such other documents or information as the requesting party considers appropriate or as may contribute to the efficient examination of the application.

Article 4: Appointment of the Emergency Arbitrator

1. The Secretary-General of the Permanent Court of Arbitration (hereinafter the “Secretary-General”), if *prima facie* satisfied as to the applicability of this Protocol and as to the sufficiency of a party’s request for emergency interim measures, shall appoint an emergency arbitrator within as short a time as possible, normally within two business days of receipt by the International Bureau of such request and payment of the initial deposit.
2. An emergency arbitrator shall be and remain impartial and independent of the parties.
3. When a person is approached in connection with his or her possible appointment as an emergency arbitrator, he or she shall disclose to the Secretary-General any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence.
4. An emergency arbitrator, from the time of his or her appointment until such time as he or she has completed his or her functions, shall without delay disclose any such circumstances to the parties and the International Bureau unless they have already been informed by him or her of these circumstances.
5. An emergency arbitrator shall not act in any proceedings relating to the dispute that gave rise to the request for emergency interim measures.

Article 5: Challenge to an Emergency Arbitrator

1. An emergency arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the emergency arbitrator’s impartiality or independence.
2. A party that intends to challenge an emergency arbitrator shall send notice of its challenge within three business days of receipt of the notification of the appointment or from the date when that party became aware of the facts and circumstances on which the challenge is based, if such date is subsequent to the receipt of such notification.
3. The notice of challenge shall be communicated to all other parties, to the emergency arbitrator, and to the International Bureau. The notice of challenge shall state the reasons for the challenge.
4. The challenge shall be decided by the Secretary-General after affording an opportunity for the emergency arbitrator and the other party or parties to provide comments in writing within a suitable period of time and in accordance with the particular circumstances of the case.
5. Pending the resolution of the challenge, the Secretary-General may authorize the emergency arbitrator to continue the emergency interim measures proceedings. Any interim award or order issued by the emergency arbitrator under such circumstances shall be without legal effect in the event that the challenge is subsequently upheld by the Secretary-General.

Article 6: Place of Emergency Interim Measures Proceedings

1. If the parties have agreed on the place of arbitration, such place shall be the place of the proceedings for emergency interim measures.
2. Failing such an agreement, the place of the proceedings for emergency interim measures may be provisionally decided by the emergency arbitrator, having regard to the circumstances of the case, without prejudice to the determination of the place of arbitration pursuant to the applicable arbitration rules.

Article 7: Proceedings

1. Subject to this Protocol, the emergency arbitrator shall conduct the proceedings in such manner as he or she considers appropriate, taking into account the nature and urgency of the request. The emergency arbitrator shall act fairly and impartially and ensure that each party has a reasonable opportunity of presenting its case.
2. The emergency arbitrator shall, as soon as possible, and normally within two calendar days of his or her appointment, establish a schedule for consideration of the request for emergency interim measures.
3. The emergency arbitrator shall provide each party a reasonable opportunity of presenting its case, and may provide for proceedings by telephone, video conference, written submissions, or other suitable means, as alternatives to an in-person hearing.

Article 8: Decisions

1. The emergency arbitrator shall have the authority vested in the arbitral tribunal under the applicable arbitration rules, including the authority to rule on his or her own jurisdiction, without prejudice to the arbitral tribunal's determination of its jurisdiction.
2. The emergency arbitrator shall have the power to grant any emergency interim measure that he or she deems necessary. Such emergency interim measures may take the form of an interim award or order.
3. The emergency arbitrator may require the party requesting an emergency interim measure to provide appropriate security in connection with the measure.
4. The emergency arbitrator shall give summary reasons in writing.
5. The emergency arbitrator shall fix the costs of the emergency interim measures proceedings and may apportion such costs between the parties, subject to the power of the arbitral tribunal to determine finally the allocation of such costs.
6. The emergency arbitrator shall make his or her interim award or order deciding whether to grant emergency interim measures within 14 calendar days from the date of his or her appointment unless, in exceptional circumstances, the International Bureau extends this time limit.

7. Prior to the constitution of the arbitral tribunal, the emergency arbitrator may clarify, modify, suspend, or terminate an emergency interim measure he or she has granted. The emergency arbitrator may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The emergency arbitrator may continue emergency interim measures proceedings and issue an interim award or order even if the arbitral tribunal is constituted in the meantime, unless directed to terminate the interim measure proceedings by the arbitral tribunal. The emergency arbitrator shall otherwise have no power to act after the arbitral tribunal is constituted.

Article 9: Effect of Emergency Interim Measures

1. Any emergency interim measure granted under this Protocol shall have the same effect as an interim measure granted by the arbitral tribunal and shall be binding on the parties when rendered. The parties undertake to comply with emergency interim measures ordered or awarded by the emergency arbitrator without delay.
2. The arbitral tribunal may reconsider, modify, suspend, or terminate any emergency interim measures issued by the emergency arbitrator, either upon application by a party or of its own motion, after inviting the comments of the parties. The arbitral tribunal is not bound by the reasons given by the emergency arbitrator.
3. Emergency interim measures shall cease to be binding upon the parties:
 - (a) If the emergency arbitrator or the arbitral tribunal so decides;
 - (b) Upon the arbitral tribunal rendering a final award, unless the arbitral tribunal expressly decides otherwise;
 - (c) Upon the termination of the arbitration before the rendering of a final award; or
 - (d) If the arbitral tribunal has not been constituted within 90 calendar days from the date of the emergency interim measures and no request for the appointment of an arbitrator or for the designation of an appointing authority is then pending. This time limit may be extended by agreement of the parties or by the International Bureau.

Article 10: Costs of Emergency Interim Measures Proceedings

1. Prior to fixing the costs of the emergency interim measures proceedings pursuant to Article 8(5) of this Protocol, the emergency arbitrator shall submit his or her fees to the Secretary-General for review and, if deemed appropriate by the Secretary-General, adjustment. The fees and expenses of the emergency arbitrator shall be reasonable in amount, taking into account the amount in dispute, the complexity of the subject matter, the nature of the emergency proceedings, the amount of work performed, and any other relevant circumstances of the case.
2. The emergency administrative fees of the International Bureau will be published on its website, which may be revised from time to time.

Article 11: Deposits

1. The initial deposit is intended to cover the fees and expenses of the emergency arbitrator and the emergency administrative fees of the International Bureau. The International Bureau will publish on its website the required amount of the initial deposit, which may be revised from time to time.
2. The International Bureau may, at any time during the emergency interim measures proceedings, request additional deposits to cover any increase in the emergency arbitrator's fees or the International Bureau's emergency administrative fees, taking into account, *inter alia*, the nature of the case and the nature and amount of work performed by the emergency arbitrator and International Bureau. If the party which submitted the request fails to pay the additional deposits within the time limit fixed by the International Bureau, the request may be dismissed by the emergency arbitrator.
3. In the event that emergency interim measures proceedings do not take place pursuant to Article 4(1) of this Protocol or are otherwise terminated prior to the issuance of an interim award or order, the International Bureau shall determine the amount to be reimbursed to the requesting party, if any.

Permanent Court of Arbitration Optional Protocol on Expedited Procedure

As adopted by the Administrative Council of the Permanent Court of Arbitration on 10 September 2024

Article 1: Scope of Application

1. Where parties have agreed that this Protocol shall apply to disputes between them, such disputes shall be settled in accordance with this Protocol, subject to such modifications as the parties may agree.
2. Subject to paragraph 1, this Protocol may apply to arbitration proceedings under any arbitration rules adopted by the Administrative Council of the Permanent Court of Arbitration at The Hague, under other arbitration rules, or in *ad hoc* arbitration proceedings. This Protocol may apply to arbitration proceedings whether or not administered by the International Bureau of the Permanent Court of Arbitration (hereinafter the “International Bureau”).

Article 2: Expedited Proceedings

1. Where the parties have agreed to the application of this Protocol, the following procedure shall apply:
 - (a) All time limits under any applicable procedural rules shall be halved unless decided otherwise by the arbitral tribunal after giving the parties an opportunity to express their views.
 - (b) The case shall be referred to a sole arbitrator.
 - (c) The arbitral tribunal shall have discretion to adopt such procedural measures as it considers appropriate. In particular, the arbitral tribunal may, after consultation with the parties, decide not to allow requests for document production or to limit the number, length and scope of written submissions and written witness evidence (both fact witnesses and experts).
 - (d) The arbitral tribunal may, after consulting the parties, decide whether the dispute will be decided on written statements and documents only or whether an oral hearing will be convened for the examination of any witness or witnesses, including expert witnesses, or for any oral argument. When a hearing is to be held, the arbitral tribunal may conduct it by videoconference, telephone or similar means of communication.
 - (e) The final award shall be made within six months from the date of the constitution of the arbitral tribunal unless, in exceptional circumstances, the International Bureau extends the time for making the final award.
 - (f) The arbitral tribunal may state the reasons upon which any award or decision is based in summary form.

2. At any time during the proceedings, the parties may agree that this Protocol shall no longer apply to the arbitration. In such case, the arbitral tribunal shall remain in place unless otherwise agreed by the parties.
3. Upon its own motion or upon the request of a party, and after inviting the parties to express their views, the arbitral tribunal may, having regard to any further information as may subsequently become available and in consultation with the Secretary-General of the Permanent Court of Arbitration, order that the arbitral proceedings shall not, or shall no longer, be conducted in accordance with this expedited procedure. In such case, the arbitral tribunal shall remain in place unless it considers it appropriate that the arbitral tribunal be replaced or reconstituted.

Article 3: Priority over Contrary Terms

Subject to any modifications that may be agreed by the Parties pursuant to Article 1(1) of this Protocol, the expedited procedure set out in this Protocol shall govern the arbitration even in cases where it is in conflict with a provision of the arbitration agreement or applicable arbitration rules.

Permanent Court of Arbitration Optional Protocol on Scrutiny of Awards

As adopted by the Administrative Council of the Permanent Court of Arbitration on 10 September 2024

Article 1: Scope of Application

1. This Protocol shall apply to arbitration proceedings only if the parties have agreed to the application of this Protocol.
2. Subject to paragraph 1, this Protocol may apply to arbitration proceedings under any arbitration rules adopted by the Administrative Council of the Permanent Court of Arbitration at The Hague, under other arbitration rules, or in *ad hoc* arbitration proceedings, where not incompatible with this Protocol. This Protocol may apply to arbitration proceedings whether or not administered by the International Bureau of the Permanent Court of Arbitration (hereinafter the “International Bureau”).

Article 2: Scrutiny of the Award

1. Before signing any award, the arbitral tribunal shall submit it in draft form to the Secretary-General of the Permanent Court of Arbitration (hereinafter the “Secretary-General”).
2. The Secretary-General may lay down modifications as to the form of the award and, without affecting the arbitral tribunal’s liberty of decision, may also draw its attention to points of substance.
3. In the exercise of this function, the Secretary-General may request a preliminary review of the award by the staff of the International Bureau and may constitute a committee of not less than three persons having no involvement whatsoever in the case, drawn from the Members of the Court of the Permanent Court of Arbitration, to advise him or her.
4. Communications among the Secretary-General, the arbitral tribunal, the International Bureau, and any committee of the Members of the Court of the Permanent Court of Arbitration pursuant to this Protocol shall be confidential.
5. No award shall be rendered by the arbitral tribunal until it has been approved by the Secretary-General as to its form.
6. The parties waive, to the fullest extent permitted under the applicable law, any claim against the Secretary-General, the staff of the International Bureau and the Members of the Court based on any act or omission in connection with this Protocol.

Annex

Model arbitration clause for contracts

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the PCA Arbitration Rules 2012.¹

Model arbitration clause for treaties and other agreements

Any dispute, controversy or claim arising out of or in relation to this [agreement] [treaty], or the existence, interpretation, application, breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the PCA Arbitration Rules 2012.^{1bis}

1. and 1bis. *Note — Parties should consider adding:*

- (a) The number of arbitrators shall be ... one, three, or five);
- (b) The place of arbitration shall be ... (town and country);
- (c) The language to be used in the arbitral proceedings shall be

Model arbitration clause for incorporation of Optional Protocols

Any dispute, controversy or claim arising out of or in relation to this [agreement] [treaty], or the existence, interpretation, application, breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the PCA Arbitration Rules 2012. The Optional Protocol on [Emergency Interim Measures] [Expedited Procedure] [Scrutiny of Awards] shall apply.²

2. *Note — The PCA International Bureau will also generally understand a reference to the “PCA Arbitration Rules 2024” to constitute an agreement on the application of the Optional Protocols on Emergency Interim Measures and Scrutiny of Awards. Similarly, a reference to the “PCA Expedited Arbitration Rules” will generally be understood to constitute an agreement on the application of the PCA Arbitration Rules 2012, together with the Optional Protocol on Expedited Procedure as then in force.*

Possible waiver statement³

3. *Note — If the parties wish to exclude recourse against the arbitral award that may be available under the applicable law, they may consider adding a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.*

Waiver: The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

Model statements of impartiality and independence pursuant to article 11 of the Rules⁴

No circumstances to disclose: I am impartial and independent of each of the parties and intend to remain so. To the best of my knowledge, there are no circumstances, past or present, likely to give rise to justifiable doubts as to my impartiality or independence. I shall promptly notify the parties and the other arbitrators of any such circumstances that may subsequently come to my attention during this arbitration.

Circumstances to disclose: I am impartial and independent of each of the parties and intend to remain so. Attached is a statement made pursuant to article 11 of the PCA Arbitration Rules 2012 of (a) my past and present professional, business and other relationships with the parties and (b) any other relevant circumstances. [Include statement] I confirm that those circumstances do not affect my independence and impartiality. I shall promptly notify the parties and the other arbitrators of any such further relationships or circumstances that may subsequently come to my attention during this arbitration.

-
4. *Note — Any party may consider requesting from the arbitrator the following addition to the statement of impartiality and independence:*

I confirm, on the basis of the information presently available to me, that I can devote the time necessary to conduct this arbitration diligently, efficiently and in accordance with the time limits in the Rules.

Explanatory Note of the International Bureau of the Permanent Court of Arbitration (“PCA”) Regarding Time Periods Under the PCA Arbitration Rules 2012 (“2012 PCA Rules”)

Certain time periods provided in the 2012 PCA Rules are shorter than those set forth in the PCA arbitration rules adopted in the 1990s (“1990s PCA Rules”). Where the 2012 PCA Rules empower the PCA International Bureau to extend default time periods provided in the Rules (see Articles 4(1), 8(2)(b), 9(3) and 43(4) of the 2012 PCA Rules) and the International Bureau receives a request to extend a time period that it considers justified, the time periods set forth in the 1990s PCA Rules will serve as a guideline for the extensions that the International Bureau may decide to grant.

Model Arbitration Clause

Any dispute, controversy or claim arising out of or in relation to this [agreement] [treaty], or the existence, interpretation, application, breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the PCA Arbitration Rules 2012.

Cover Art

Tapestry "The Glorification of Peace", in the Permanent Court of Arbitration's Small Courtroom at the Peace Palace.

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