

**PCA Case N° 2014-02**

**IN THE MATTER OF THE ARCTIC SUNRISE ARBITRATION**

**- before -**

**AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ANNEX VII TO  
THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

**- between -**

**THE KINGDOM OF THE NETHERLANDS**

**- and -**

**THE RUSSIAN FEDERATION**

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**RULES OF PROCEDURE**

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**ARBITRAL TRIBUNAL:**

**Judge Thomas Mensah (President)  
Mr. Henry Burmester  
Professor Alfred Soons  
Professor Janusz Symonides  
Dr. Alberto Székely**

**REGISTRY:**

**Permanent Court of Arbitration**

**17 March 2014**

**WHEREAS** the Kingdom of the Netherlands and the Russian Federation are parties to the United Nations Convention on the Law of the Sea (the “**Convention**”).

**WHEREAS** Article 286 of the Convention provides that “[s]ubject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section”;

**WHEREAS** upon its ratification of the Convention on 28 June 1996, the Netherlands declared, “having regard to article 287 of the Convention, [that] it accepts the jurisdiction of the International Court of Justice in the settlement of disputes concerning the interpretation and application of the Convention with States Parties to the Convention which have likewise accepted the said jurisdiction”;

**WHEREAS** upon signature of the Convention on 10 December 1982, “[t]he Union of Soviet Socialist Republics declares that, under Article 287 of the [Convention], it chooses an arbitral tribunal constituted under Annex VII as the basic means for the settlement of disputes concerning the interpretation or application of the Convention”;

**WHEREAS** Article 287(5) of the Convention provides that “[i]f the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree”;

**WHEREAS** Article 1 of Annex VII to the Convention provides that “[s]ubject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based”;

**WHEREAS** the Netherlands has invoked Article 287 and Annex VII to the Convention in a dispute concerning the boarding and detention of the vessel *Arctic Sunrise* in the exclusive economic zone of the Russian Federation and the detention of the persons on board the vessel by the Russian authorities, as set out in the Notification and *Statement of the Claim and the Grounds on which it is Based* submitted by the Netherlands to the Russian Federation on 4 October 2013;

**WHEREAS** in accordance with Article 3 of Annex VII to the Convention, by 10 January 2014 the Arbitral Tribunal composed of Mr. Henry Burmester, Professor Alfred Soons, Professor Janusz Symonides, Dr. Alberto Székely, and Judge Thomas Mensah (President) was constituted;

**WHEREAS** Article 5 of Annex VII to the Convention provides that “[u]nless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case”;

**THE ARBITRAL TRIBUNAL**, after having sought the views of the Parties, adopts the following Rules of Procedure. These Rules of Procedure supplement those contained in Annex VII to the Convention.

## SECTION I. INTRODUCTION

### Scope of Application

#### *Article 1*

1. The Arbitral Tribunal shall function in accordance with these Rules, the relevant provisions of the Convention, and Annex VII to the Convention. These Rules are subject to such modifications or additions as the Arbitral Tribunal may find appropriate after seeking the views of the Parties.
2. To the extent that any question of procedure is not expressly governed by these Rules or by Annex VII or other provisions of the Convention, and the Parties have not otherwise agreed, the question shall be determined by the Arbitral Tribunal after seeking the views of the Parties.

### Notice, Calculation of Periods of Time

#### *Article 2*

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.
2. If an address has been designated by a Party specifically for this purpose or authorised by the Arbitral Tribunal, any notice shall be delivered to that Party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as e-mail or facsimile may only be made to an address so designated or authorised.
3. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraph 2. A notice transmitted by electronic means is deemed to have been received on the day it is sent.
4. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-business day in the State of the Party concerned, the period is extended until the first business day that follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.
5. Unless otherwise provided, all time limits expire at midnight in The Hague on the relevant date.

### Commencement of Proceedings

#### *Article 3*

These proceedings are deemed to have commenced on 4 October 2013.

### Representation and Assistance

#### *Article 4*

1. Each Party shall appoint an agent and, if it so decides, one or more co-agents. Each Party may also be assisted by persons of their choice.

2. The names and addresses of agents, counsel, Party representatives, and other persons assisting the Parties must be communicated to all Parties, to the Arbitral Tribunal, and to the International Bureau of the Permanent Court of Arbitration. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as an agent or representative of a Party, the Arbitral Tribunal, on its own initiative or at the request of any Party, may at any time require proof of authority granted to the agent or representative in such a form as the Arbitral Tribunal may determine.

## **Administration**

### *Article 5*

The International Bureau of the Permanent Court of Arbitration at The Hague shall serve as the Registry for the proceedings (the “**Registry**”). It shall maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal.

## **SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL**

### **Number and Appointment of Arbitrators**

#### *Article 6*

The Arbitral Tribunal consists of five members appointed in accordance with Article 3 of Annex VII to the Convention.

### **Challenge of an Arbitrator**

#### *Article 7*

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator’s impartiality or independence.
2. A Party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.
3. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in Article 8 shall apply.

#### *Article 8*

1. A Party that intends to challenge an arbitrator shall send notice of its challenge within thirty days after the circumstances mentioned in Article 7 became known to that Party.
2. The notice of challenge shall be communicated to the other Party, to the arbitrator who is challenged, to the other arbitrators, and to the Registry. The notice of challenge shall state the reasons for the challenge.
3. When an arbitrator has been challenged by a Party, the Parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

4. In the event that the Party making the challenge elects to pursue it, the Arbitral Tribunal may order that the proceedings be suspended during the pendency of the challenge.
5. If, within fifteen days from the date of the notice of challenge, the Parties do not agree to the challenge or the challenged arbitrator does not withdraw, the Party making the challenge may elect to pursue it. In that case, within thirty days from the date of the notice of challenge, it shall seek a decision on the challenge from the other Members of the Tribunal. In case there is no majority, the President or presiding member of the Arbitral Tribunal shall have a casting vote.

### **Replacement of an Arbitrator**

#### *Article 9*

1. If a challenge to the appointment of an arbitrator is sustained, or in the event of the death or withdrawal of an arbitrator during the course of the proceedings, a substitute arbitrator shall be appointed as follows:
  - (a) Where the arbitrator being replaced was originally appointed by one of the Parties in accordance with Articles 3(b) or (c) of Annex VII to the Convention, by the Party making the original appointment not later than sixty days from the date of any challenge being sustained or the death or withdrawal of an arbitrator;
  - (b) Where the arbitrator being replaced was originally appointed by the President of the International Tribunal for the Law of the Sea (“**ITLOS**”) in accordance with Article 3(e) of Annex VII to the Convention, if the Parties do not agree otherwise within thirty days of the challenge being sustained or of the death or withdrawal of the arbitrator, by the President of ITLOS, after consultation with the Parties.
2. In such an event, prior hearings may be repeated in whole or in part at the discretion of the Arbitral Tribunal, after seeking the views of the Parties.

## **SECTION III. THE PROCEEDINGS**

### **General Provisions**

#### *Article 10*

1. Subject to Annex VII to the Convention and these Rules, the Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the Parties are treated with equality and that at any stage of the proceedings each Party is given a full opportunity to be heard and to present its case. The Arbitral Tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the Parties’ dispute.
2. As soon as practicable after its constitution and after inviting the Parties to express their views, the Arbitral Tribunal shall establish the provisional timetable of the arbitration. The Arbitral Tribunal may, at any time, after inviting the Parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the Parties.

3. Except as otherwise permitted by the Arbitral Tribunal, all communications to the Arbitral Tribunal by one Party shall be communicated through the Registry and simultaneously to the other Party.
4. The Parties shall facilitate the work of the Arbitral Tribunal pursuant to Article 6 of Annex VII to the Convention.

### **Decisions on Administration and Routine Procedure**

#### *Article 11*

Decisions of the Arbitral Tribunal, both on procedure and substance, shall be taken by a majority vote of its members, except that questions of administration or routine procedure may be decided by the President of the Arbitral Tribunal, unless the President wishes to have the opinion of the other members of the Arbitral Tribunal or the Parties request a decision of the Arbitral Tribunal.

### **Communications**

#### *Article 12*

1. The Parties shall not engage in any *ex parte* oral or written communications with any member of the Arbitral Tribunal in connection with the subject matter of the arbitration or any procedural issues which are related to the proceedings. A written communication shall not be considered *ex parte* if the Party also sends a copy of the written communication to the other Party. An oral communication shall not be considered *ex parte* if it is made in a meeting, teleconference, videoconference or hearing of which the other Party has been notified, but in which it has decided not to participate.
2. The Parties shall address communications to the Registry and directly to each member of the Arbitral Tribunal by e-mail with a confirming copy sent by courier. The Parties shall, in the same manner, transmit copies of communications to the agent and counsel of the other Party. If a Party has not appointed an agent, then communications shall be transmitted to that Party's Ambassador to the Kingdom of the Netherlands (or, in the case of the Netherlands, the Minister of Foreign Affairs). Confirmation may be made by fax instead of courier if the communication does not exceed 15 pages.
3. All communications from the Arbitral Tribunal to the agents of the Parties will be made by e-mail with a confirming copy by courier. Such communications shall be copied by e-mail to the designated counsel of each Party. If a Party has not appointed an agent, then communications shall be transmitted to that Party's Ambassador to the Kingdom of the Netherlands (or, in the case of the Netherlands, the Minister of Foreign Affairs).
4. All written communications shall be sent to:  

Parties:	the addresses of the agents set forth in paragraph 1 of the Arbitral Tribunal's Procedural Order No.1 or, where no agent has been appointed, to the address of the Party's Ambassador to the Kingdom of the Netherlands (or, in the case of the Netherlands, the Minister of Foreign Affairs); and to the address of any counsel identified by a Party to be a recipient of communications.
Tribunal:	the addresses set forth in paragraph 3 of the Arbitral Tribunal's Procedural Order No.1.

Registry: the address set forth in paragraph 6.1.5 of the Arbitral Tribunal's Procedural Order No.1.

### **Applicable law, *amiable compositeur***

#### *Article 13*

1. Pursuant to Article 293 of the Convention, the Arbitral Tribunal shall apply the Convention and other rules of international law not incompatible with the Convention.
2. The Arbitral Tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the Parties have expressly authorised the Arbitral Tribunal to do so.

### **Place of Arbitration**

#### *Article 14*

1. The place of the arbitration proceedings shall be Vienna.
2. Upon consulting the Parties, the Arbitral Tribunal may conduct hearings at any location it considers appropriate. The Arbitral Tribunal may also meet at any location it considers appropriate for deliberations or related purposes.

### **Language of the Arbitration**

#### *Article 15*

1. The language of the arbitration shall be English.
2. At the request of the Arbitral Tribunal, the Registry shall arrange for the preparation of an unofficial translation into Russian of any procedural order or award of the Arbitral Tribunal.
3. Any document submitted to the Arbitral Tribunal that is written in a language other than English shall be accompanied by a translation into English. Informal translations will be acceptable unless contested by the other Party, in which case a certified translation will be provided.

### **Publication of Information**

#### *Article 16*

1. The existence of this arbitration shall be public. The Registry will identify on its website the names of the Parties, the Arbitral Tribunal, and the agents and counsel for the Parties, and will publish such further information and documents, including procedural orders, rules of procedure, written pleadings and transcripts of oral hearings, as may be directed by the Arbitral Tribunal.
2. The Arbitral Tribunal may, from time to time, direct the Registry to issue press releases concerning the status of the proceedings.
3. The Arbitral Tribunal, in consultation with the Parties and having regard to all relevant circumstances, may decide to open any hearings to the public, including the webcasting of such proceedings.

## **Order of Pleading**

### *Article 17*

1. The Arbitral Tribunal, after seeking the views of the Parties, shall fix the schedule for the submission of pleadings by procedural order.
2. The Arbitral Tribunal, after seeking the views of the Parties, may determine such further written pleadings as may be required from the Parties or may be presented by them and shall fix the periods of time for the submission of such pleadings.
3. At the request of either Party, and after having sought the views of the other Party, the Arbitral Tribunal may extend the time for the submission of any pleading.

## **Form of Written Submissions**

### *Article 18*

1. The Parties shall submit together with their written submissions all documentary, witness, expert and other evidence upon which they intend to rely.
2. The Parties' written submissions shall be transmitted in the following manner:
  - (a) The submitting Party shall transmit an electronic copy of its submission by e-mail, with accompanying evidence and legal authorities to the other Party, the Arbitral Tribunal, and the Registry.
  - (b) On the same day, the submitting Party shall dispatch by courier to the opposing Party, the Arbitral Tribunal, and the Registry, hard copies of the same document sent electronically, together with hard copies of all accompanying documentary exhibits, witness statements, and expert reports. The submitting Party shall dispatch two copies of its submission to the opposing Party, one copy to each member of the Arbitral Tribunal, and four copies to the Registry.
  - (c) Along with every hard-copy submission, the submitting Party shall dispatch a complete electronic copy (including accompanying evidence and legal authorities) on USB flash drive or other electronic device, in searchable Adobe PDF form.
  - (d) At the request of the Arbitral Tribunal a Party shall furnish to the Arbitral Tribunal, the Registry and the other Party hard copies of any legal authorities cited by it in its submission.
3. Evidence and legal authorities appended to the Parties' written submissions shall be organised as follows:
  - (a) Documents submitted to the Arbitral Tribunal shall be numbered consecutively throughout the arbitration. Each exhibit submitted by the Netherlands shall begin with a letter "N" followed by the applicable number (i.e., N-1, N-2, etc.); each exhibit submitted by the Russian Federation shall begin with a letter "R" followed by the applicable number (i.e., R-1, R-2, etc.). Legal authorities shall be identified by the letters "NLA" (legal authorities of the Netherlands) or "RLA" (legal authorities of the Russian Federation), followed by the applicable number. Witness statements shall be identified by the letters "NWS" (witness statements of the Netherlands) or "RWS" (witness statements of the Russian Federation), followed by the applicable number. Expert reports shall be identified by the letters "NER" (expert reports of the Netherlands) and "RER" (expert



reports of the Russian Federation), followed by the applicable number.

- (b) Hard copies of documents shall be submitted in an appropriate order in files or volumes.
- (c) Written submissions shall be accompanied by a detailed table of contents describing all evidence and legal authorities appended to them by number, date, type of document, and author or recipient, if and as applicable.

### **Amendments to Pleadings**

#### *Article 19*

During the course of the arbitral proceedings a Party may, if given leave by the Arbitral Tribunal to do so, amend or supplement its written pleadings.

### **Preliminary Objections**

#### *Article 20*

1. The Arbitral Tribunal shall have the power to rule on objections to its jurisdiction or to the admissibility of any claim made in the proceedings.
2. A plea that the Arbitral Tribunal does not have jurisdiction shall be raised no later than in the Counter-Memorial. A Party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the Arbitral Tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The Arbitral Tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The Arbitral Tribunal shall rule on any plea concerning its jurisdiction as a preliminary question, unless the Arbitral Tribunal determines, after seeking the views of the Parties, that the objection to its jurisdiction does not possess an exclusively preliminary character, in which case it shall rule on such a plea in conjunction with the merits.
4. Prior to a ruling on any matters relating to jurisdiction or admissibility, a hearing shall be held if the Arbitral Tribunal determines that such a hearing is necessary or useful, after seeking the views of the Parties.

### **Provisional Measures**

#### *Article 21*

1. Pursuant to Article 290(1) of the Convention, a Party may submit a request for the prescription of provisional measures at any time during the course of the proceedings. The request will be in writing and will specify the measures requested, the reasons therefor, and the possible consequences, if it is not granted, for the preservation of the respective rights of the Parties or for the marine environment.
2. The Arbitral Tribunal, or the President if the Arbitral Tribunal is not sitting, shall fix the earliest possible date for a hearing.
3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a Party and after the Parties have been given an opportunity to be heard. However,

the Arbitral Tribunal may prescribe measures different in whole or in part from those requested and may indicate which of the Parties are to take or to comply with each measure.

4. A Party may request in writing the modification or revocation of provisional measures. Before taking any decision on the request, the Arbitral Tribunal shall afford the Parties the opportunity to be heard on the subject.
5. Pursuant to Article 290(6) of the Convention, the Parties shall comply promptly with any provisional measures prescribed by the Arbitral Tribunal.

## **Evidence**

### *Article 22*

1. Each Party shall have the burden of proving the facts relied on to support its claim or defence.
2. The Arbitral Tribunal may take all appropriate measures in order to establish the facts including, when necessary, the conduct of a visit to the localities to which the case relates. The Parties shall afford the Arbitral Tribunal all reasonable facilities in the event of such a visit.
3. Written pleadings shall be accompanied by all documents and other evidence relied upon in support of any facts alleged therein. In so far as is possible, all documentary evidence shall be submitted with the respective Memorial and Counter-Memorial of the Parties.
4. Pursuant to Article 6 of Annex VII to the Convention, the Arbitral Tribunal may, at any time during the arbitral proceedings, require the Parties to produce documents, exhibits or other evidence within such a period of time as the Arbitral Tribunal shall determine.
5. The Parties shall include with their written pleadings written witness or expert opinion testimony for each witness of fact or expert witness upon which they intend to rely.
6. Witnesses, including expert witnesses, who are presented by the Parties to testify to the Arbitral Tribunal may be any individual, notwithstanding that the individual is in any way related to a Party to the arbitration.
7. The Arbitral Tribunal shall determine the admissibility, relevance, materiality, and weight of the evidence adduced.

## **Hearings**

### *Article 23*

1. There shall be a hearing at which the Parties may make their oral submissions. A hearing shall be held as soon as practicable and preferably within three months of the close of written pleadings.
2. The Arbitral Tribunal shall give the Parties adequate advance notice of the date, time, and place of any hearing.
3. Before any hearing, a Party may be called upon by the Arbitral Tribunal or the other Party to present at the hearing for examination and cross-examination any witness or expert whose written testimony has been advanced with the written submissions. With leave of the Arbitral Tribunal, a Party may also call its own witnesses or experts for examination at the hearing, even if not called by the Arbitral Tribunal or the other Party. Each Party shall notify the Registry and

the other Party of the names of the witnesses and experts it wishes to call to testify at the hearing no later than thirty days prior to the hearing.

4. No expert witness may be heard unless he or she has provided a written expert report, which shall form part of the pleadings and shall stand as his or her evidence in chief. In respect of any other witness, testimony in the absence of a written statement may be permitted at the discretion of the Arbitral Tribunal, upon an application from the Party indicating the reason for the absence of a written statement and communicating the subject matter of the testimony, a list of the topics to be addressed, and a summary of conclusions.
5. The Arbitral Tribunal may require the retirement or presence of any witness or witnesses, including expert witnesses, during the testimony of other witnesses. Taking account of the views of the Parties, the Arbitral Tribunal shall determine the manner in which witnesses are examined.
6. Written witness statements and expert reports will be treated as evidence in chief. Subject to the control of the Arbitral Tribunal, the hearing of witnesses and expert witnesses may be limited to cross-examination and re-direct, and to questions that may be put by the Arbitral Tribunal.
7. If a witness or expert who has been called to testify by the Arbitral Tribunal or the other Party does not appear to testify at the hearing, the witness's or expert witness's written testimony shall be stricken from the record, unless, in the opinion of the Arbitral Tribunal, exceptional circumstances apply.
8. Where a language other than English is to be used by a witness or expert witness, the necessary arrangements for interpretation into English shall be made by the Registry.
9. The Registry shall make arrangements for a verbatim record of each hearing to be produced.

### **Experts Appointed by the Arbitral Tribunal**

#### *Article 24*

1. After seeking the views of the Parties, the Arbitral Tribunal may appoint one or more independent experts. That expert may be called upon to report on specific issues and in the manner to be determined by the Arbitral Tribunal. A copy of the expert's terms of reference, established by the Arbitral Tribunal, shall be communicated to the Parties.
2. Any expert shall, in principle before accepting appointment, submit to the Arbitral Tribunal and to the Parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the Arbitral Tribunal, the Parties shall inform the Arbitral Tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The Arbitral Tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a Party may object to the expert's qualifications, impartiality or independence only if the objection is for reasons of which the Party becomes aware after the appointment has been made. The Arbitral Tribunal shall decide promptly what, if any, action to take.
3. Pursuant to their obligations under Article 6 of Annex VII to the Convention, the Parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any dispute between a Party and such expert as to the relevance of the required information or production shall be referred to the Arbitral Tribunal for decision. The Parties shall also afford the expert all reasonable facilities in

the event that the expert's terms of reference contemplate a visit to the localities to which the case relates.

4. If called upon to prepare an expert's report, the Arbitral Tribunal shall, upon receipt of the report, communicate a copy of it to the Parties, who shall be given the opportunity to express, in writing, their respective opinions on the report. A Party shall be entitled to examine any document on which the expert relied in his or her report.
5. If a Party so requests or if the Arbitral Tribunal considers it necessary, the expert shall, after delivery of the report, participate in a hearing where the Parties have the opportunity to put questions to him or her and to present expert witnesses in order to testify on the points at issue. The provisions of Article 23 shall be applicable to such proceedings.

### **Failure to Appear or to Make Submissions**

#### *Article 25*

1. Pursuant to Article 9 of Annex VII to the Convention, if one of the parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, the other party may request the Arbitral Tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the Arbitral Tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.
2. In the event that a Party does not appear before the Arbitral Tribunal or fails to defend its case, the Arbitral Tribunal shall invite written arguments from the appearing Party on, or pose questions regarding, specific issues which the Arbitral Tribunal considers have not been canvassed, or have been inadequately canvassed, in the pleadings submitted by the appearing Party. The appearing Party shall make a supplemental written submission in relation to the matters identified by the Arbitral Tribunal within 45 days of the Arbitral Tribunal's invitation. The supplemental submission of the appearing Party shall be communicated to the non-appearing Party and the non-appearing Party shall indicate within 15 days of the communication of the supplemental submission whether it intends to submit any comments thereon. If the non-appearing Party indicates that it intends to submit comments on the supplemental submission, it shall do so within 30 days of its indication of intent. The Arbitral Tribunal may take whatever other steps it may consider necessary, within the scope of its powers under the Convention, its Annex VII, and these Rules, to afford to each of the Parties a full opportunity to present its case.

## **SECTION IV. THE AWARD**

### **Form and Effect of the Award**

#### *Article 26*

1. The Arbitral Tribunal shall render its award in accordance with Articles 8 to 10 of Annex VII to the Convention.
2. Pursuant to Article 11 of Annex VII to the Convention, the award shall be final and without appeal, unless the Parties agree in advance to an appellate procedure. It shall be complied with by the Parties.

3. In addition to making a final award, the Arbitral Tribunal shall be empowered to make interim, interlocutory, or partial awards. The Arbitral Tribunal may make separate awards on different issues at different times.

### **Settlement or Other Grounds for Termination**

#### *Article 27*

1. If, before an award is made, the Parties agree on a settlement of the dispute, the Arbitral Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the Parties and accepted by the Arbitral Tribunal, record the settlement in the form of an award on agreed terms. The Arbitral Tribunal is not obliged to give reasons for such an award.
2. If, before an award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the Arbitral Tribunal shall inform the Parties of its intention to issue an order for the termination of the proceedings. The Arbitral Tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the Arbitral Tribunal considers it appropriate to do so.
3. Copies of the order for termination of the arbitral proceedings or of the award on agreed terms, signed by the arbitrators, shall be communicated by the Arbitral Tribunal to the Parties. Where an award on agreed terms is made, the provisions of Article 26 shall apply.

### **Interpretation of the Award**

#### *Article 28*

1. Any request for interpretation of an award made in accordance with Article 12 of Annex VII to the Convention shall be submitted by a Party by giving notice to the Arbitral Tribunal and the other Party.
2. The interpretation shall form part of the award and the provisions of Article 26 of these Rules shall apply.

### **Correction of the Award**

#### *Article 29*

1. Within ninety days after the receipt of an award, either Party, with notice to the other Party, may request the Arbitral Tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The Arbitral Tribunal may make such corrections on its own initiative after the communication of the award.
2. Such corrections shall be in writing, and the provisions of Article 26 of these Rules shall apply.

### **Additional Award**

#### *Article 30*

1. Within ninety days after the receipt of an award, a Party, with notice to the other Party and the Registry, may request the Arbitral Tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the Arbitral Tribunal.

2. If the Arbitral Tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within a reasonable period of time after the receipt of the request. The Arbitral Tribunal may extend, if necessary, the period of time within which it shall make the award.
3. When such an award or additional award is made, the provisions of Article 26 of these Rules shall apply.

## **Expenses**

### *Article 31*

1. Pursuant to Article 7 of Annex VII to the Convention, unless the Arbitral Tribunal decides otherwise because of the particular circumstances of the case, the expenses of the Arbitral Tribunal, including the remuneration of its members, shall be borne by the Parties in equal shares.
2. The expenses of the Arbitral Tribunal shall be reasonable in amount, taking into account the complexity of the subject-matter, the time spent by the arbitrators, the amount in dispute, if any, and any other relevant circumstances of the case.
3. The Registry shall keep a record of all expenses, and shall furnish a final statement thereof to the Parties.

## **Costs**

### *Article 32*

1. Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the proceedings, each Party shall bear the costs of presenting its own case.
2. In the event that the Arbitral Tribunal determines it appropriate to allocate costs, such costs shall form part of the award and the provisions of Article 26 of these Rules shall apply.

## **Deposit for Expenses**

### *Article 33*

1. The Registry may request each Party to deposit an equal amount as an advance for the expenses referred to in Article 31. All amounts deposited by the Parties pursuant to this Article shall be directed to the Registry and disbursed by it for such expenses, including, *inter alia*, fees to the arbitrators and the Registry.
2. During the course of the proceedings, the Registry or the Arbitral Tribunal may request supplementary deposits from the Parties in respect of the expenses referred to in Article 31.
3. If the requested deposits are not paid in full within forty-five days after the receipt of the request, the Arbitral Tribunal shall so inform the Parties in order that one of them may make the required payment. If such payment is not made, the Arbitral Tribunal may order the suspension or termination of the proceedings.
4. After a termination order or award has been made, the Registry shall render an accounting to the Parties of the deposits received and return any unexpended balance to the Parties.