

## Allocation of competencies of the Bodies of the Court

*Approved by the Court's Plenary October 29<sup>th</sup>, 2020*

Article of the Rules of the Court	Responsible Body
2.5. The Court shall be responsible for settling, ex officio or at the request of any of the parties or of the arbitrators, any doubt that may arise in relation to the interpretation of these Rules. The decisions of the Court shall be final.	Secretary-General, after consulting the Restricted Committee of the Plenary.
3.1. The Court, at the request of the parties and having regard to the circumstances of the case, may waive the requirement for submission of a copy in digital format.	Secretary-General.
4.4. The deadlines established in these Rules may, having regard to the circumstances of the case, be modified (including their extension, reduction or suspension) by the Court until the arbitral tribunal has been set up, and by the arbitrators as from that time, unless otherwise expressly agreed by the parties.	Secretary-General.
5.5. If the request for arbitration is incomplete or copies or attachments are not presented properly, or the advance on costs for the Court's admission and administration expenses or the arbitrator's fees have not been paid partially or in full, the Court may fix a time limit of no more than ten days for the claimant to amend the defect or pay the advance on costs. Once the defect has been remedied or the advance on costs paid, the request for arbitration shall be deemed to have been validly presented on the date initially filed.	Counsel for the case, after consultation with the Secretary General.
6.5 If the answer to the request for arbitration is incomplete or copies or attachments are not presented in the required number, or the advance on costs for the Court's administration expenses or the arbitrator's fees have not been paid partially or in full, the Court may fix a time limit of no more than ten days for the respondent to amend the defect or pay the advance on costs. Once the defect has been remedied or the advance on costs paid, the answer to the request for arbitration shall be deemed to have been validly presented on the date initially filed.	Counsel for the case, after consultation with the Secretary General.

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<p>8.1. If the respondent does not answer the request for arbitration, declines to submit to arbitration or formulates one or more objections regarding the existence, validity or scope of the arbitration agreement, after hearing the other parties, if required, the following alternatives may arise:</p> <p>a) If the Court is <i>prima facie</i> satisfied that an arbitration agreement exists whereby resolution of the dispute is entrusted to the Court, it shall continue to pursue the arbitration proceedings (with the reservations regarding the advance on costs found in this Rules), without prejudice of the admissibility or basis of the objections raised. In this case, the arbitral tribunal will be competent to make a decision as to its own jurisdiction.</p> <p>b) If the Court is not <i>prima facie</i> satisfied that an arbitration agreement exists whereby resolution of the dispute is entrusted to the Court, it shall notify the parties that the arbitration cannot proceed.</p>	Secretary-General.
<p>8.1.b) II. If the claimant states its disagreement with this decision within five days after receipt thereof, the Court shall complete the appointment of the arbitrators according to the request of the claimant and to the Rules, provided the claimant has paid the advance on costs it is required to. Once appointed, the arbitrators shall issue a decision in which they review the decision of the Court.</p>	Appointment Committee (appointment).
<p>9.1. If a party submits a request for arbitration in relation to a legal relationship with respect to which an arbitration procedure governed by these Rule and between the same parties is pending, the Court may, at the request of either party and after consulting with all of them and with the arbitrators, join the request to the pending proceeding. The Court shall take into account, amongst other points, the nature of the new claims, their connection to the ones formulated in the procedure already under way and the stage of the latter proceeding. If the Court decides to join the new request to a pending proceeding in which an arbitral tribunal has</p>	Secretary General, after consultation with the Plenary's Select Committee.

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already been appointed, the parties shall be presumed to waive their right to appoint an arbitrator with respect to the new request. The decision of the Court on joinder shall be final.	
10.1. The Court shall be responsible for fixing the amount of the proceedings taking into consideration the claims filed in each proceeding, their economic interest and their complexity. The Court will set the amount of the advance on costs for the arbitration, including any applicable taxes.	Secretary-General, with the possibility of consultation with the President
10.2. During the arbitration proceedings, the Court may, ex officio or at the request of the arbitrators, request further advances of costs from the parties.	Secretary-General.
10.3. In the event that, because a counterclaim is filed or for any other reason, it becomes necessary to request that the parties pay advance on costs at different points in time, the Court shall be solely responsible for determining how to allocate the payments made to the advances of costs.	Secretary-General.
10.5 If at any time during the arbitration the requested advance on costs is not paid in full, the Court shall require the debtor party to make the outstanding payment within ten days. If the payment is not made within that time limit, the Court will inform the other party so that, if the latter deems fit, it can make the outstanding payment within ten days. If neither party makes the outstanding payment, the Court may, at its discretion, refuse to administer the arbitration or perform the act for which purpose the pending advance was requested. If it refuses the arbitration, the Court will return to each party the amount they deposited, deducting the relevant amount in respect of admission and administration expenses and, if applicable, arbitrators' fees.	Secretary General, after consultation of the Plenary Select Committee (refusal of arbitration).  Counsel, after consultation with the Secretary-General (request for late provision and reimbursement of amounts)
12.1. If the parties have not agreed the number of arbitrators, the Court shall decide if a sole arbitrator or a three member arbitral tribunal should be appointed, having regard to all of the circumstances of the case.	Secretary-General.

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12.3. If the parties have agreed or, in default thereof, the Court has decided to appoint a sole arbitrator, the parties shall be given a joint time limit of fifteen days to appoint the arbitrator by mutual agreement, unless in the request for arbitration or the answer to the request for arbitration, either party has stated its will that the appointment be made directly by the Court, in which case it shall be made with no further delay. If the fifteen day time period expires without notice of appointment by mutual agreement, the sole arbitrator shall be appointed by the Court.	Appointment Committee. (appointment)
12.4. If before the commencement of the arbitration the parties have agreed to the appointment of three arbitrators, each party, in their respective request for arbitration or reply to the request for arbitration, shall nominate one arbitrator. The third arbitrator, who will act as chair of the arbitral tribunal, shall be appointed by the other two arbitrators, who shall be given fifteen days within which to make such appointment by mutual agreement. If that time limit expires without notice of the appointment by mutual agreement, the third arbitrator shall be appointed by the Court within the following fifteen days. If a party fails to nominate the arbitrator it is entitled to nominate in the aforesaid documents, the Court shall make the appointment in its place, along with, and without delay, the appointment of the third arbitrator.	Appointment Committee. (appointment)
12.5. If, in the absence of the parties' agreement, the Court decides that a tribunal of three members should be appointed, it will grant the parties a successive time limit of ten days, first to the claimant and then to the respondent, for each of them to appoint the arbitrator they are entitled to appoint. The third arbitrator, who will act as chair of the tribunal, will be proposed by the two appointed arbitrators, who will be granted ten days to appoint the third arbitrator by mutual agreement. If this time limit expires without notice of a nomination by agreement, the third arbitrator shall be appointed by the Court. Should one of the parties fail to appoint the arbitrator it is entitled to within the time limit mentioned above, the Court will appoint him/her, as well as, and without further delay, appoint the third arbitrator.	Appointment Committee. (appointment)

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13.2 The Court shall notify the parties as to any circumstance it knows regarding an arbitrator appointed by the parties that could affect his/her suitability or prevent or seriously hinder him/her from performing his/her functions in accordance with the Rules or in compliance with the stipulated time frame.	Secretary-General.
13.4. The Court shall confirm the arbitrators appointed by the parties, unless it believes, at its sole discretion, that the nominee's relation with the dispute, the parties or their representatives could give rise to doubts as to his/her suitability, availability independence or impartiality. The Court's decision will be final and the reasons motivating its decision will not be communicated.	Appointment Committee (confirmation).
13.5. If an arbitrator nominated by the parties or arbitrators does not obtain the Court's confirmation, the party or arbitrators who made the proposal shall be given a new time limit of ten days to nominate another arbitrator. If the new arbitrator is not confirmed either, the Court shall directly make the appointment of the arbitrator, and the third arbitrator, in accordance with article 12.4.	Appointment Committee. (appointment)
13.6. In international arbitration, unless the parties provide otherwise, if the parties are of different nationalities, the sole arbitrator or the chair of the tribunal appointed by the Court shall be of a different nationality than the parties, unless the circumstances advise otherwise and no party objects within the time limit set by the Court.	Counsel for the case, after consultation with the Secretary-General (deadline)
14.2. In the absence of such joint proposal by any of the parties and in default of an agreement as to the method for establishing the arbitral tribunal, the Court shall appoint the three arbitrators and appoint one of them to act as chair.	Appointment Committee (appointment).
14.3. In case a three member tribunal needs to be appointed and the Court appreciates a conflict of interest within the members of a claimant or a respondent or it is not possible to identify the parties as claimants or respondents, the Court will appoint the three arbitrators and appoint one of them to act as chair.	Appointment Committee (appointment). Secretary-General, after consultation with the Plenary Select Committee (detection of the conflict or failure to identify the parties).

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15.1. A challenge to an arbitrator, based on lack of independence or impartiality or any other reason, must be submitted to the Court in a written notice of challenge specifying and supporting the facts on which the challenge is based. Unless otherwise agreed by the parties, it shall fall to the Court to decide on the challenges made.	Challenge Committee (decision).
15.5. If, by agreement of the parties, the decision on the challenge is to be made by the arbitrators and they reject the challenge, the challenging party may submit a written objection to the Court within three days following notification of the decision. The Court, in a reasoned report issued within ten days after the objection, may ask the arbitrators to issue a new decision taking into account the criteria cited in its report.	Challenge Committee (decision).
15.7. Challenging the appointment of an arbitrator will not stay the course of the proceedings unless the arbitrators, or, when sole arbitrator, or the Court, considers it appropriate to stay the proceedings. If the challenge affects all arbitrators the Court will decide whether the proceedings should be stayed..	Secretary-General.
16.2. The Court may decide that an arbitrator shall also be replaced at the initiative of the Court or of the rest of the arbitrators, after hearing the parties and the arbitrators during a common time limit of ten days, if the arbitrator fails to perform his/her functions according to the Rules or within the stipulated time frame, or if any circumstance that seriously hinders such performance occurs.	Challenge Committee (replacement decision). Secretary-General (initiative to replace).
16.3. Regardless of the reason why a new arbitrator must be appointed, the appointment shall be done according to the rules regulating appointment of the replaced arbitrator. When needed, the Court shall set a time limit for the party entitled to nominate a new arbitrator to do so. If that party does not make a nomination within the stipulated time limit, the new arbitrator shall be appointed by the Court as provided in section 13 above.	Appointment Committee (appointment). Counsel, after consultation with the Secretary-General (deadline).

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16.4. In the event of replacement of an arbitrator, the arbitration proceedings shall resume as from the point at which the replaced arbitrator stopped performing his/her functions, unless the arbitral tribunal or, in the event of a sole arbitrator, the Court decides otherwise.	Challenge Committee.
16.5. When the proceedings have been closed and in cases of a three member arbitral tribunal, instead of replacing an arbitrator the Court may decide, after hearing the parties and the rest of the arbitrators during a common time limit of ten days, that the remaining arbitrators should continue the arbitration without appointing a substitute.	Challenge Committee.
18.1. The parties may freely choose the place of arbitration. If the parties fail to agree on the place of arbitration, the Court will set the place of arbitration taking into consideration the circumstances of the case and the parties' proposals.	Secretary-General.
19.1. The parties may freely choose the language of the arbitration. If the parties fail to agree on the language of the arbitration, it will be determined by the Court taking into consideration the circumstances of the case and the parties' proposals.	Secretary-General.
20. The parties may be represented or assisted by persons of their choice. For such purpose, it shall be sufficient for the party to communicate in the relevant document the name of the representatives or advisors, their contact information and capacity in which they are acting. In the event of doubt, the arbitral tribunal or the Court may require reliable proof of the powers of representation granted.	Counsel for the case, after consultation with the Secretary-General (deadline)
40.3. In case of exceptional circumstances, the Court may, at the reasoned request of the arbitrators or ex officio, extend the time limit to render the award.	Secretary-General.
43.1. Before signing the award, the arbitrators shall submit it to the Court, which may, during the following ten days, make strictly formal modifications. This time period may be extended by the Court for organizational reasons.	Secretary-General.

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43.2. Without affecting the freedom of decision of the arbitrators, the Court may also call their attention to certain matters relating to the reasoning and to the merits of the case, as well as to the determination and apportionment of costs. In the event that the Court makes use of this possibility, the arbitrators may submit a new version of the award for the Court's prior examination, within the following ten days.	Secretary-General.
48.1. The costs of the arbitration shall be fixed in the final award and shall include: the fees and expenses of arbitrators, which shall be fixed or approved by the Court according to Annex B (Fees and expenses of arbitrators);	Secretary-General, with the possibility of consulting the President.
49.1. The Court shall fix the fees of the arbitrators according to Annex B (Fees and expenses of arbitrators), taking into account the time dedicated by the arbitrators and any other relevant circumstances, in particular the early termination of the arbitration proceedings by agreement of the parties or for any other reason and any delays that arose in making the award.	Secretary-General, with the possibility of consulting the President.
50.4. An award may be made public if the following conditions are fulfilled: a) that the relevant request for publication is made to the Court or the Court itself believes it is of interest for legal doctrine; b) that all references to the names of the parties and to information by which they may be readily identified are eliminated; and c) that none of the parties to the arbitration objects to such publication within the period of time fixed by the Court for such purpose.	Secretary General, after consultation with the Plenary's Select Committee.
52.1. The parties may agree to have the arbitration proceedings governed by the fast track proceedings established in this article, which modifies the general rules in relation to the following: a) The Court may shorten the time frame for appointing arbitrators; (...) c) The arbitrators shall make the award within four months after the statement of defence is filed, or the term to submit it has expired, or the reply to the counterclaim is filed, or the term to submit it has expired. The arbitrators may only extend the time limit for making the award for a single additional period of	Secretary-General.



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<p>one month. This is without prejudice of what is provided for in sections 1, 3, 4, and 5 of article 40.</p> <p>d) The arbitration proceedings shall be conducted by a sole arbitrator, unless the arbitration agreement stipulates the choice of an arbitral tribunal. When the parties have agreed before the arbitration begins that three arbitrators be appointed, the Court will invite the parties to agree to appoint a sole arbitrator.</p>	
<p>52.2 The fast track procedure shall be applied, by decision of the Court, in all cases in which the total amount of the proceedings (including the counterclaim, if applicable) does not exceed 100,000 euros, provided there are no circumstances which, in the judgment of the Court, make it advisable to use the ordinary procedure. The decision to conduct an arbitration case using the fast track procedure shall be final.</p>	Secretary-General.
<p>53.2 The number of arbitrators shall be that agreed in the articles of association or by-laws. If the number of arbitrators is not established therein, the number of arbitrators shall be set by the Court in accordance with article 12 of these Rules.</p>	Secretary-General.
<p>53.3. The appointment of the sole arbitrator or, where appropriate, of the three arbitrators forming the arbitral tribunal, will be decided by the Court, unless after the dispute arises all parties freely agree on a different system to appoint the arbitrators, so long as the principle of equal treatment to the parties is respected.</p>	Appointment Committee.
<p>53.4. The Court may postpone the appointment of the arbitrators for a reasonable period of time when it considers that it is possible that the same conflict may give rise to successive arbitral claims.</p>	Secretary General, after consultation with the Plenary's Select Committee.
<p>53.5. Prior to the appointment of the arbitrators, the Court may, after hearing the parties, allow for the inclusion of third parties to the arbitration as co-claimants or co-respondents. Once the arbitrators have been appointed, the arbitrators shall have the power to decide on the inclusion</p>	Secretary General, after consultation with the Plenary's Select Committee.

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of third parties at their request and after hearing all parties. The third party requesting its inclusion in the arbitration shall adhere to the procedure at its current stage.	
53.6. If a party files a request for arbitration in relation to a company conflict for which there is an ongoing pending arbitration proceedings, the Court may, at the request of either party and after consulting with all of them, decide to join the request for arbitration to the ongoing proceedings after hearing all the parties. If the arbitral tribunal has already been formed for the pending proceeding, the Court shall only decide to join if none of the parties object to the joinder. When the Court decides to join the new request for arbitration to a pending arbitration where the arbitral tribunal is already formed, the parties shall be presumed to waive their right to appoint an arbitrator with respect to the new request.	Secretary General, after consultation with the Plenary's Select Committee.
54.6. Both of the parties' submissions shall include the designation of the arbitrator proposed by each party to be part of the arbitral tribunal in charge of the challenge. Following confirmation of the arbitrators by the Court, they will both appoint the Chair within seven days or, failing this, the Court will appoint a Chair as provided in Article 12.4.	Appointment Committee.
54.7. Following receipt of the case file by the Court, the challenge arbitral tribunal shall render its decision without delay within thirty days. If however the tribunal deems necessary to take evidence, the tribunal will also assess the possibility of holding a hearing with the parties. Following the hearing, the tribunal will declare the proceedings closed and, unless the Court extends this time limit, it will render its decision on the challenge within thirty days.	Secretary-General.
Final provision 3. The Court will review ex officio the national or international nature of the arbitration	Secretary-General.
Anex II. 3.1. As soon as the Application for the Appointment of an Emergency Arbitrator is received the Court will send application to the other party, unless: (...) c) the Court manifestly lacks jurisdiction to administer the arbitration.	Secretary-General, with the possibility of consulting the President.

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The Court will request the party to identify the persons who are going to represent it, identifying their full name, address and other contact details.	
Annex II. 4.1. The Court shall seek to appoint an Emergency Arbitration in the least amount of time possible, approximately within two days since the Secretary receives the Application for the Appointment of an Emergency Arbitrator in due form.	Appointment Committee.
Annex II. 4.4. Challenge to an Emergency Arbitrator shall be made in the terms described in article 15 of the Rules and shall be filed within the two days following the receipt of the communication informing of the appointment of the Emergency Arbitrator or, if later, the date on which the party had knowledge of the facts supporting the challenge. After hearing the other party and the Emergency Arbitrator in the least amount of time possible, the Court will adopt a reasoned decision on the challenge in two days.	Challenge Committee.
Annex II. 5.1. The place for the emergency proceedings shall be that which has been agreed by the parties as the place of the arbitration. If the place of arbitration has not been agreed by the parties, the Court shall decide which will be the place of the emergency proceedings.	Secretary-General.
Annex II. 5.2. The language of the emergency proceedings shall be that which has been agreed by the parties as the language of the arbitration. If the language has not been agreed by the parties, the Court will decide which will be the language of the emergency proceedings.	Secretary-General.
Annex II. 6.1. The Emergency Arbitrator shall render a decision regarding the application for Urgent Measures within a maximum of seven days from the delivery of the case file to the Emergency Arbitrator. The Court may extend this period at the reasoned request of the Emergency Arbitrator if it deems it necessary.	Secretary-General.
Annex II. 8. The costs of the proceedings for the adoption of an Urgent Measure by an Emergency Arbitrator will be 1,500 euros for the Court's administrative expenses and 7,500 euros for the Emergency Arbitrator's fees. At the request of the Emergency Arbitrator, or ex	Secretary-General, with the possibility of consulting the President.



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oficio, the Court may modify these costs by increasing or reducing them having regard to nature of the case, the work performed by the Emergency Arbitrator and other relevant circumstances.	

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*Approved by the Court's Plenary October 29<sup>th</sup>, 2020*

### **Special Rules for Substitution**

*Approved by the Plenary of the Court on 07 April 2021*

In cases where, according to the above distribution, a competence is attributed to a person, and that person abstains, due to incapacity or otherwise, the following body shall be competent to take or participate in the relevant decision:

- a) Where the decision is to be taken by a person, after consultation or with the possibility of consultation of another body, and that person in charge abstains, the decision-making function shall be taken directly by the consulting body.<sup>1</sup>
- b) If the decision is to be taken by a person, without duty or possibility of consultation, and that person refrains, the decision-making function shall be exercised by his or her hierarchical superior. In exercising this substitute decision-making function, the immediate superior may seek such reports as he or she deems appropriate from members of the Secretariat who do not abstain.<sup>2</sup>
- c) In the event that the person who holds the Presidency abstains from taking or participating in any decision, his or her functions shall be exercised by the Restricted Committee of the Plenary.

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<sup>1</sup> Thus, for example, if the Secretary General abstains from participating in the interpretation decision provided for in Article 2.5 of the Rules, the decision shall be taken directly by the Restricted Committee of the Plenary.

<sup>2</sup> Thus, for example, if the Secretary General abstains from participating in a decision on the amendment of time limits provided for in article 4.4 of the Rules, the decision shall be taken by the person who holds the Presidency, who may consult the counsel in charge of the case.