

SCC Arbitration Rules

2023

English

Model Arbitration Clause

Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination, or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the SCC Arbitration Institute.

Recommended additions:

The seat of arbitration shall be [...].

The language of the arbitration shall be [...].

This contract shall be governed by the substantive law of [...].

Arbitration Rules of the SCC Arbitration Institute

**Adopted by the Stockholm Chamber of
Commerce and in force 1 January 2023.**

Under any arbitration agreement referring to the Arbitration Rules of the SCC Arbitration Institute or the Arbitration Institute of the Stockholm Chamber of Commerce the parties shall be deemed to have agreed that the following rules, or such amended rules, in force on the date of the commencement of the arbitration, or the filing of an application for the appointment of an emergency arbitrator, shall be applied unless otherwise agreed by the parties.

Table of Contents

THE SCC ARBITRATION INSTITUTE	8
Article 1 About the SCC	8
GENERAL RULES	8
Article 2 General conduct of the participants to the arbitration	8
Article 3 Confidentiality	8
Article 4 Time periods	8
Article 5 Notices and other communications	8
COMMENCEMENT OF PROCEEDINGS	9
Article 6 Request for arbitration	9
Article 7 Registration fee	9
Article 8 Commencement of arbitration	10
Article 9 Answer	10
Article 10 Request for further details	10
Article 11 Decisions by the Board	11
Article 12 Dismissal	11
Article 13 Joinder of additional parties	11
Article 14 Multiple contracts in a single arbitration	12
Article 15 Consolidation of arbitrations	13
COMPOSITION OF THE ARBITRAL TRIBUNAL	13
Article 16 Number of arbitrators	13
Article 17 Appointment of the Arbitrator	14
Article 18 Impartiality, independence and availability	14
Article 19 Challenge to the Arbitrator	15
Article 20 Release from appointment	15
Article 21 Replacement of the Arbitrator	15

THE PROCEEDINGS BEFORE THE ARBITRAL TRIBUNAL	16
Article 22 Referral to the Arbitral Tribunal	16
Article 23 Conduct of the arbitration by the Arbitral Tribunal	16
Article 24 Administrative secretary of the Arbitral Tribunal	16
Article 25 Seat of arbitration	17
Article 26 Language	17
Article 27 Applicable law	18
Article 28 Case management conference and timetable	18
Article 29 Written submissions	18
Article 30 Amendments	19
Article 31 Evidence	19
Article 32 Hearings	20
Article 33 Witnesses	20
Article 34 Experts appointed by the Arbitral Tribunal	20
Article 35 Default	20
Article 36 Waiver	21
Article 37 Interim measures	21
Article 38 Security for costs	21
Article 39 Summary procedure	22
Article 40 Close of proceedings	23
AWARDS AND DECISIONS	23
Article 41 Awards and decisions	23
Article 42 Making of awards	23
Article 43 Time limit for final award	24
Article 44 Separate award	24
Article 45 Settlement or other grounds for termination of the arbitration	24
Article 46 Effect of an award	24
Article 47 Correction and interpretation of an award	24
Article 48 Additional award	25
COSTS OF THE ARBITRATION	25
Article 49 Costs of the arbitration	25
Article 50 Costs incurred by a party	26
Article 51 Advance on costs	26

MISCELLANEOUS		27
Article 52	Exclusion of liability	27
APPENDIX I – ORGANISATION		28
Article 1	About the SCC	28
Article 2	Function of the SCC	28
Article 3	The Board	28
Article 4	Appointment of the Board	28
Article 5	Removal of a member of the Board	29
Article 6	Function of the Board	29
Article 7	Decisions by the Board	29
Article 8	The Secretariat	29
Article 9	Procedures	29
APPENDIX II – EMERGENCY ARBITRATOR		30
Article 1	Emergency arbitrator	30
Article 2	Application for the appointment of an emergency arbitrator	30
Article 3	Notice	30
Article 4	Appointment of the emergency arbitrator	30
Article 5	Seat of the emergency proceedings	31
Article 6	Referral to the emergency arbitrator	31
Article 7	Conduct of the emergency proceedings	31
Article 8	Emergency decisions on interim measures	31
Article 9	Binding effect of emergency decisions	32
Article 10	Costs of the emergency proceedings	32
APPENDIX III – INVESTMENT TREATY DISPUTES		34
Article 1	Scope of application	34
Article 2	Number of arbitrators	34
Article 3	Submission by a Third Person	34
Article 4	Submission by a non-disputing party to the treaty	36

APPENDIX IV – SCHEDULE OF COSTS

37

Article 1	Registration fee	37
Article 2	Fees of the Arbitral Tribunal	37
Article 3	Administrative fee	37
Article 4	Expenses	38
Article 5	Pledge	38

Arbitration Rules of the SCC Arbitration Institute

THE SCC ARBITRATION INSTITUTE

Article 1 About the SCC

The SCC Arbitration Institute (the “SCC”) administers disputes in accordance with the Arbitration Rules of the SCC (the “Arbitration Rules”), the Rules for Expedited Arbitrations of the SCC (the “Rules for Expedited Arbitrations”) and other rules and procedures adopted by the Stockholm Chamber of Commerce (together, the “SCC Rules”). The SCC is composed of a board of directors (the “Board”) and a secretariat (the “Secretariat”). Under the Arbitration Rules, an arbitral tribunal consisting of one or more arbitrators (the “Arbitral Tribunal”) resolves the dispute. Detailed provisions regarding the organisation of the SCC are set out in Appendix I.

GENERAL RULES

Article 2 General conduct of the participants to the arbitration

(1) Throughout the proceedings, the SCC, the Arbitral Tribunal and the parties shall act in an efficient and expeditious manner.

(2) In all matters not expressly provided for in the Arbitration Rules, the SCC, the Arbitral Tribunal, and the parties shall act in the spirit of the Arbitration Rules and shall make every reasonable effort to ensure that any award is legally enforceable.

Article 3 Confidentiality

Unless otherwise agreed by the parties, the SCC, the Arbitral Tribunal and any administrative secretary of the Arbitral Tribunal shall maintain the confidentiality of the arbitration and the award.

Article 4 Time periods

The Board may, on application by either party or on its own motion, extend any time period set by the SCC for a party to comply with a particular direction.

Article 5 Notices and other communications

(1) Any notice or other communication from the Secretariat or the Board shall be delivered to the last known address of the addressee.

(2) Any notice or other communication shall be delivered by courier or registered mail, e-mail or any other means that records the sending of the communication.

(3) A notice or communication sent in accordance with the second paragraph shall be deemed to have been received by the addressee on the date it would normally have been received given the means of communication used.

(4) This article shall apply equally to any communications from the Arbitral Tribunal.

COMMENCEMENT OF PROCEEDINGS

Article 6 Request for arbitration

A request for arbitration shall include:

- (i) the names, addresses, telephone numbers and e-mail addresses of the parties and their counsel;
- (ii) a summary of the dispute;
- (iii) a preliminary statement of the relief sought by the claimant, including an estimate of the monetary value of the claims;
- (iv) a copy or description of the arbitration agreement or clause under which the dispute is to be settled;
- (v) where claims are made under more than one arbitration agreement, an indication of the arbitration agreement under which each claim is made;
- (vi) comments on the number of arbitrators and the seat of arbitration; and
- (vii) if applicable, the name, address, telephone number and e-mail address of the arbitrator appointed by the claimant.

Article 7 Registration fee

(1) Upon filing the request for arbitration, the claimant shall pay a registration fee. The amount of the registration fee shall be determined in accordance with the schedule of costs (Appendix IV) in force on the date the request for arbitration is filed.

(2) If the registration fee is not paid upon filing the request for arbitration, the Secretariat shall set a time period within which the claimant shall pay the registration fee. If the registration fee is not paid within this time period, the Secretariat shall dismiss the request for arbitration.

Article 8 Commencement of arbitration

Arbitration shall be deemed to commence on the date the Secretariat receives the request for arbitration.

Article 9 Answer

(1) The Secretariat shall send a copy of the request for arbitration and any attached documents to the respondent. The Secretariat shall set a time period within which the respondent shall submit an answer to the SCC. The answer shall include:

(i) any objections concerning the existence, validity or applicability of the arbitration agreement; however, failure to object shall not preclude the respondent from raising such objections at any time up to and including the submission of the statement of defence;

(ii) an admission or denial of the relief sought in the request for arbitration;

(iii) a preliminary statement of any counterclaims or set-offs, including an estimate of the monetary value thereof;

(iv) where counterclaims or set-offs are made under more than one arbitration agreement, a specification of the arbitration agreement under which each counterclaim or set-off is made;

(v) comments on the number of arbitrators and the seat of arbitration; and

(vi) if applicable, the name, address, telephone number and e-mail address of the arbitrator appointed by the respondent.

(2) The Secretariat shall send a copy of the answer to the claimant. The claimant may be given an opportunity to submit comments on the answer, having regard to the circumstances of the case.

(3) Failure by the respondent to submit an answer shall not prevent the arbitration from proceeding.

Article 10 Request for further details

(1) The Board may request further details from either party regarding any of their written submissions to the SCC.

(2) If the claimant fails to comply with a request for further details, the Board may dismiss the case.

(3) If the respondent fails to comply with a request for further details regarding its counterclaim or set-off, the Board may dismiss the counterclaim or set-off.

(4) Failure by the respondent to otherwise comply with a request for further details shall not prevent the arbitration from proceeding.

Article 11 Decisions by the Board

The Board takes decisions as provided under the Arbitration Rules, including deciding:

- (i) whether the SCC manifestly lacks jurisdiction over the dispute pursuant to Article 12 (i);
- (ii) whether to grant a request for joinder pursuant to Article 13;
- (iii) whether claims made under multiple contracts shall proceed in a single arbitration pursuant to Article 14;
- (iv) whether to consolidate cases pursuant to Article 15;
- (v) on the number of arbitrators pursuant to Article 16;
- (vi) on any appointment of arbitrators pursuant to Article 17;
- (vii) on any challenge to an arbitrator pursuant to Article 19;
- (viii) on the seat of arbitration pursuant to Article 25; and
- (ix) on the advance on costs pursuant to Article 51.

Article 12 Dismissal

The Board shall dismiss a case, in whole or in part, if:

- (i) the SCC manifestly lacks jurisdiction over the dispute; or
- (ii) the advance on costs is not paid pursuant to Article 51.

Article 13 Joinder of additional parties

(1) A party to the arbitration may request that the Board join one or more additional parties to the arbitration.

(2) The request for joinder shall be made as early as possible. A request for joinder made after the submission of the answer will not be considered unless the Board decides otherwise. Articles 6 and 7 shall apply *mutatis mutandis* to the request for joinder.

(3) Arbitration against the additional party shall be deemed to commence on the date the SCC receives the request for joinder.

(4) The Secretariat shall set a time period within which the additional party shall submit an answer to the request for joinder. Article 9 shall apply *mutatis mutandis* to the answer to the request for joinder.

(5) The Board may decide to join one or more additional parties provided that the SCC does not manifestly lack jurisdiction over the dispute between the parties, including any additional party requested to be joined to the arbitration, pursuant to Article 12 (i).

(6) In deciding whether to grant the request for joinder where claims are made under more than one arbitration agreement, the Board shall consult with the parties and shall have regard to Article 14 (3) (i)-(iv).

(7) In all cases where the Board decides to grant the request for joinder, any decision as to the Arbitral Tribunal's jurisdiction over any party joined to the arbitration shall be made by the Arbitral Tribunal.

(8) Where the Board decides to grant the request for joinder and the additional party does not agree to any arbitrator already appointed, the Board may release the arbitrators and appoint the entire Arbitral Tribunal, unless all parties, including the additional party, agree on a different procedure for the appointment of the Arbitral Tribunal.

Article 14 Multiple contracts in a single arbitration

(1) Parties may make claims arising out of or in connection with more than one contract in a single arbitration.

(2) If any party raises any objections as to whether all of the claims made against it may be determined in a single arbitration, the claims may proceed in a single arbitration provided that the SCC does not manifestly lack jurisdiction over the dispute between the parties pursuant to Article 12 (i).

(3) In deciding whether the claims shall proceed in a single arbitration, the Board shall consult with the parties and shall have regard to:

(i) whether the arbitration agreements under which the claims are made are compatible;

(ii) whether the relief sought arises out of the same transaction or series of transactions;

(iii) the efficiency and expeditiousness of the proceedings; and

(iv) any other relevant circumstances.

(4) In all cases where the Board decides that the claims may proceed in a single arbitration, any decision as to the Arbitral Tribunal's jurisdiction over the claims shall be made by the Arbitral Tribunal.

Article 15 Consolidation of arbitrations

(1) At the request of a party, the Board may decide to consolidate a newly commenced arbitration with a pending arbitration, if:

- (i) the parties agree to consolidate;
- (ii) all the claims are made under the same arbitration agreement;
or
- (iii) where the claims are made under more than one arbitration agreement, the relief sought arises out of the same transaction or series of transactions and the Board considers the arbitration agreements to be compatible.

(2) In deciding whether to consolidate, the Board shall consult with the parties and the Arbitral Tribunal and shall have regard to:

- (i) the stage of the pending arbitration;
- (ii) the efficiency and expeditiousness of the proceedings; and
- (iii) any other relevant circumstances.

(3) Where the Board decides to consolidate, the Board may release any arbitrator already appointed.

COMPOSITION OF THE ARBITRAL TRIBUNAL

Article 16 Number of arbitrators

(1) The parties may agree on the number of arbitrators.

(2) Where the parties have not agreed on the number of arbitrators, the Board shall decide whether the Arbitral Tribunal shall consist of a sole arbitrator or three arbitrators, having regard to the complexity of the case, the amount in dispute and any other relevant circumstances.

Article 17 Appointment of arbitrators

(1) The parties may agree on a procedure for appointment of the Arbitral Tribunal.

(2) Where the parties have not agreed on a procedure, or if the Arbitral Tribunal has not been appointed within the time period agreed by the parties or, where the parties have not agreed on a time period, within the time period set by the Board, the appointment shall be made pursuant to paragraphs (3)–(7).

(3) Where the Arbitral Tribunal is to consist of a sole arbitrator, the parties shall be given ten days to jointly appoint the arbitrator. If the parties fail to appoint the arbitrator within this time, the Board shall make the appointment.

(4) Where the Arbitral Tribunal is to consist of more than one arbitrator, each party shall appoint an equal number of arbitrators and the Board shall appoint the chairperson. Where a party fails to appoint any arbitrator within the stipulated time period, the Board shall make the appointment.

(5) Where there are multiple claimants or respondents and the Arbitral Tribunal is to consist of more than one arbitrator, the multiple claimants, jointly, and the multiple respondents, jointly, shall appoint an equal number of arbitrators. If either side fails to make such joint appointment, the Board may appoint the entire Arbitral Tribunal.

(6) If the parties are of different nationalities, the sole arbitrator or the chairperson of the Arbitral Tribunal shall be of a different nationality than the parties, unless the parties have agreed otherwise, or the Board otherwise deems it appropriate.

(7) When appointing arbitrators, the Board shall consider the nature and circumstances of the dispute, the applicable law, the seat and language of the arbitration and the nationality of the parties.

Article 18 Impartiality, independence, and availability

(1) Every arbitrator must be impartial and independent.

(2) Before being appointed, a prospective arbitrator shall disclose any circumstances that may give rise to justifiable doubts as to the prospective arbitrator's impartiality or independence.

(3) Once appointed, an arbitrator shall submit to the Secretariat a signed statement of acceptance, availability, impartiality and independence, disclosing any circumstances that may give rise to justifiable doubts as to the arbitrator's impartiality or independence. The Secretariat shall send a copy of the statement of acceptance, availability, impartiality and independence to the parties and the other arbitrators.

(4) An arbitrator shall immediately inform the parties and the other

arbitrators in writing if any circumstances that may give rise to justifiable doubts as to the arbitrator's impartiality or independence arise during the course of the arbitration.

Article 19 Challenge to arbitrators

(1) A party may challenge any arbitrator if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence or if the arbitrator does not possess the qualifications agreed by the parties.

(2) A party may challenge an arbitrator it has appointed, or in whose appointment it has participated, only for reasons it becomes aware of after the appointment was made.

(3) A party wishing to challenge an arbitrator shall submit a written statement to the Secretariat stating the reasons for the challenge within 15 days from the date the circumstances giving rise to the challenge became known to the party. Failure to challenge an arbitrator within the stipulated time constitutes a waiver of the party's right to make the challenge.

(4) The Secretariat shall notify the parties and the arbitrators of the challenge and give them an opportunity to submit comments.

(5) If the other party agrees to the challenge, the arbitrator shall resign. In all other cases, the Board shall take the final decision on the challenge.

Article 20 Release from appointment

(1) The Board shall release an arbitrator from appointment where:

- (i) the Board accepts the resignation of the arbitrator;
- (ii) a challenge to the arbitrator under Article 19 is sustained; or
- (iii) the arbitrator is otherwise unable or fails to perform the arbitrator's functions.

(2) Before the Board releases an arbitrator, the Secretariat may give the parties and the arbitrators an opportunity to submit comments.

Article 21 Replacement of arbitrators

(1) The Board shall appoint a new arbitrator where an arbitrator appointed by the Board has been released from appointment pursuant to Article 20, or where such an arbitrator has died. If the released arbitrator was appointed by a party, that party shall appoint the new arbitrator, unless the Board otherwise deems it appropriate.

(2) Where the Arbitral Tribunal consists of three or more arbitrators, the Board may decide that the remaining arbitrators shall proceed with the arbitration. Before the Board takes a decision, the parties and the arbitrators shall be given an opportunity to submit comments. In taking its decision, the Board shall have regard to the stage of the arbitration and any other relevant circumstances.

(3) Where an arbitrator has been replaced, the newly composed Arbitral Tribunal shall decide whether and to what extent the proceedings are to be repeated.

THE PROCEEDINGS BEFORE THE ARBITRAL TRIBUNAL

Article 22 Referral to the Arbitral Tribunal

When the Arbitral Tribunal has been appointed and the advance on costs has been paid, the Secretariat shall refer the case to the Arbitral Tribunal.

Article 23 Conduct of the arbitration by the Arbitral Tribunal

(1) The Arbitral Tribunal shall conduct the arbitration in such manner as it considers appropriate, subject to the Arbitration Rules and any agreement between the parties.

(2) In all cases, the Arbitral Tribunal shall conduct the arbitration in an impartial, efficient, and expeditious manner, giving each party an equal and reasonable opportunity to present its case.

Article 24 Administrative secretary of the Arbitral Tribunal

(1) The Arbitral Tribunal may at any time during the arbitration submit to the Secretariat a proposal for the appointment of a specific candidate as administrative secretary. The Arbitral Tribunal's appointment of an administrative secretary is subject to the approval of the parties.

(2) The Arbitral Tribunal shall consult the parties regarding the tasks of the administrative secretary. The Arbitral Tribunal may not delegate any decision-making authority to the administrative secretary.

(3) The administrative secretary must be impartial and independent. The Arbitral Tribunal shall ensure that the administrative secretary remains impartial and independent at all stages of the arbitration.

(4) Before being appointed, the proposed administrative secretary shall submit to the Secretariat a signed statement of availability, impartiality and independence disclosing any circumstances that may give rise to

justifiable doubts as to the proposed administrative secretary's impartiality or independence.

(5) A party may request the release of the administrative secretary from appointment based on the procedure set out in Article 19, which shall apply *mutatis mutandis* to a challenge to an administrative secretary. If the Board releases an administrative secretary, the Arbitral Tribunal may propose the appointment of another administrative secretary in accordance with this Article. A request for the release of an administrative secretary shall not prevent the arbitration from proceeding unless the Arbitral Tribunal decides otherwise.

(6) Any fee payable to the administrative secretary shall be paid from the fees of the Arbitral Tribunal.

Article 25 Seat of arbitration

(1) Unless agreed upon by the parties, the Board shall decide the seat of arbitration.

(2) The Arbitral Tribunal may, after consulting the parties, conduct hearings at any place it considers appropriate. The Arbitral Tribunal may meet and deliberate at any place it considers appropriate. The arbitration shall be deemed to have taken place at the seat of arbitration regardless of any hearing, meeting, or deliberation held elsewhere.

(3) The award shall be deemed to have been made at the seat of arbitration.

Article 26 Language

(1) Unless agreed upon by the parties, the Arbitral Tribunal shall determine the language(s) of the arbitration. In so determining, the Arbitral Tribunal shall have due regard to all relevant circumstances and shall give the parties an opportunity to submit comments.

(2) The Arbitral Tribunal may request that any documents submitted in languages other than those of the arbitration be accompanied by a translation into the language(s) of the arbitration.

Article 27 Applicable law

(1) The Arbitral Tribunal shall decide the merits of the dispute on the basis of the law(s) or rules of law agreed upon by the parties. In the absence of such agreement, the Arbitral Tribunal shall apply the law or rules of law that it considers most appropriate.

(2) Any designation by the parties of the law of a given state shall be deemed to refer to the substantive law of that state, not to its conflict of laws rules.

(3) The Arbitral Tribunal shall decide the dispute *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorised it to do so.

Article 28 Case management conference and timetable

(1) After the referral of the case to the Arbitral Tribunal, the Arbitral Tribunal shall promptly hold a case management conference with the parties to organise, schedule and establish procedures for the conduct of the arbitration.

(2) The case management conference may be conducted in person or by any other means.

(3) Having regard to the circumstances of the case, the Arbitral Tribunal and the parties shall seek to adopt procedures enhancing the efficiency and expeditiousness of the proceedings.

(4) During or immediately following the case management conference, the Arbitral Tribunal shall establish a timetable for the conduct of the arbitration, including the date for making the award.

(5) The Arbitral Tribunal may, after consulting the parties, hold further case management conferences and issue revised timetables as it deems appropriate. The Arbitral Tribunal shall send a copy of the timetable and any subsequent modifications to the parties and to the Secretariat.

Article 29 Written submissions

(1) Within the period determined by the Arbitral Tribunal, the claimant shall submit a statement of claim which shall include, unless previously submitted:

- (i) the specific relief sought;
- (ii) the facts and other circumstances the claimant relies on; and
- (iii) any evidence the claimant relies on.

(2) Within the period determined by the Arbitral Tribunal, the respondent shall submit a statement of defence which shall include, unless previously submitted:

(i) any objections concerning the existence, validity or applicability of the arbitration agreement;

(ii) a statement whether, and to what extent, the respondent admits or denies the relief sought by the claimant;

(iii) the facts and other circumstances the respondent relies on;

(iv) any counterclaim or set-off and the facts and other circumstances on which it is based; and

(v) any evidence the respondent relies on.

(3) The Arbitral Tribunal may order the parties to submit additional written submissions.

Article 30 Amendments

At any time prior to the close of proceedings pursuant to Article 40, a party may amend or supplement its claim, counterclaim, defence or set-off provided its case, as amended or supplemented, is still encompassed by the arbitration agreement, unless the Arbitral Tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it, the prejudice to the other party or any other relevant circumstances.

Article 31 Evidence

(1) The admissibility, relevance, materiality, and weight of evidence shall be for the Arbitral Tribunal to determine.

(2) The Arbitral Tribunal may order a party to identify the documentary evidence it intends to rely on and specify the circumstances intended to be proved by such evidence.

(3) At the request of a party, or exceptionally on its own motion, the Arbitral Tribunal may order a party to produce any documents or other evidence that may be relevant to the case and material to its outcome.

Article 32 Hearings

(1) A hearing shall be held if requested by a party, or if the Arbitral Tribunal deems it appropriate.

(2) After consulting with the parties and having regard to the circumstances, the Arbitral Tribunal shall decide:

(i) the date and time of any hearing; and

(ii) whether any hearing shall be conducted (a) in person, at a specified location, or (b) remotely, in whole or in part, by videoconference or other appropriate means of communication.

The Arbitral Tribunal shall provide the parties reasonable notice of its decision.

(3) Unless otherwise agreed by the parties, hearings will be held in private.

Article 33 Witnesses

(1) In advance of any hearing, the Arbitral Tribunal may order the parties to identify each witness or expert they intend to call and specify the circumstances intended to be proved by each testimony.

(2) The testimony of witnesses or party-appointed experts may be submitted in the form of signed statements.

(3) Any witness or expert, on whose testimony a party seeks to rely, shall attend a hearing for examination, unless otherwise agreed by the parties.

Article 34 Experts appointed by the Arbitral Tribunal

(1) After consulting the parties, the Arbitral Tribunal may appoint one or more experts to report to it on specific issues set out by the Arbitral Tribunal in writing.

(2) Upon receipt of a report from an expert it has appointed, the Arbitral Tribunal shall send a copy of the report to the parties and shall give the parties an opportunity to submit written comments on the report.

(3) Upon the request of a party, the parties shall be given an opportunity to examine any expert appointed by the Arbitral Tribunal at a hearing.

Article 35 Default

(1) If the claimant, without good cause, fails to submit a statement of claim in accordance with Article 29, the Arbitral Tribunal shall terminate the proceedings, provided the respondent has not filed a counterclaim.

(2) If a party, without good cause, fails to submit a statement of defence or other written submission in accordance with Article 29, fails to appear at a hearing or otherwise fails to avail itself of the opportunity to present its case, the Arbitral Tribunal may proceed with the arbitration and make an award.

(3) If a party, without good cause, fails to comply with any provision of, or requirement under, the Arbitration Rules or any procedural order issued by the Arbitral Tribunal, the Arbitral Tribunal may draw such inferences as it considers appropriate.

Article 36 Waiver

A party who, during the arbitration, fails to object without delay to any failure to comply with the arbitration agreement, the Arbitration Rules, or other rules applicable to the proceedings shall be deemed to have waived the right to object to such failure.

Article 37 Interim measures

(1) The Arbitral Tribunal may, at the request of a party, grant any interim measures it deems appropriate.

(2) The Arbitral Tribunal may order the party requesting an interim measure to provide appropriate security in connection with the measure.

(3) An interim measure shall take the form of an order or an award.

(4) Provisions with respect to interim measures requested before arbitration has commenced, or before a case has been referred to an Arbitral Tribunal, are set out in Appendix II.

(5) A request for interim measures made by a party to a judicial authority is not incompatible with the arbitration agreement or with the Arbitration Rules.

Article 38 Security for costs

(1) The Arbitral Tribunal may, in exceptional circumstances and at the request of a party, order any claimant or counterclaimant to provide security for costs in any manner the Arbitral Tribunal deems appropriate.

(2) In determining whether to order security for costs, the Arbitral Tribunal shall have regard to:

- (i) the prospects of success of the claims, counterclaims and defences;

(ii) the claimant's or counterclaimant's ability to comply with an adverse costs award and the availability of assets for enforcement of an adverse costs award;

(iii) whether it is appropriate in all the circumstances of the case to order one party to provide security; and

(iv) any other relevant circumstances.

(3) If a party fails to comply with an order to provide security for costs, the Arbitral Tribunal may stay or terminate the proceedings in whole or in part.

(4) Any decision to stay or to terminate the proceedings in whole or in part shall take the form of an order or an award.

Article 39 Summary procedure

(1) A party may request that the Arbitral Tribunal decide one or more issues of fact or law by way of summary procedure, without necessarily taking every procedural step that might otherwise be adopted in the arbitration.

(2) A request for summary procedure may concern issues of jurisdiction, admissibility, or the merits. It may include, for example, an assertion that:

(i) an allegation of fact or law material to the outcome of the case is manifestly unsustainable;

(ii) even if the facts alleged by the other party are assumed to be true, no award could be rendered in favour of that party under the applicable law; or

(iii) any issue of fact or law material to the outcome of the case is, for any other reason, suitable to determination by way of summary procedure.

(3) The request shall specify the grounds relied on and the form of summary procedure proposed and demonstrate that such procedure is efficient and appropriate having regard to all the circumstances of the case.

(4) After providing the other party an opportunity to submit comments, the Arbitral Tribunal shall issue an order either dismissing the request or fixing the summary procedure in the form it deems appropriate.

(5) In determining whether to grant a request for summary procedure, the Arbitral Tribunal shall have regard to all relevant circumstances, including the extent to which the summary procedure contributes to a more efficient and expeditious resolution of the dispute.

(6) If the request for summary procedure is granted, the Arbitral Tribunal shall decide the issues under consideration in an efficient and expeditious manner having regard to the circumstances of the case, while giving each party an equal and reasonable opportunity to present its case pursuant to Article 23 (2).

Article 40 Close of proceedings

The Arbitral Tribunal shall declare the proceedings closed when it is satisfied that the parties have had a reasonable opportunity to present their cases. In exceptional circumstances, prior to the making of the final award, the Arbitral Tribunal may reopen the proceedings on its own motion, or on the application of a party.

AWARDS AND DECISIONS

Article 41 Awards and decisions

(1) Where the Arbitral Tribunal consists of more than one arbitrator, any award or other decision shall be made by a majority of the arbitrators or, failing a majority, by the chairperson.

(2) The Arbitral Tribunal may decide that the chairperson alone may make procedural rulings.

Article 42 Making of awards

(1) The Arbitral Tribunal shall make its award in writing, and, unless otherwise agreed by the parties, shall state the reasons upon which the award is based.

(2) An award shall include the date of the award and the seat of arbitration in accordance with Article 25.

(3) An award shall be signed by the arbitrators. If an arbitrator fails to sign an award, the signatures of the majority of the arbitrators or, failing a majority, of the chairperson shall be sufficient, provided that the reason for the omission of the signature is stated in the award.

(4) The Arbitral Tribunal shall deliver a copy of the award to each of the parties and to the SCC without delay.

(5) If any arbitrator fails, without good cause, to participate in the deliberations of the Arbitral Tribunal on any issue, such failure will not preclude a decision being taken by the other arbitrators.

Article 43 Time limit for final award

The final award shall be made no later than six months from the date the case was referred to the Arbitral Tribunal pursuant to Article 22. The Board may extend this time limit upon a reasoned request from the Arbitral Tribunal or if otherwise deemed necessary.

Article 44 Separate award

The Arbitral Tribunal may decide a separate issue or part of the dispute in a separate award.

Article 45 Settlement or other grounds for termination of the arbitration

(1) If the parties reach a settlement before the final award is made, the Arbitral Tribunal may, at the request of both parties, make a consent award recording the settlement.

(2) If the arbitration is terminated for any other reason before the final award is made, the Arbitral Tribunal shall issue an order or award recording the termination.

Article 46 Effect of an award

An award shall be final and binding on the parties when rendered. By agreeing to arbitration under the Arbitration Rules, the parties undertake to carry out any award without delay.

Article 47 Correction and interpretation of an award

(1) Within 30 days of receiving an award, a party may, upon notice to the other party, request that the Arbitral Tribunal correct any clerical, typographical or computational errors in the award, or provide an interpretation of a specific point or part of the award. After giving the other party an opportunity to comment on the request, and if the Arbitral Tribunal considers the request justified, it shall make the correction or provide the interpretation within 30 days of receiving the request.

(2) The Arbitral Tribunal may correct any error of the type referred to in paragraph (1) above on its own motion within 30 days of the date of an award.

(3) Any correction or interpretation of an award shall be in writing and shall comply with the requirements of Article 42.

Article 48 Additional award

Within 30 days of receiving an award, a party may, upon notice to the other party, request that the Arbitral Tribunal make an additional award on claims presented in the arbitration but not determined in the award. After giving the other party an opportunity to comment on the request, and if the Arbitral Tribunal considers the request justified, it shall make the additional award within 60 days of receiving the request. When deemed necessary, the Board may extend this 60 day time limit.

COSTS OF THE ARBITRATION

Article 49 Costs of the arbitration

(1) The costs of the arbitration consist of:

- (i) the fees of the Arbitral Tribunal;
- (ii) the administrative fee; and
- (iii) the expenses of the Arbitral Tribunal and the SCC.

(2) Before making the final award, the Arbitral Tribunal shall request that the Board finally determine the costs of the arbitration. The Board shall finally determine the costs of the arbitration in accordance with the schedule of costs (Appendix IV) in force on the date of commencement of the arbitration pursuant to Article 8.

(3) In finally determining the costs of the arbitration, the Board shall have regard to the extent to which the Arbitral Tribunal has acted in an efficient and expeditious manner, the complexity of the dispute and any other relevant circumstances.

(4) If the arbitration is terminated before the final award is made pursuant to Article 45, the Board shall finally determine the costs of the arbitration having regard to the stage of the arbitration, the work performed by the Arbitral Tribunal and any other relevant circumstances.

(5) The Arbitral Tribunal shall include in the final award the costs of the arbitration as finally determined by the Board and specify the individual fees and expenses of each member of the Arbitral Tribunal and the SCC.

(6) Unless otherwise agreed by the parties, the Arbitral Tribunal shall, at the request of a party, apportion the costs of the arbitration between the parties, having regard to the outcome of the case, each party's contribution to the efficiency and expeditiousness of the arbitration and any other relevant circumstances.

(7) The parties are jointly and severally liable to the arbitrator(s) and to the SCC for the costs of the arbitration.

Article 50 Costs incurred by a party

Unless otherwise agreed by the parties, the Arbitral Tribunal may in the final award, at the request of a party, order one party to pay any reasonable costs incurred by another party, including costs for legal representation, having regard to the outcome of the case, each party's contribution to the efficiency and expeditiousness of the arbitration and any other relevant circumstances.

Article 51 Advance on costs

(1) The Board shall determine an amount to be paid by the parties as an advance on costs.

(2) The advance on costs shall correspond to the estimated amount of the costs of the arbitration pursuant to Article 49 (1).

(3) Each party shall pay half of the advance on costs unless separate advances are determined. Where counterclaims or set-offs are submitted, the Board may decide that each party shall pay advances corresponding to its claims. Where an additional party is joined to the arbitration pursuant to Article 13, the Board may determine each party's share of the advance on costs as it deems appropriate, having regard to the circumstances of the case.

(4) At the request of the Arbitral Tribunal, or if otherwise deemed necessary, the Board may order the parties to pay additional advances during the course of the arbitration.

(5) If a party fails to make a required payment, the Secretariat shall give the other party an opportunity to do so within a specified period of time. If the payment is not made within that time, the Board shall dismiss the case in whole or in part. If the case has been referred to the Arbitral Tribunal, the Arbitral Tribunal shall terminate the case in whole or in part.

(6) If the other party makes the required payment, the Arbitral Tribunal may, at the request of that party, make a separate award for reimbursement of the payment.

(7) At any stage during the arbitration or after the award has been made, the Board may draw on the advance on costs to cover the costs of the arbitration.

(8) The Board may decide that part of the advance on costs may be provided in the form of a bank guarantee or other form of security.

MISCELLANEOUS

Article 52 Exclusion of liability

Neither the SCC, the arbitrator(s), the administrative secretary of the Arbitral Tribunal, nor any expert appointed by the Arbitral Tribunal is liable to any party for any act or omission in connection with the arbitration, unless such act or omission constitutes wilful misconduct or gross negligence.

Appendix I – Organisation

Article 1 About the SCC

The SCC is a body providing administrative services in relation to the settlement of disputes. The SCC is part of the Stockholm Chamber of Commerce but is independent in exercising its functions in the administration of disputes. The SCC is composed of the Board and the Secretariat.

Article 2 Function of the SCC

The SCC does not itself decide disputes. The function of the SCC is to:

- (i) administer domestic and international disputes in accordance with the SCC Rules; and
- (ii) provide information concerning arbitration and mediation matters.

Article 3 The Board

The Board shall be composed of one chairperson, a maximum of three vice-chairpersons and a maximum of 12 additional members. The Board shall include both Swedish and non-Swedish nationals.

Article 4 Appointment of the Board

The Board shall be appointed by the Board of Directors of the Stockholm Chamber of Commerce (the “Board of Directors”). The members of the Board shall be appointed for a period of three years and, unless exceptional circumstances apply, are only eligible for re-appointment in their respective capacities for one further three-year period.

Article 5 Removal of a member of the Board

In exceptional circumstances, the Board of Directors may remove a member of the Board. If a member resigns or is removed during a term of office, the Board of Directors may appoint a new member for the remainder of the term.

Article 6 Function of the Board

The function of the Board is to take the decisions required of the SCC in administering disputes under the SCC Rules. Such decisions include decisions on the jurisdiction of the SCC, determination of advances on costs, appointment of arbitrators, decisions upon challenges to arbitrators, removal of arbitrators and the fixing of the costs of the arbitration.

Article 7 Decisions by the Board

Two members of the Board form a quorum. If a majority is not attained, the chairperson has the casting vote. The chairperson or a vice chairperson may take decisions on behalf of the Board in urgent matters. A committee of the Board may be appointed to take certain decisions on behalf of the Board. The Board may delegate decisions to the Secretariat, including decisions on advances on costs, extension of time for rendering an award, dismissal for non-payment of registration fee, release of arbitrators and the fixing of the costs of the arbitration. Decisions by the Board are final. Dismissal of a case by the Board or the Secretariat in whole or in part has no preclusive effect.

Article 8 The Secretariat

The Secretariat acts under the direction of a secretary general. The Secretariat carries out the functions assigned to it under the SCC Rules. The Secretariat may also take decisions delegated to it by the Board.

Article 9 Procedures

The SCC shall maintain the confidentiality of the arbitration and the award and shall deal with the arbitration in an impartial, efficient and expeditious manner.

Appendix II – Emergency arbitrator

Article 1 Emergency arbitrator

(1) A party may apply for the appointment of an emergency arbitrator until the case has been referred to an Arbitral Tribunal pursuant to Article 22 of the Arbitration Rules.

(2) The powers of the emergency arbitrator shall be those set out in Article 37 (1)-(3) of the Arbitration Rules. Such powers terminate on referral of the case to an Arbitral Tribunal pursuant to Article 22 of the Arbitration Rules, or when an emergency decision ceases to be binding according to Article 9 (4) of this Appendix.

Article 2 Application for the appointment of an emergency arbitrator

An application for the appointment of an emergency arbitrator shall include:

- (i) the names, addresses, telephone numbers and e-mail addresses of the parties and their counsel;
- (ii) a summary of the dispute;
- (iii) a statement of the interim relief sought and the reasons therefor;
- (iv) a copy or description of the arbitration agreement or clause under which the dispute is to be settled;
- (v) comments on the seat of the emergency proceedings, the applicable law(s) and the language(s) of the proceedings; and
- (vi) proof of payment of the costs for the emergency proceedings pursuant to Article 10 (1) of this Appendix.

Article 3 Notice

As soon as an application for the appointment of an emergency arbitrator has been received, the Secretariat shall send the application to the other party.

Article 4 Appointment of the emergency arbitrator

(1) The Board shall seek to appoint an emergency arbitrator within 24 hours of receipt of the application.

(2) An emergency arbitrator shall not be appointed if the SCC manifestly lacks jurisdiction over the dispute.

(3) Article 19 of the Arbitration Rules applies to the challenge to an emergency arbitrator, except that a challenge must be made within 24 hours from the time the circumstances giving rise to the challenge became known to the party.

(4) An emergency arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless otherwise agreed by the parties.

Article 5 Seat of the emergency proceedings

The seat of the emergency proceedings shall be that which has been agreed upon by the parties as the seat of the arbitration. If the seat of the arbitration has not been agreed by the parties, the Board shall determine the seat of the emergency proceedings.

Article 6 Referral to the emergency arbitrator

Once an emergency arbitrator has been appointed, the Secretariat shall promptly refer the application to the emergency arbitrator.

Article 7 Conduct of the emergency proceedings

Article 23 of the Arbitration Rules shall apply to the emergency proceedings, taking into account the urgency inherent in such proceedings.

Article 8 Emergency decisions on interim measures

(1) Any emergency decision on interim measures shall be made no later than five days from the date the application was referred to the emergency arbitrator pursuant to Article 6 of this Appendix. The Board may extend this time limit upon a reasoned request from the emergency arbitrator, or if otherwise deemed necessary.

(2) Any emergency decision on interim measures shall:

(i) be made in writing;

(ii) state the date when it was made, the seat of the emergency proceedings and the reasons upon which the decision is based;
and

(iii) be signed by the emergency arbitrator.

(3) The emergency arbitrator shall promptly deliver a copy of the emergency decision to each of the parties and to the SCC.

Article 9 Binding effect of emergency decisions

(1) An emergency decision shall be binding on the parties when rendered.

(2) Upon a reasoned request of a party, the emergency arbitrator may amend or revoke the emergency decision.

(3) By agreeing to arbitration under the Arbitration Rules, the parties undertake to comply with any emergency decision without delay.

(4) The emergency decision ceases to be binding if:

(i) the emergency arbitrator or an Arbitral Tribunal so decides;

(ii) an Arbitral Tribunal makes a final award;

(iii) arbitration is not commenced within 30 days from the date of the emergency decision; or

(iv) the case is not referred to an Arbitral Tribunal within 90 days from the date of the emergency decision.

(5) An Arbitral Tribunal is not bound by the decision(s) and reasons of the emergency arbitrator.

Article 10 Costs of the emergency proceedings

(1) The party applying for the appointment of an emergency arbitrator shall pay the costs set out in paragraph (2) (i) and (ii) below upon filing the application.

(2) The costs of the emergency proceedings include:

(i) the fee of the emergency arbitrator, in the amount of EUR 16 000;

(ii) the application fee of EUR 4 000; and

(iii) the reasonable costs incurred by the parties, including costs for legal representation.

(3) At the request of the emergency arbitrator, or if otherwise deemed appropriate, the Board may decide to increase or reduce the costs set out in paragraph (2) (i) and (ii) above, having regard to the nature of the case, the work performed by the emergency arbitrator and the SCC and any other relevant circumstances.

(4) If payment of the costs set out in paragraph (2) (i) and (ii) above is not made in due time, the Secretariat shall dismiss the application.

(5) At the request of a party, the emergency arbitrator shall in the emergency decision apportion the costs of the emergency proceedings between the parties.

(6) The emergency arbitrator shall apply the principles of Articles 49 (6) and 50 of the Arbitration Rules when apportioning the costs of the emergency proceedings.

Appendix III – Investment treaty disputes

Article 1 Scope of application

(1) The articles contained in this Appendix apply to cases under the Arbitration Rules based on a treaty providing for arbitration of disputes between an investor and a state.

(2) Articles 13, 14 and 15 of the Arbitration Rules shall apply *mutatis mutandis* to the cases indicated in paragraph (1) above.

Article 2 Number of arbitrators

(1) The parties may agree on the number of arbitrators.

(2) Where the parties have not agreed on the number of arbitrators, the Arbitral Tribunal shall consist of three arbitrators, unless the Board, having regard to the complexity of the case, the amount in dispute and any other relevant circumstances, decides that the dispute is to be decided by a sole arbitrator.

Article 3 Submission by a Third Person

(1) Any person that is neither a disputing party nor a non-disputing treaty party (“Third Person”) may apply to the Arbitral Tribunal for permission to make a written submission in the arbitration.

(2) All such applications shall:

(i) be made in a language of the arbitration;

(ii) identify and describe the Third Person, including where relevant its membership and legal status, its general objectives, the nature of its activities and any parent or other affiliated organisation, and any other entity or person that directly or indirectly controls the Third Person;

(iii) disclose any direct or indirect affiliation with any party to the arbitration;

(iv) identify any government, organisation or person that has directly or indirectly provided any financial or other assistance in preparing the submission;

(v) specify the nature of the interest that the Third Person has in the arbitration; and

(vi) identify the specific issues of fact or law in the arbitration that the Third Person wishes to address in its submission.

(3) In determining whether to allow such a submission, and after consulting the disputing parties, the Arbitral Tribunal shall have regard to:

(i) the nature and significance of the interest of the Third Person in the arbitration;

(ii) whether the submission would assist the Arbitral Tribunal in determining a material issue of fact or law in the arbitration by bringing a perspective, particular knowledge or insight that is distinct from or broader than that of the disputing parties; and

(iii) any other relevant circumstances.

(4) The Arbitral Tribunal may, after consulting the disputing parties, invite a Third Person to make a written submission on a material issue of fact or law in the arbitration. The Arbitral Tribunal shall not draw any inference from the absence of any submission or response to an invitation.

(5) If permission is granted or an invitation by the Arbitral Tribunal accepted, the submission filed by the Third Person shall:

(i) be made in a language of the arbitration; and

(ii) set out a precise statement of the Third Person's position on the identified issue(s), in no case longer than as authorised by the Arbitral Tribunal.

(6) For the purposes of preparing its written submission, a Third Person may apply to the Arbitral Tribunal for access to submissions and evidence filed in the arbitration. The Arbitral Tribunal shall consult the disputing parties before ruling on the application, and shall take into account, and where appropriate safeguard, any confidentiality of the information in question.

(7) The Arbitral Tribunal may, at the request of a disputing party, or on its own motion:

(i) request further details from the Third Person regarding its submission; and

(ii) require that the Third Person attend a hearing to elaborate or be examined on its submission.

(8) The Arbitral Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on any submission by any Third Person.

(9) The Arbitral Tribunal shall ensure that any Third Person submission does not disrupt or unduly burden the arbitral proceedings or unduly prejudice any disputing party.

(10) The Arbitral Tribunal may, as a condition for allowing a Third Person to make a submission, require that the Third Person provide security for reasonable legal or other costs expected to be incurred by the disputing parties as a result of the submission.

Article 4 Submission by a non-disputing treaty party

(1) Subject to Article 3 (9) of this Appendix, as applied by Article 4 (4) below, the Arbitral Tribunal shall allow or, after consulting the disputing parties, may invite, submissions from a non-disputing treaty party on issues of treaty interpretation that are material to the outcome of the case.

(2) The Arbitral Tribunal, after consulting the disputing parties, may allow or invite submissions from a non-disputing treaty party on other material issues in the arbitration. In determining whether to allow or invite such submissions, the Arbitral Tribunal shall have regard to:

- (i) the matters referred to in Article 3 (3) of this Appendix;
- (ii) the need to avoid submissions appearing to support the investor's claim in a manner tantamount to diplomatic protection; and
- (iii) any other relevant circumstances.

(3) The Arbitral Tribunal shall not draw any inference from the absence of any submission or response to any invitation pursuant to paragraph (1) or (2) above.

(4) Article 3 (5)–(9) of this Appendix shall apply equally to any submission by a non-disputing treaty party.

Appendix IV – Schedule of costs

COSTS OF THE ARBITRATION

Article 1 Registration fee

(1) The registration fee referred to in Article 7 of the Arbitration Rules is EUR 3 000.

(2) The registration fee is non-refundable and constitutes a part of the administrative fee in Article 3 below. The registration fee shall be credited to the advance on costs to be paid by the claimant pursuant to Article 51 of the Arbitration Rules.

Article 2 Fees of the Arbitral Tribunal

(1) The Board shall determine the fee of a chairperson or sole arbitrator based on the amount in dispute in accordance with the table found at www.sccarbitrationinstitute.com.

(2) Co-arbitrators shall each receive 60 per cent of the fee of the chairperson. After consultation with the Arbitral Tribunal, the Board may decide that a different percentage shall apply.

(3) The amount in dispute shall be the aggregate value of all claims, counterclaims and set-offs. Where the amount in dispute cannot be ascertained, the Board shall determine the fees of the Arbitral Tribunal having regard to all relevant circumstances.

(4) In exceptional circumstances, the Board may deviate from the amounts set out in the table.

Article 3 Administrative fee

(1) The administrative fee shall be determined based on the amount in dispute in accordance with the table found at www.sccarbitrationinstitute.com.

(2) The amount in dispute shall be the aggregate value of all claims, counterclaims and set-offs. Where the amount in dispute cannot be ascertained, the Board shall determine the administrative fee having regard to all relevant circumstances.

(3) Under exceptional circumstances, the Board may deviate from the amounts set out in the table.

Article 4 Expenses

In addition to the fees of the arbitrator(s) and the administrative fee, the Board shall fix an amount to cover any reasonable expenses incurred by the arbitrator(s) and the SCC. The expenses of the arbitrator(s) may include the fee and expenses of any expert appointed by the Arbitral Tribunal pursuant to Article 34 of the Arbitration Rules.

Article 5 Pledge

By paying the advance on costs pursuant to Article 51 (1) of the Arbitration Rules, each party irrevocably and unconditionally pledges to the SCC and to the arbitrators, as represented by the SCC, any rights over any amount paid to the SCC as continuing security for any liabilities for the costs of the arbitration.

SCC Arbitration Institute

Regeringsgatan 29

P.O. Box 16050, SE-103 21 Stockholm, Sweden

+46 8-555 100 00

sccarbitrationinstitute.com

arbitration@sccarbitrationinstitute.com

