

## APPENDIX 3.9

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# ICSID RULES OF PROCEDURE FOR THE INSTITUTION OF CONCILIATION AND ARBITRATION PROCEEDINGS (INSTITUTION RULES)

(as from 10 April 2006)

The Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings (the Institution Rules) of ICSID were adopted by the Administrative Council of the Centre pursuant to Article 6(1)(b) of the ICSID Convention.

The Institution Rules are supplemented by the Administrative and Financial Regulations of the Centre, in particular by Regulations 16, 22(1), 23, 24, 30 and 34(1).

The Institution Rules are restricted in scope to the period of time from the filing of a request to the dispatch of the notice of registration. All transactions subsequent to that time are to be regulated in accordance with the Conciliation and the Arbitration Rules.

### **Rule 1**

#### **The Request**

- (1) Any Contracting State or any national of a Contracting State wishing to institute conciliation or arbitration proceedings under the Convention shall address a request to that effect in writing to the Secretary-General at the seat of the Centre. The request shall indicate whether it relates to a conciliation or an arbitration proceeding. It shall be drawn up in an official language of the Centre, shall be dated, and shall be signed by the requesting party or its duly authorized representative.
- (2) The request may be made jointly by the parties to the dispute.

### **Rule 2**

#### **Contents of the Request**

- (1) The request shall:
  - (a) designate precisely each party to the dispute and state the address of each;
  - (b) state, if one of the parties is a constituent subdivision or agency of a Contracting State, that it has been designated to the Centre by that State pursuant to Article 25(1) of the Convention;

- (c) indicate the date of consent and the instruments in which it is recorded, including, if one party is a constituent subdivision or agency of a Contracting State, similar data on the approval of such consent by that State unless it had notified the Centre that no such approval is required;
  - (d) indicate with respect to the party that is a national of a Contracting State:
    - (i) its nationality on the date of consent; and
    - (ii) if the party is a natural person:
      - (A) his nationality on the date of the request; and
      - (B) that he did not have the nationality of the Contracting State party to the dispute either on the date of consent or on the date of the request; or
    - (iii) if the party is a juridical person which on the date of consent had the nationality of the Contracting State party to the dispute, the agreement of the parties that it should be treated as a national of another Contracting State for the purposes of the Convention;
  - (e) contain information concerning the issues in dispute indicating that there is, between the parties, a legal dispute arising directly out of an investment; and
  - (f) state, if the requesting party is a juridical person, that it has taken all necessary internal actions to authorize the request.
- (2) The information required by subparagraphs (1)(c), (1)(d)(iii) and (1)(f) shall be supported by documentation.
- (3) "Date of consent" means the date on which the parties to the dispute consented in writing to submit it to the Centre; if both parties did not act on the same day, it means the date on which the second party acted.

### **Rule 3**

#### **Optional Information in the Request**

The request may in addition set forth any provisions agreed by the parties regarding the number of conciliators or arbitrators and the method of their appointment, as well as any other provisions agreed concerning the settlement of the dispute.

### **Rule 4**

#### **Copies of the Request**

- (1) The request shall be accompanied by five additional signed copies. The Secretary-General may require such further copies as he may deem necessary.
- (2) Any documentation submitted with the request shall conform to the requirements of Administrative and Financial Regulation 30.

**Rule 5****Acknowledgement of the Request**

- (1) On receiving a request the Secretary-General shall:
  - (a) send an acknowledgement to the requesting party;
  - (b) take no other action with respect to the request until he has received payment of the prescribed fee.
- (2) As soon as he has received the fee for lodging the request, the Secretary-General shall transmit a copy of the request and of the accompanying documentation to the other party.

**Rule 6****Registration of the Request**

- (1) The Secretary-General shall, subject to Rule 5(1)(b), as soon as possible, either:
  - (a) register the request in the Conciliation or the Arbitration Register and on the same day notify the parties of the registration; or
  - (b) if he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre, notify the parties of his refusal to register the request and of the reasons therefor.
- (2) A proceeding under the Convention shall be deemed to have been instituted on the date of the registration of the request.

**Rule 7****Notice of Registration**

The notice of registration of a request shall:

- (a) record that the request is registered and indicate the date of the registration and of the dispatch of that notice;
- (b) notify each party that all communications and notices in connection with the proceeding will be sent to the address stated in the request, unless another address is indicated to the Centre;
- (c) unless such information has already been provided, invite the parties to communicate to the Secretary-General any provisions agreed by them regarding the number and the method of appointment of the conciliators or arbitrators;
- (d) invite the parties to proceed, as soon as possible, to constitute a Conciliation Commission in accordance with Articles 29 to 31 of the Convention, or an Arbitral Tribunal in accordance with Articles 37 to 40;
- (e) remind the parties that the registration of the request is without prejudice to the powers and functions of the Conciliation Commission or Arbitral Tribunal in regard to jurisdiction, competence and the merits; and
- (f) be accompanied by a list of the members of the Panel of Conciliators or of Arbitrators of the Centre.

**Rule 8**

**Withdrawal of the Request**

The requesting party may, by written notice to the Secretary-General, withdraw the request before it has been registered. The Secretary General shall promptly notify the other party, unless, pursuant to Rule 5(1)(b), the request had not been transmitted to it.

**Rule 9**

**Final Provisions**

- (1) The texts of these Rules in each official language of the Centre shall be equally authentic.
- (2) These Rules may be cited as the “Institution Rules” of the Centre.