

SCMA ARBITRATION RULES 2ND EDITION (2009)

Singapore Chamber of Maritime Arbitration

Rule 1**1. Definitions**

1.1. These Rules shall be referred to as "the SCMA Rules".

1.2. In these Rules:

"Act" means the International Arbitration Act (Cap 143A) and any statutory re-enactment thereof.

"Chairman" means the Chairman of the Singapore Chamber of Maritime Arbitration.

"Chamber" means the Singapore Chamber of Maritime Arbitration.

"SCMA Small Claims Procedure" means the procedure for claims under the sum of US\$75,000 made under Rule 44.

"Secretariat" means the Secretariat of the Singapore Chamber of Maritime Arbitration.

"Seat" means the juridical seat of the arbitration.

"Tribunal" means either a sole arbitrator or all arbitrators when more than one is appointed.

Rule 2**2. Scope of Application**

These Rules shall apply to an arbitration agreement whenever parties have so agreed and shall govern the arbitration save that, if any of these Rules is in conflict with a mandatory provision of the Act (where the seat of the arbitration is Singapore) or the applicable law governing the arbitration (where the seat of the arbitration is outside Singapore), from which the parties cannot derogate, such provision or such applicable law, as the case may be, shall prevail.

Rule 3**3. Notice, Calculation of Periods of Time**

3.1. Without prejudice to the effectiveness of any other form of written communication, written communication may be made by fax, email or any other means of electronic transmission effected to a number, address or site of a party.

3.2. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last-known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

- 3.3. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.
- 3.4. The transmission is deemed to have been received on the day of transmission.

Rule 4

4. Commencement of Arbitration

- 4.1. Any party referring a dispute to arbitration under these Rules ("the Claimant") shall serve on the other party ("the Respondent"), a written Notice of Arbitration ("the Notice of Arbitration") which shall include the following:
- a. a request that the dispute be referred to arbitration;
 - b. the identity of the parties to the dispute;
 - c. a reference to the arbitration clause or any separate arbitration agreement that is invoked;
 - d. a reference to the contract out of, or in relation to, which the dispute arises;
 - e. a proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed on the number; and
 - f. the name(s) of the Claimant's proposed arbitrator(s).
- 4.2. The Notice of Arbitration may also include:
- a. a brief statement describing the nature and circumstances of the dispute; and
 - b. the relief or remedy sought.

Rule 5

5. Response by Respondent

- 5.1 Within 14 days of receipt of the Notice of Arbitration, the Respondent shall serve on the Claimant, a Response including:
- a. a comment in response to any proposals contained in the Notice of Arbitration; and
 - b. the name(s) of the Respondent's proposed arbitrator(s).

5.2 The Response may also include:

- a. a confirmation or denial of all or part of the claims; and
- b. a brief statement of any envisaged counterclaims.

Rule 6

6. Appointment of Tribunal

- 6.1. The parties may agree the number of arbitrators and the procedure for the appointment of the arbitrators. 3 arbitrators shall be appointed unless the parties have agreed otherwise.
- 6.2. If a sole arbitrator is to be appointed, and parties are unable to agree on the appointment within 30 days from the date of service of the Notice of Arbitration, the Chairman shall appoint the sole arbitrator upon the application of any of the parties. The Chairman is not bound to appoint any of the names nominated by the parties.
- 6.3. If 3 arbitrators are to be appointed, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator.
- 6.4. Where a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the appointment of the third arbitrator within 30 days of their appointment, the appointment shall be made, upon the request of a party, by the Chairman.
- 6.5. The Tribunal shall within 7 days of its appointment, inform the Secretariat of the appointment along with a brief nature of the dispute, without disclosing the parties' names.
- 6.6. The constitution of the Tribunal shall not be impeded by: (a) any dispute with respect to the sufficiency of the Notice of Arbitration or the Response which shall be finally resolved by the Tribunal; or (b) failure by the Respondent to communicate a Response to the Notice of Arbitration. In either circumstance, the Tribunal shall proceed as it considers appropriate.

Rule 7

7. Multi-party Appointment of the Tribunal

- 7.1. If there are more than 2 parties in the arbitration, the parties shall agree on the procedure for appointing the Tribunal within 21 days of the date of service of the Notice of Arbitration.
- 7.2. If the parties are unable to do so, upon the lapse of the 21 day time period mentioned above, the Tribunal shall be appointed by the Chairman as soon as practicable.

Rule 8**8. Service of Case Statements**

- 8.1. Unless otherwise agreed, within 30 days after the appointment of the Tribunal, the Claimant shall deliver to the Tribunal and serve on the Respondent, a Statement of Claimant's Case.
- 8.2. Within 30 days after the Service of the Statement of Claimant's Case, the Respondent shall deliver to the Tribunal and serve on the Claimant, a Statement of Respondent's Defense and Counterclaim (if any).
- 8.3. Within 30 days after the Service of the Statement of Respondent's Defense, if the Claimant intends to challenge anything in the Statement of Respondent's Defense and/or Counterclaim, the Claimant shall then deliver to the Tribunal and serve on the Respondent, a Statement of Claimant's Reply and if necessary, Defense to Counterclaim.
- 8.4. No further case statements shall be served without the leave of the Tribunal.

Rule 9**9. Contents of Case Statements**

- 9.1. The case statements shall contain the fullest possible particulars of the party's claim, defense or counterclaim and shall thus contain a comprehensive statement of the facts and contentions of law supporting the party's position.
- 9.2. It shall thus:
 - a. set out all items of relief or other remedies sought together with the amount of all quantifiable claims and detailed calculations;
 - b. state fully its reasons for denying any allegation or statement of the other party; and
 - c. state fully its own version of events if a party intends to put forward a version of events different from that given by the other party.
- 9.3. A case statement shall be signed by or on behalf of the party making it.
- 9.4. All written statements referred to in Rule 8 must be accompanied by all supporting documents relevant to the issues between the parties.

Rule 10**10. Default in Serving of Case Statements**

- 10.1. If the Claimant fails within the time specified under these Rules or as may be fixed by the Tribunal, to serve its Statement of Case, the Tribunal, may issue an order for the termination of the arbitral proceedings or make such other directions as may be

appropriate in the circumstances.

- 10.2 If the Respondent fails to submit a Statement of Respondent's Defence, the Tribunal may nevertheless proceed with the arbitration and make the Award.

Rule 11

11. Further Written Statements

- 11.1. The Tribunal will decide which further written statements, in addition to the case statement(s) already filed, are required from the parties and shall fix the periods of time for giving, filing and serving such statements.
- 11.2. All such further statements shall be given to the Tribunal and served on the Claimant or Respondent, whichever is applicable.

Rule 12

12. Tribunal's fees

- 12.1. An arbitrator may in his discretion require payment of his fees to date (which expression shall for these purposes include any expenses) at appropriate intervals (which shall be not less than three months). Any such demand for payment shall be addressed to the arbitrator's appointing party and shall be copied to any other member of the Tribunal and other parties. Any such demand for payment is without prejudice (a) to ultimate liability for the fees in question and (b) to the parties' joint and several liabilities therefor.
- 12.2. If any amount due under 12.1 above remains unpaid for more than 28 days after payment has been demanded, the arbitrator in his sole discretion may give written notice to his appointor and to the other parties and arbitrators that he will resign his appointment if such amount still remains unpaid 14 days after such notification. Without prejudice to ultimate liability for the fees in question, any other party may prevent such resignation by paying the amount demanded within the said 14 days. Upon any resignation under this paragraph the arbitrator will be entitled to immediate payment of his fees to date, and shall be under no liability to any party for any consequences of his resignation.

Rule 13

13. Tribunal's security for costs

- 13.1. Without prejudice to the rights provided for under these Rule, a Tribunal is entitled to reasonable security for its estimated costs (including its fees and expenses) up to the making of an Award. The form of such security shall be in the Tribunal's discretion and such security is to be provided no later than 21 days before the start of any oral hearing intended to lead to an Award or, in the case of a documents-only

arbitration, no later than immediately before the Tribunal starts reading and drafting with a view to producing an Award.

- 13.2. If a Tribunal exercises the right to request security, it shall advise the parties of its total estimated costs (a) in the case of an oral hearing, usually when such hearing is fixed and in any event no later than 28 days before the security must be in place, and (b) in the case of a documents-only arbitration 28 days before the Tribunal intends to start reading and/or drafting with a view to producing an Award.
- 13.3. Requests for security hereunder shall be addressed to the party requesting any oral hearing, and to the claimant in the case of a documents-only arbitration. If such party fails to provide such security within the time set any other party will be given 7 days' notice in which to provide it, failing which the Tribunal may vacate any hearing dates or, in the case of a documents-only arbitration, refrain from reading and/or drafting.
- 13.4. With respect to the periods of time set out in this rule, the Tribunal shall be entitled at its discretion to set such shorter periods as are reasonable in the circumstances
- 13.5. Any security provided or payment made in accordance with these provisions shall be without prejudice to ultimate liability as between the parties for the fees and expenses in question, and to the parties' joint and several liability to the Tribunal until all outstanding fees and expenses have been paid in full.

Rule 14

14. Appointment of Substitute Arbitrator

In the event of the death or resignation or removal of any of the arbitrators, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

Rule 15

15. Independence and Impartiality of the Tribunal

- 15.1. The Tribunal conducting an arbitration under these Rules shall be and remain at all times independent and impartial, and shall not act as advocate for any party.
- 15.2. A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment, any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.
- 15.3. An arbitrator, once nominated or appointed, shall disclose any such circumstance referred to in Rule 15.2 to all parties.

Rule 16**16. Challenge to the Arbitrators**

- 16.1. An arbitrator may be challenged if there are circumstances that give rise to justifiable doubts as to his impartiality or independence.
- 16.2. An arbitrator may also be challenged if he does not possess the qualifications required by the agreement of the parties.
- 16.3. A party may challenge an arbitrator appointed on its nomination or with its agreement only for reasons of which it becomes aware after the appointment has been made.
- 16.4. A party who intends to challenge an arbitrator shall deliver to the Tribunal (and where the Tribunal comprises of more than one arbitrator, to each arbitrator comprising the Tribunal) and on the other party or all other parties, whichever is applicable, a Notice of Challenge.
- 16.5. The Notice of Challenge shall be delivered to the Tribunal and served within 14 days from the appointment of the arbitrator or within 14 days after the circumstances mentioned in Rule 16.1 or 16.2 became known to that party.
- 16.6. The Notice of Challenge shall state the reasons for the challenge.
- 16.7. While the challenge is pending, the Tribunal may continue the arbitration proceedings and make an Award.
- 16.8. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. However, it is not implied in either case that there has been an acceptance of the validity of the grounds for the challenge. In both cases, the procedure provided in Rule 6 read with Rule 14, shall be used for the appointment of a substitute arbitrator.

Rule 17**17. Decision on Challenge**

- 17.1. If the other party does not agree to the challenge under rule 16 and the challenged arbitrator does not withdraw, the party who brought the challenge may refer the matter to the Chairman for the Chairman to make a decision on the challenge.
- 17.2. If the Chairman sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment of an arbitrator as provided in Rule 6 read with Rule 14.
- 17.3. The decision of the Chairman under Rule 17.1 shall not be subject to any appeal.

Rule 18**18. Removal of the Tribunal**

- 18.1. A court of competent jurisdiction may, on the application of a party, remove an arbitrator:
- a. who is physically or mentally incapable of conducting the proceedings or where there are justifiable doubts as to his ability to do so; or
 - b. who has refused or failed to use all reasonable dispatch in conducting the arbitration or making an Award.
- 18.2. The arbitrator(s) concerned is entitled to appear and be heard at the hearing of the application to remove him.
- 18.3. Upon the removal of the arbitrator, a substitute arbitrator shall be appointed and Rule 6 read with Rule 14 similarly applies.

Rule 19**19. Conduct of the Proceedings in the Event of the Substitution of Arbitrator(s)**

In the event of the appointment of any substitute arbitrator, the reconstituted Tribunal shall, at its discretion, decide if, and to what extent, prior proceedings shall be repeated before it.

Rule 20**20. Jurisdiction of the Tribunal**

In addition to the jurisdiction to exercise the powers defined elsewhere in these Rules or any applicable statute for the time being in force, the Tribunal shall have jurisdiction to:

- a. rule on its own jurisdiction;
- b. determine all disputes arising under or in connection with the transaction the subject of reference, having regard to the scope of the arbitration agreement and any question of law arising in the arbitration;
- c. receive and take into account such written or oral evidence as it shall determine to be relevant; and
- d. proceed with the arbitration and make an Award notwithstanding the failure or refusal of any party to comply with these Rules or with the Tribunal's written orders or written directions, or to exercise its right to present its case, but only after giving that party written notice that it intends to do so.

Rule 21**21. Applicable law**

The Tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the Tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

Rule 22**22. Juridical Seat of Arbitration**

- 22.1. Unless otherwise agreed by the parties, the juridical seat of arbitration shall be Singapore. Where the seat of the arbitration is Singapore, the law of the arbitration under these Rules shall be the Act.
- 22.2. An Award made under these Rules shall be deemed to be made in the juridical seat of arbitration.
- 22.3. Regardless of the seat of the arbitration, all physical hearings and meetings of the arbitration shall be held in Singapore save where parties agree otherwise.

Rule 23**23. Language of Arbitration**

Unless otherwise agreed, the language of the arbitration shall be English.

Rule 24**24. Interpreters**

- 24.1. If required, one or both of the parties may appoint an interpreter with the leave of the Tribunal.
- 24.2. The interpreter shall be independent of both parties and the party appointing the interpreter shall pay for the interpreter's fees.
- 24.3. If the interpreter is appointed by both parties, the fees will be shared by both parties in such proportion as the Tribunal may determine.

Rule 25**25. Conduct of the Proceedings**

- 25.1 The Tribunal shall have the widest discretion allowed by the Act (where the seat of the arbitration is Singapore) or the applicable law (where the seat of the arbitration is outside Singapore) to ensure the just, expeditious, economical and final determination of the dispute.

- 25.2 Subject to these Rules, it shall be for the Tribunal to decide the arbitration procedure, including all procedural and evidential matters subject to the right of the parties to agree to any matter.
- 25.3 Unless the parties agree that the reference is ready to proceed to an Award on the exclusive basis of the written submissions that have already been served, both parties must complete the Questionnaire set out in the Schedule. Every such Questionnaire must contain the declaration set out at the end of the Questionnaire below, which shall be signed by a properly authorized officer of the party on whose behalf it is served. Completed Questionnaires must be delivered to the Tribunal and the other party within 14 days after the time fixed for the service of the Statement of the Claimant's Reply.

Rule 26

26. Communications between Parties and the Tribunal

- 26.1. Where the Tribunal sends any written communication to one party, it shall send a copy of it to the other party or parties as the case may be.
- 26.2. Where a party sends any written communication (including statements, expert reports or evidentiary documents) to the Tribunal, the same shall be copied to the other party or all other parties, whichever is applicable, and show to the Tribunal that the same has been so copied.
- 26.3. Where the Tribunal consists of more than one arbitrator, any communication to the Tribunal must be sent to each of the arbitrators.

Rule 27

27. Party Representatives

Any party may be represented by persons of their choice, subject to such proof of authority as the Tribunal may require. The names and addresses of such representatives shall be notified to the other party or parties.

Rule 28

28. Hearings

- 28.1. Unless the parties have agreed on documents-only arbitration or that no hearing should be held, the Tribunal shall hold a hearing for the presentation of evidence by witnesses, including expert witnesses, or for oral submissions.
- 28.2. The Tribunal shall fix the date, time and place of any meetings and hearings in the arbitration, and shall give the parties reasonable notice thereof.
- 28.3. Prior to the hearing, the Tribunal may provide the parties with a list of matters or questions to which it wishes them to give special consideration.

- 28.4. In the event that a party to the proceedings without sufficient cause fails to appear at a hearing of which the notice has been given, the Tribunal may proceed with the arbitration and may make the Award after the party present has submitted evidence to prove its case.
- 28.5. All meetings and hearings shall be in private unless the parties agree otherwise.

Rule 29

29. Witnesses

- 29.1. The Tribunal may require each party to give notice of the names and designations of the witnesses he intends to call.
- 29.2. No party shall adduce expert evidence without the leave of the Tribunal.
- 29.3. Any witness who gives evidence may be questioned by each party or its representative subject to any rulings made by the Tribunal.
- 29.4. A witness may be required by the Tribunal to testify under oath or affirmation.
- 29.5. Subject to such order or direction which the Tribunal may make, the testimony of witnesses may be presented in written form, either as signed statements or by duly sworn or affirmed affidavits. If a witness does not attend the hearing to give oral evidence, the Tribunal may place such weight on his written testimony as it thinks fit.
- 29.6. The Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence given by any witness.

Rule 30

30. Experts Appointed by the Tribunal

- 30.1. Unless otherwise agreed by the parties, the Tribunal may:
- a. appoint one or more experts to report to the Tribunal on specific issues;
 - b. require a party to give any such expert any relevant information or to produce, or to provide access to, any relevant documents, goods or property for inspection by the expert.
- 30.2. Unless otherwise agreed to by the parties, if a party so requests or if the Tribunal deems it fit, the expert shall, after delivery of his written or oral report, participate in a hearing, at which the parties may question him and to present expert witnesses in order to testify on the points at issue.
- 30.3. Rule 32.2 shall not apply to an assessor appointed by agreement of the parties, or to an expert appointed by the Tribunal to advise solely in relation to procedural matters.

Rule 31**31. Closure of Proceedings**

- 31.1. The Tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, declare the proceedings closed and proceed to an Award.
- 31.2. The Tribunal may also, in view of exceptional circumstances, reopen the hearings at any time before the Award is made.

Rule 32**32. Additional Powers of the Tribunal**

- 32.1. In addition to the powers conferred by the Act or the applicable law at the juridical seat of arbitration, the Tribunal shall also have the power to:
- a. allow any party, upon such terms (as to costs and otherwise) as it shall determine, to amend claims or counterclaims;
 - b. extend or abbreviate any time limits provided by these Rules;
 - c. conduct such enquiries as may appear to the Tribunal to be necessary or expedient;
 - d. order the parties to make any property or thing available for inspection;
 - e. order any parties to produce to the Tribunal, and to the other parties for inspection, and to supply copies of any documents or classes of documents in their possession, custody or power which the Tribunal determines to be relevant;
 - f. order samples to be taken from, or any observation to be made of or experiment conducted upon, any property which is or forms part of the subject matter of the dispute
 - g. make orders or give directions to any party for interrogatories;
 - h. make such orders or give such directions as it deems fit in so far as they are not inconsistent with the Act or any statutory re-enactment thereof (if applicable) or such law which is applicable or these Rules.
- 32.2. If the parties so agree, the Tribunal shall also have the power to add other parties (with their consent) to be joined in the arbitration and make a single Final Award determining all disputes between them.
- 32.3. Where two or more arbitrations appear to raise common issues of fact or law, the Tribunals shall have the power to direct that the two or more arbitrations shall be heard concurrently and where such an order is made, the Tribunals may give such directions as the interests of fairness, economy and expedition require, including:
- a. that the documents disclosed by the parties in one arbitration shall be made available to the parties to the other arbitration upon such conditions as the Tribunals may determine;

- b. that the evidence given in one arbitration shall be received and admitted in the other arbitration, subject to all parties being given a reasonable opportunity to comment upon it and subject to such other conditions as the Tribunals may determine.

Rule 33

33. Decision Making by the Tribunal

Where a Tribunal has been appointed, any direction, order, decision or Award of the Tribunal shall be made by the whole Tribunal or by a majority. If an arbitrator refuses or fails to sign the Award, the signatures of the majority shall be sufficient, provided that the reason for the omitted signature is stated.

Rule 34

34. Preliminary Meetings

The Tribunal may decide at any stage that the circumstances of the arbitration require that a preliminary meeting be convened. The purpose of the preliminary meeting(s) would include, to enable the parties and the Tribunal to set out the procedure of the arbitration, review the progress of the arbitration; to reach agreement so far as possible upon further preparation for, and the conduct of the hearing; and, where agreement is not reached, to enable the Tribunal to give such directions as it thinks fit.

Rule 35

35. The Award

- 35.1. Unless all parties agree otherwise, the Tribunal shall make its Award in writing within 3 months from the date on which the proceedings are closed and shall state the reasons upon which its Award is based. The Award shall state its date and shall be signed by the Tribunal or a majority of the Tribunal.
- 35.2. The Tribunal may make interim Awards or separate Awards on different issues at different times.
- 35.3. All Awards shall be issued by the Tribunal.
- 35.4. By agreeing to have arbitration under these Rules, the parties undertake to carry out the Award without delay.
- 35.5. The members of a Tribunal need not meet together for the purpose of signing their Award or of effecting any corrections thereto.

- 35.6 As soon as practicable after an Award has been made it shall be notified to the parties by the Tribunal serving on them a notice in writing which shall inform the parties of the amount of the fees and expenses of the Tribunal and which shall indicate that the Award is available for sending to or collection by the parties upon full payment of such amount. At the stage of notification neither the Award nor any copy thereof need be served on the parties and the Tribunal shall be entitled thereafter to refuse to deliver the Award or any copy thereof to the parties except upon full payment of its fees and expenses.
- 35.7 If any Award has not been paid for and collected within one month of the date of publication, the Tribunal may give written notice to either party requiring payment of the costs of the Award, whereupon such party shall be obliged to pay for and collect the Award within 14 days.
- 35.8 The Tribunal shall send a copy of the Award to the Chamber within 14 days from the date of collection by one of the parties..
- 35.9 If the Chamber considers that the Award merits publication and gives notice to the parties of its intention to release the Award for publication, then unless any party informs the Chamber of its objection to publication within 30 days of the notice, the Award may be publicised by the Chamber for academic and professional purposes. The publication will be redacted to preserve anonymity as regards the identity of the parties, of their legal or other representatives and of the Tribunal.

Rule 36

36. Currency and Interest

- 36.1. The Tribunal may make an Award in any currency as it considers just.
- 36.2. The Tribunal may award simple or compound interest on any sum awarded at such rate or rates and in respect of such period or periods ending not later than the date of the Award as the Tribunal considers just.

Rule 37

37. Additional Award

- 37.1. Within 30 days after the receipt of the Award, either party, with notice to the other party, may request the Tribunal to make an additional Award as to claims presented in the arbitral proceedings but omitted from the Award.
- 37.2. If the Tribunal considers the request for an additional Award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall notify all the parties within 7 days of the receipt of the request, that it will make an additional Award, and complete the additional Award within 60 days after the receipt of the request.

Rule 38**38. Correction of Awards and Additional Awards**

- 38.1. Within 30 days of receiving an Award, unless another period of time has been agreed upon by the parties, a party may by notice to the Tribunal request the Tribunal to correct in the Award, any errors in computation, any clerical or typographical errors or any errors of similar nature.
- 38.2. If the Tribunal considers the request to be justified, it shall make the correction(s) within 30 days of receiving the request. Any correction shall be notified in writing to the parties and shall become part of the Award.
- 38.3. The Tribunal may correct any error of the type referred to in Rule 38.1 on its own initiative within 30 days of the date of the Award.

Rule 39**39. Settlement**

- 39.1. If, before the Award, not being an interim Award, is made, the parties agree on a settlement of the dispute, the Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the Tribunal, record the settlement in the form of an arbitral Award on agreed terms. The Tribunal is not obliged to give reasons for such an Award.
- 39.2. The parties shall:
- a. notify the Tribunal immediately if the arbitration is settled or otherwise terminated;
 - b. make provision in any settlement for payment of the costs of the arbitration.
- 39.3. If the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in Rule 39.1, before the Award is made, the Tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The Tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.
- 39.4. Copies of the order for termination of the arbitral proceedings or of the arbitral Award on agreed terms, signed by the Tribunal, shall be communicated by the Tribunal to the parties.

Rule 40**40. Costs**

- 40.1. The Tribunal shall specify in the final Award, the costs of the arbitration and decide which party shall bear them and in what proportion they shall be borne.

40.2. "Costs of the arbitration" shall include:

- a. The fees and expenses of the Tribunal; and
- b. The costs of expert advice or of other assistance rendered.

40.3. The Tribunal has power to order in its Award, that all or part of the legal or other costs of one party shall be paid by the other party. The Award shall fix such costs or direct the costs be taxed by the Tribunal if not agreed by the parties.

Rule 41

41. Waiver

A party which is aware of non-compliance with these Rules and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

Rule 42

42. Confidentiality

The parties and the Tribunal shall at all times treat all matters relating to the arbitration (including the existence of the arbitration) and the Award as confidential. A party or any arbitrator shall not, without the prior written consent of the other party or the parties, as the case may be, disclose to a third party any such matter except:

- a. for the purpose of making an application to any competent court;
- b. for the purpose of or in relation to an application to the courts of any State to enforce the Award;
- c. pursuant to the order of a court of competent jurisdiction;
- d. in compliance with the provisions of the laws of any State which is binding on the party making the disclosure; or
- e. in compliance with the request or requirement of any regulatory body or other authority which, if not binding, nonetheless would be observed customarily by the party making the disclosure.

Rule 43

43. Exclusion of Liability

43.1. The Tribunal, the Chairman, the Chamber and any of its officers, employees or agents shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, unless the act or omission is shown to have been in bad faith.

- 43.2. After the Award has been made and the possibilities of correction and additional Awards have lapsed or been exhausted, neither the Tribunal nor the Chairman shall be under any obligation to make any statement to any person about any matter concerning the arbitration, and no party shall seek to make any arbitrator or the Chairman or the Chamber or any of its officers, employees or agents a witness in any legal proceedings arising out of the arbitration.

Rule 44

44. Small Claims Procedure

Application

- 44.1. The expedited procedure set out in this Rule shall apply if the aggregate amount of the claim and/or counterclaim in dispute is less than US\$75,000 (excluding interest and costs) or is unlikely to exceed US\$75,000(excluding interest and costs).
- 44.2. This Rule may also apply to any claim in excess of US\$75,000(excluding interest and costs) if the parties agree in writing that the claim shall be dealt with under this Rule.
- 44.3. This Rule shall not apply if the parties expressly agree that this Rule shall not apply to that arbitration.

Time Abridgment

- 44.4. For the purposes of service of case statements referred to in Rule 6, the time limit for each statement shall be reduced to 14 days.

Summary Determination

- 44.5. The Tribunal shall as soon as practiceable, proceed to give directions for the determination of the matters in issue summarily.
- 44.6. Unless the Tribunal so requires, there shall be no oral hearing. The oral hearing if so directed shall be held for arguments only and the Tribunal may allocate and limit the time for such hearing.
- 44.7. Unless the Tribunal requires the production of any document or class of documents it considers relevant for the determination of the matters in dispute, no party may seek any order for discovery, further particulars or interrogatories.
- 44.8. The Tribunal may draw such inferences from any document disclosed or not disclosed as the Tribunal deems appropriate.

Time for Making Award

- 44.9. The Tribunal shall issue the Award within 21 days from the date of receipt of all parties' Statement of Case or if there be an oral hearing from the close of the oral hearing.
- 44.10. No reason need be given for an Award made under this procedure.

Appointment of Arbitrator(s)

- 44.11 A sole Arbitrator shall be appointed unless parties otherwise agree.
- 44.12. The fees of the Arbitrator(s) shall be capped at such sum as fixed by the Chamber.

Costs

- 44.13 The Tribunal may order that all or part of the legal or other costs of one party shall be paid by the other party but the amount of costs to be paid by that other party shall not exceed such sum as fixed by the Chamber.

Applicability of Rules

- 44.14. Save as expressly provided for or modified by this Rule, all other provisions of the Rules shall apply *mutatis mutandis* to arbitration under the procedure set out in this Rule.

Rule 45**45. Adjournment**

If a case is for any reason adjourned part-heard, the Tribunal will be entitled to an interim payment, payable in equal shares or otherwise as the Tribunal may direct, in respect of fees and expenses already incurred, appropriate credit being given for any fee relating to the booking of premises in connection with the arbitration.

Rule 46**46. Service of documents**

Where a party is represented by a lawyer or other agent in connection with any arbitral proceedings, all notices or other documents required to be given or served for the purposes of the arbitral proceedings together with all decisions, orders and Awards made or issued by the Tribunal shall be treated as effectively served if served on that lawyer or agent.

Rule 47**47. General**

- 47.1. Three months after the publication of a final Award the Tribunal may notify the parties of its intention to dispose of the documents and to close the file, and it will act accordingly unless otherwise requested within 21 days of such notice being given.
- 47.2. In relation to any matters not expressly provided for herein the Tribunal shall act in accordance with the spirit of these Rules.

Rule 48**48. Amendment to Rules**

These Rules may from time to time be amended by the Chamber.

SCHEDULE

QUESTIONNAIRE

(Information to be provided as required in Rule 25)

As far as possible, the procedural issues should be agreed by the parties. If agreement has been possible, then this should be made clear in the answers to the Questionnaire.

1. A brief note of the nature of the claim.
2. Estimated quantum of the claim/ of any counterclaim.
3. The main issues requiring determination raised by the claim and any counterclaim.
4. Whether any amendments to the claim, defense or counterclaim are required?
5. Whether any of the issues are suitable for determination as a preliminary issue?
6. Whether there are there any areas of disclosure that remain to be dealt with?
7. Whether the arbitration will be a documents-only arbitration or whether an oral hearing is required.
8. What statement evidence is it intended to adduce and by when; and (if there is to be a hearing) what oral evidence will be adduced?
9. What expert evidence is it intended to adduce by way of reports and/or oral testimony and by when will experts' reports be exchanged?
10. Estimated length of the hearing, if any.
11. Which witnesses of fact and experts are likely to be called at the hearing, if there is to be one?
12. Estimated costs of each party.
13. Does either party consider that it is entitled to security for costs and, if so, in what amount?

DECLARATION (TO BE SIGNED BY A PROPERLY AUTHORISED OFFICER OF THE PARTY COMPLETING THE QUESTIONNAIRE):

On behalf of the [Claimant/Respondent] I, the undersigned [name] being [state position in organisation] and being fully authorised to make this declaration, confirm that I have read and understood, and agree to, the answers given above.

Signed Dated