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Settlement of commercial disputes

Draft provisions on expedited arbitration

Note by the Secretariat

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I. Introduction

1. This Note illustrates how the draft provisions on expedited arbitration in document A/CN.9/WG.II/WP.212 would be presented and should be read in conjunction with the commentary therein. Chapter II presents the provisions as an appendix to the UNCITRAL Arbitration Rules (UAR). Chapter III presents the provisions in a stand-alone UNCITRAL text, following the structure of the UAR and their numbering.

II. Appendix to the UNCITRAL Arbitration Rules

Draft provision 1 (Scope of application)

1. *Unless otherwise agreed by the parties, the Expedited Arbitration Provisions shall [apply][be applicable] to arbitration initiated under the UNCITRAL Arbitration Rules pursuant to an arbitration agreement concluded on or after [the effective date of the Expedited Arbitration Provisions].*

2. *The presumption under article 1(2) of the UNCITRAL Arbitration Rules does not apply to the Expedited Arbitration Provisions, where the arbitration agreement was concluded before [the effective date of the Expedited Arbitration Provisions].*

3. *At any time during the proceedings, the parties may determine whether the Expedited Arbitration Provisions shall apply to the arbitration.*

4. *In exceptional circumstances, a party may request the arbitral tribunal to determine that the Expedited Arbitration Provisions shall not apply to the arbitration.*

5. *In determining whether the Expedited Arbitration Provisions shall apply to the arbitration, consideration should be given to the overall circumstances of the case, including:*

(a) *The amount in dispute (the sum of claims made in the notice of arbitration, any counterclaims made in the response thereto as well as additional claims);*

(b) *The nature and complexity of the dispute;*

(c) *The urgency of the resolution of the dispute; and*

(d) *The proportionality of the amount in dispute to the estimated cost of arbitration.*

6. *The arbitral tribunal, [option A: after inviting the parties to express their views, shall determine whether the Expedited Arbitration Provisions apply to the arbitration] [option B: upon request of a party and after inviting the parties to express their views, may determine that the Expedited Arbitration Provisions shall not apply to the arbitration]. In case the arbitral tribunal has not been constituted, the appointing authority will make that determination upon request by a party and after inviting the parties to express their views.*

7. *When it is determined that the Expedited Arbitration Provisions shall not apply to the arbitration pursuant to paragraphs 3 or 6, the arbitral tribunal shall remain in place, unless the parties agree to replace any arbitrator or reconstitute the arbitral tribunal.*

Draft provision 2 (Notice of arbitration)

1. *The notice of arbitration shall comply with the requirements of article 3, paragraph 3 and article 20, paragraphs 2 to 4 of the UNCITRAL Arbitration Rules.*

Draft provision 3 (Number of arbitrators)

Unless otherwise agreed by the parties, there shall be one arbitrator.

Draft provision 4 (Appointment of the arbitrator)

1. *The sole arbitrator shall be appointed jointly by the parties.*
2. *If within [a short time period to be determined, for example, 15 or 30 days] after [option A: receipt by the respondent of the notice of arbitration][option B: receipt by all other parties of a proposal for the appointment of a sole arbitrator] the parties have not reached agreement thereon, the arbitrator shall, at the request of a party, be appointed by the appointing authority in accordance with article 8(2) of the UNCITRAL Arbitration Rules.*

Draft Provision 5 (Designating and appointing authorities)

1. *Unless the parties have already agreed on the choice of an appointing authority, a party may at any time propose the name or names of one or more institutions or persons, including the Secretary-General of the Permanent Court of Arbitration at The Hague (hereinafter called the "PCA"), one of whom would serve as appointing authority.*
2. *If all parties have not agreed on the choice of an appointing authority within [30] days after a proposal made in accordance with paragraph 1 has been received by all other parties, any party may request the Secretary-General of the PCA to designate the appointing authority.*
- [2. *If all parties have not agreed on the choice of an appointing authority within [30] days after a proposal made in accordance with paragraph 1 has been received by all other parties,*

Option A: any party may request the Secretary-General of the PCA to designate the appointing authority or to serve as appointing authority.

Option B: the Secretary-General of the PCA [or any other organization to be determined] would serve as appointing authority.

Option C: and no request has been made by any party to the Secretary-General of the PCA to designate the appointing authority, the Secretary-General of the PCA [or any other organization to be determined] would serve as appointing authority.]]

Draft provision 6 (Case management conference and provisional timetable)

1. *As soon as practicable after its constitution, the arbitral tribunal [may] [shall] convene a case management conference to consult the parties on the manner in which the arbitral tribunal would conduct the arbitration in accordance with article 17(1) of the UNCITRAL Arbitration Rules.*
2. *Such a conference may be conducted through a meeting in person, by telephone, video conference, or other means of communication. In the absence of an agreement of the parties, the arbitral tribunal shall determine the appropriate means by which the conference will be conducted.*
3. *As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish a provisional timetable of the arbitration in accordance with article 17(2) of the UNCITRAL Arbitration Rules. In establishing the timetable, the arbitral tribunal should take into account the time frames in draft provisions 7 and 13.*

Draft provision 7 (Overall period of time and calculation of the period)

1. *The overall period of time of the arbitral proceedings under the Expedited Arbitration Provisions shall be no longer than [12 months].*
2. *Arbitration proceedings are deemed to commence on the date on which the notice of arbitration is received by the respondent and terminate on the date [the arbitral tribunal makes the award] [the parties receive the award].*

Draft provision 8 (Discretion of the arbitral tribunal)

1. *In conducting arbitration under the Expedited Arbitration Provisions, the arbitral tribunal, after inviting the parties to express their views, may: (a) fix the period of time for any stage of the proceedings; (b) [extend or] abridge the overall period of time for the completion the arbitral proceeding provided in draft provision 7 and any other period of time prescribed under the UNCITRAL Arbitration Rules or the Expedited Arbitration Provisions ; and (c) [extend or] abridge any period of time agreed by the parties.*
2. *The arbitral tribunal, in exercising its discretion, shall take into account the expeditious nature of the proceedings.*

Draft provision 9 (Counterclaims)

1. *The response to the notice of arbitration shall contain any counterclaim or claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.*
2. *The respondent may make a counterclaim or rely on a claim for the purpose of a set-off at a later stage of the proceedings, only if the arbitral tribunal decides that the delay was justified under the circumstances.*

Draft provision 10 (Amendments to the claim or defence)

1. *Amendments to the claim or defence provided under article 22 of the UNCITRAL Arbitration Rules shall be made no later than [** days after the receipt of the statement of defence] [a period of time to be determined by the arbitral tribunal].*
2. *After the period of time in paragraph 1, a party may not amend or supplement its claim or defence, unless the arbitral tribunal considers it appropriate to allow such amendment or supplement having regard to the delay in making it and prejudice to other parties or any other circumstances.*

Draft provision 11 (Further written statements and evidence)

1. *The arbitral tribunal may limit the parties from presenting further written statements.*
2. *Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, shall be presented in writing and signed by them.*
3. *The arbitral tribunal may limit the production of documents, exhibits or other evidence.*

Draft provision 12 (Hearings)

1. *A request for hearings may be made only within [] days after [the case management conference].*
2. *[option A: Unless otherwise agreed by the parties, the arbitral tribunal may decide to not hold hearing.] [option B: The arbitral tribunal, after inviting the parties to express their views, may decide whether to hold hearings based on the document and other materials and the circumstances of the case including the expeditious nature of the proceedings.]*
3. *If the arbitral tribunal decides to not hold hearings pursuant to paragraph 2 and any of the parties object to that decision, [option A: the arbitral tribunal shall hold hearings] [option B: the arbitral tribunal may decide not to hold hearings.]*

Draft provision 13 (Award)

1. *Unless otherwise agreed by the parties, the award shall be made within [six months] from the date of the constitution of the arbitral tribunal.*
2. *If hearings are held, the award shall be made within [three months] from the closure of the hearings, unless otherwise agreed by the parties.*

3. *The period of time in paragraph 1 may be extended under exceptional circumstances by [the arbitral tribunal] [the appointing authority] after inviting the parties to express their views.*

4. *In granting the extension, the [arbitral tribunal] [appointing authority] shall state the reasons and the extended time period should be no longer than [** months].*

III. Draft UNCITRAL Expedited Arbitration Provisions

Section I. Introductory rules

Scope of application* (see paras. 13-32 of A/CN.9/WG.II/WP.212)

Provision 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, shall be referred to arbitration under the *UNCITRAL Expedited Arbitration Provisions*, then such disputes shall be settled in accordance with these *Provisions* subject to such modification as the parties may agree.

2. The parties to an arbitration agreement concluded after [*effective date of the Provisions*] shall be presumed to have referred to the *Provisions* in effect on the date of commencement of the arbitration, unless the parties have agreed to apply a particular version of the *Provisions*.

3. These *Provisions* shall govern the arbitration except that where any of these *Provisions* is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

[4. For investor-State arbitration initiated pursuant to a treaty providing for the protection of investments or investors, these *Provisions* include the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (“Rules on Transparency”), subject to article 1 of the Rules on Transparency.]

5. *At any time during the proceedings, the parties may determine that the Provisions shall not apply to the arbitration.*

6. *In exceptional circumstances, a party may request the arbitral tribunal to determine that the Provisions shall not apply to the arbitration.*

7. *In determining whether the Provisions shall apply to the arbitration, consideration should be given to the overall circumstances of the case, including:*

(a) *The amount in dispute (the sum of claims made in the notice of arbitration, any counterclaims made in the response thereto as well as additional claims);*

(b) *The nature and complexity of the dispute;*

(c) *The urgency of the resolution of the dispute; and*

(d) *The proportionality of the amount in dispute to the estimated cost of arbitration.*

8. *The arbitral tribunal, [option A: after inviting the parties to express their views, shall determine whether the Provisions apply to the arbitration] [option B: upon request of a party and after inviting the parties to express their views, may determine that the Provisions shall not apply to the arbitration]. In case the arbitral tribunal has not been constituted, the appointing authority will make that determination upon request by a party and after inviting the parties to express their views.*

* A model arbitration clause for contracts can be found in the annex to the *Provisions*.

9. *When it is determined that the Provisions shall not apply to the arbitration pursuant to paragraphs 5 or 8, the arbitral tribunal shall remain in place, unless the parties agree to replace any arbitrator or reconstitute the arbitral tribunal.*

Notice and calculation of periods of time (see para. 70 of A/CN.9/WG.II/WP.212)

Provision 2

[UAR 2 remains unchanged]

Notice of arbitration (see paras. 33–34 and 59 of A/CN.9/WG.II/WP.212)

Provision 3

[Paragraphs 1 and 2 of UAR 3 remain unchanged]

3. The notice of arbitration shall include the following:
 - (a) A demand that the dispute be referred to arbitration;
 - (b) The names and contact details of the parties;
 - (c) Identification of the arbitration agreement that is invoked;
 - (d) Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;
 - (e) A brief description of the claim and an indication of the amount involved, if any;
 - (f) The relief or remedy sought;
 - (g) *A proposal as to the language and place of arbitration, if the parties have not previously agreed thereon.*
 - (h) *A statement of the facts supporting the claim;*
 - (i) *The points at issue;*
 - (j) *The legal grounds or arguments supporting the claim.*
4. The notice of arbitration may also include:
 - (a) A proposal for the designation of an appointing authority referred to in provision 6, paragraph 1;
 - (b) *[to be deleted];*
 - (c) Notification of the appointment of an arbitrator referred to in provision 9 or 10.
5. *A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the notice of arbitration.*
6. *The notice of arbitration should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.*
7. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Response to the notice of arbitration (see paras. 35, 59, 71, 79–81 and 83 of A/CN.9/WG.II/WP.212)

Provision 4

1. Within [30] days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant a response to the notice of arbitration, which shall include:

(a) The name and contact details of each respondent;

(b) A response to the information set forth in the notice of arbitration, pursuant to *provision 3, paragraphs 3 (c) to (g)*.

2. The response to the notice of arbitration may also include:

(a) Any plea that an arbitral tribunal to be constituted under these *Provisions* lacks jurisdiction;

(b) A proposal for the designation of an appointing authority referred to in provision 6, paragraph 1;

(c) *[to be deleted]*;

(d) Notification of the appointment of an arbitrator referred to in provision 9 or 10;

(e) *[to be deleted]*;

(f) A notice of arbitration in accordance with provision 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant; and

(g) *A response to the information set forth in the notice of arbitration, pursuant to provision 3, paragraphs 3 (h) to (j)*.

3. *The response to the notice of arbitration shall contain any counterclaim or claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it. The respondent may make a counterclaim or rely on a claim for the purpose of a set-off at a later stage of the proceedings, only if the arbitral tribunal decides that the delay was justified under the circumstances.*

4. *Provision 3, paragraph 3(b), (f), (h), (i) and (j) as well as paragraphs (5) and (6) shall apply to a counterclaim, a claim under paragraph 2 (f) of this provision, and a claim relied on for the purpose of a set-off.*

5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Representation and assistance

Provision 5

[UAR 5 remains unchanged]

Designating and appointing authorities (see paras. 54–58 and 71 of A/CN.9/WG.II/WP.212)

Provision 6

1. Unless the parties have already agreed on the choice of an appointing authority, a party may at any time propose the name or names of one or more institutions or persons, including the Secretary-General of the Permanent Court of Arbitration at The Hague (hereinafter called the "PCA"), one of whom would serve as appointing authority.

2. If all parties have not agreed on the choice of an appointing authority within [30] days after a proposal made in accordance with paragraph 1 has been received by all other parties, any party may request the Secretary-General of the PCA to designate the appointing authority.

[2. If all parties have not agreed on the choice of an appointing authority within [30] days after a proposal made in accordance with paragraph 1 has been received by all other parties,

Option A: any party may request the Secretary-General of the PCA to designate the appointing authority or to serve as appointing authority.

Option B: the Secretary-General of the PCA [or any other organization to be determined] would serve as appointing authority.

Option C: and no request has been made by any party to the Secretary-General of the PCA to designate the appointing authority, the Secretary-General of the PCA [or any other organization to be determined] would serve as appointing authority.]]

[Paragraphs 3 to 7 of UAR 6 remain unchanged]

Section II. Composition of the arbitral tribunal

Number of arbitrators (see paras. 37–40 of A/CN.9/WG.II/WP.212)

Provision 7

Unless otherwise agreed by the parties, there shall be one arbitrator.

Appointment of arbitrators (see paras. 41–50 and 71 of A/CN.9/WG.II/WP.212)

Provision 8

1. *The sole arbitrator shall be appointed jointly by the parties.*

2. *If within [a short time period to be determined, for example, 15 or 30 days] after [option A: receipt by the respondent of the notice of arbitration][option B: receipt by all other parties of a proposal for the appointment of a sole arbitrator] the parties have not reached agreement thereon, the arbitrator shall, at the request of a party, be appointed by the appointing authority.*

[Paragraph 2 of UAR 8 remains unchanged except possibly the time period therein.]

Provisions 9 and 10

[UAR 9 and 10 remain unchanged]

Disclosures by and challenge of arbitrators (see paras. 51–52 of A/CN.9/WG.II/WP.212)**

Provisions 11 to 13

[UAR 11 to 13 remain unchanged]

Replacement of an arbitrator

Provision 14

[UAR 14 remains unchanged]

^{**} Model statements of independence pursuant to provision 11 can be found in the annex to the Provisions.

Repetition of hearings in the event of the replacement of an arbitrator*Provision 15**[UAR 15 remains unchanged]***Exclusion of liability***Provision 16**[UAR 16 remains unchanged]***Section III. Arbitral proceedings****General provisions***[Paragraphs 4 and 5 of UAR 17 will remain unchanged]***Discretion of the arbitral tribunal (see paras. 72-78 of A/CN.9/WG.II/WP.212)***Provision 17-1*

1. Subject to these *Provisions*, 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 an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting 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. *In conducting arbitration under the Provisions, the arbitral tribunal, after inviting the parties to express their views, may: (a) fix the period of time for any stage of the proceedings; (b) [extend or] abridge the overall period of time for the completion the arbitral proceeding provided in provision 17-5 and any other period of time prescribed under the Provisions ; and (c) [extend or] abridge any period of time agreed by the parties.*

3. *The arbitral tribunal, in exercising its discretion, shall take into account the expeditious nature of the proceedings.*

Case management conference (see paras. 60-65 of A/CN.9/WG.II/WP.212)*Provision 17-2*

1. *As soon as practicable after its constitution, the arbitral tribunal [may] [shall] convene a case management conference to consult the parties on the manner in which the arbitral tribunal would conduct the arbitration in accordance with article 17(1) of the UNCITRAL Arbitration Rules.*

2. *Such a conference may be conducted through a meeting in person, by telephone, video conference, or other means of communication. In the absence of an agreement of the parties, the arbitral tribunal shall determine the appropriate means by which the conference will be conducted.*

Provisional timetable (see para. 66 of A/CN.9/WG.II/WP.212)*Provision 17-3*

1. *As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish a provisional timetable of the arbitration in accordance with article 17(2) of the UNCITRAL Arbitration Rules. In establishing the timetable, the arbitral tribunal should take into account the time frames in draft provisions 7 and 13.*

Hearings (see paras. 88–97 of A/CN.9/WG.II/WP.212)

Provision 17-4

1. *A request for hearings may be made only within [] days after [the case management conference], upon which the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument.*
2. *[Option A: Unless otherwise agreed by the parties, the arbitral tribunal may decide to not hold hearing.][option B: The arbitral tribunal, after inviting the parties to express their views, may decide whether to hold hearings based on the document and other materials and the circumstances of the case including the expeditious nature of the proceedings.]*
3. *If the arbitral tribunal decides to not hold hearings pursuant to paragraph 2 and any of the parties object to that decision, [option A: the arbitral tribunal shall hold hearings][option B: the arbitral tribunal may decide not to hold hearings.]*

Overall period of time and calculation of the period (see paras. 67–70 of A/CN.9/WG.II/WP.212)

Provision 17-5

1. *The overall period of time of the arbitral proceedings under the Provisions shall be no longer than [12 months].*
2. *Arbitration proceedings are deemed to commence on the date on which the notice of arbitration is received by the respondent and terminate on the date [the arbitral tribunal makes the award] [the parties receive the award].*

Place of arbitration

Provision 18

[UAR 18 remains unchanged]

Language

Provision 19

[UAR 19 remains unchanged]

Statement of claim (see paras. 33–34 of A/CN.9/WG.II/WP.212)

Provision 20

[The following could be combined with provision 3 or be deleted]

1. *The claimant shall communicate its notice of arbitration in writing to the arbitrator within a period of time to be determined by the arbitral tribunal.*

Statement of defence

Provision 21

1. *The respondent shall communicate its statement of defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in provision 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this provision.*
2. *The statement of defence shall reply to the particulars of (f), (h), (i) and (j) of the notice of arbitration (provision 3(1)). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.*

Amendments to the claim or defence (see para. 82 of A/CN.9/WG.II/WP.212)*Provision 22*

1. *A party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, no later than [** days after the receipt of the statement of defence] [a period of time to be determined by the arbitral tribunal]. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.*

2. *After the period of time in paragraph 1, a party may not amend or supplement its claim or defence, unless the arbitral tribunal considers it appropriate to allow such amendment or supplement having regard to the delay in making it and prejudice to other parties or any other circumstances.*

Pleas as to the jurisdiction of the arbitral tribunal (see paras. 110–113 of A/CN.9/WG.II/WP.212)*Provision 23*

[UAR 23 remains unchanged]

Further written statements (see paras. 85–87 of A/CN.9/WG.II/WP.212)*Provision 24*

1. *The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.*

2. *The arbitral tribunal may limit the parties from presenting further written statements.*

Periods of time (see para. 71 of A/CN.9/WG.II/WP.212)*Provision 25*

[UAR 25 remains unchanged except possibly the time period therein.]

Interim measures*Provision 26*

[UAR 26 remains unchanged]

Evidence (see paras. 85–87 of A/CN.9/WG.II/WP.212)*Provision 27*

[Paragraphs 1 to 4 of UAR 27 remain unchanged]

5. *Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, shall be presented in writing and signed by them.*

6. *The arbitral tribunal may limit the production of documents, exhibits or other evidence.*

Hearings (see paras. 97–98 of A/CN.9/WG.II/WP.212)*Provision 28*

[UAR 28 will remain unchanged]

Experts appointed by the arbitral tribunal

Provision 29

[UAR 29 remains unchanged]

Default

Provision 30

[UAR 30 remains unchanged]

Closure of hearings

Provision 31

[UAR 31 remains unchanged]

Waiver of right to object

Provision 32

[UAR 32 remains unchanged]

Section IV. The award

Decisions

Provision 33

[UAR 33 remains unchanged]

Form and effect of the award (see paras. 99–108 of A/CN.9/WG.II/WP.212)

Provision 34

[Paragraphs 1 to 6 of UAR 34 remain unchanged]

7. *Unless otherwise agreed by the parties, the award shall be made within [six months] from the date of the constitution of the arbitral tribunal.*

8. *If hearings are held, the award shall be made within [three months] from the closure of the hearings, unless otherwise agreed by the parties.*

9. *The period of time in paragraph 1 may be extended under exceptional circumstances by [the arbitral tribunal] [the appointing authority] after inviting the parties to express their views.*

10. *In granting the extension, the [arbitral tribunal] [appointing authority] shall state the reasons and the extended time period should be no longer than [** months].*

Applicable law, amiable compositeur

Provision 35

[UAR 35 remains unchanged]

Settlement or other grounds for termination

Provision 36

[UAR 36 remains unchanged]

Interpretation of the award (see para. 109 of A/CN.9/WG.II/WP.212)

Provision 37

[UAR 37 remains unchanged except possibly the time period therein.]

Correction of the award (see para. 109 of A/CN.9/WG.II/WP.212)*Provision 38**[UAR 38 remains unchanged except possibly the time period therein.]***Additional award (see para. 109 of A/CN.9/WG.II/WP.212)***Provision 39**[UAR 39 remains unchanged except possibly the time period therein.]***Definition of costs***Provision 40**[UAR 40 remains unchanged]***Fees and expenses of arbitrators***Provision 41**[UAR 41 remains unchanged]***Allocation of costs (see para. 84 of A/CN.9/WG.II/WP.212)***Provision 42**[Paragraphs 1 and 2 of UAR 42 remain unchanged]*

3. The arbitral tribunal may allocate such costs with respect to counterclaims and additional claims to the party that made such claims, if it determines that those claims were [frivolous] [manifestly without legal merit].

Deposit of costs*Provision 43**[UAR 43 remains unchanged except possibly the time period therein.]***Annex****Model arbitration clause for contracts (see para. 59 of A/CN.9/WG.II/WP.212)**

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the *UNCITRAL Expedited Arbitration Provisions*.

Note. Parties should consider adding:

- (a) The appointing authority shall be ... [name of institution or person];
- (b) The place of arbitration shall be ... [town and country];
- (c) The language to be used in the arbitral proceedings shall be

Possible waiver statement*[Possible waiver statement of the UAR will remain unchanged]***Model statements of independence pursuant to article 11 of the Rules***[Model statements of independence of the UAR will remain unchanged]*