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Settlement of commercial disputes

Transparency in treaty-based investor-State arbitration

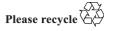### Comments by arbitral institutions regarding the establishment of a repository of published information ("registry")

Note by the Secretariat

Contents

I. Introduction

1.   In preparation for the fifty-sixth session of Working Group II (Arbitration and Conciliation), during which the Working Group is expected to continue its work on the preparation of a legal standard on transparency in treaty-based investor-State arbitration, interested arbitral institutions were invited, at the fifty-fifth session of the Working Group, to provide information on the cost of establishing and maintaining a repository of information to be published in accordance with the legal standard on transparency ("registry") (A/CN.9/736, para. 133). In accordance with the decision of the Working Group, the Secretariat circulated on 18 October 2011 a questionnaire to arbitral institutions that had expressed an interest in being associated to the current activities of the Working Group or that have been listed by UNCTAD as institutions administering treaty-based investor-State disputes.[1] The questionnaire is reproduced in section II below. The comments received from arbitral institutions are reproduced in section III of this note in the form in which they were received by the Secretariat.

II. Questionnaire on costs of establishing and maintaining a repository of published information ("registry")

2.   The description of the role of a registry, and the assumptions regarding caseload in the questionnaire circulated by the Secretariat were as follows:

"Generally, the registry provider would be responsible for making publicly available via the internet information received from an arbitral tribunal in accordance with the rules on transparency. For the provider, this would consist primarily of publishing on its website:

•   Information extracted from the notice of arbitration sent by any party; namely, the names of the parties, the field of activity concerned, and the investment treaty under which the claim arose; and

•   Documents provided to or issued by the arbitral tribunal during the course of the arbitral proceedings, in the form received. The list of documents has not been determined yet, but it may include the notice of arbitration and response thereto, memorials, witness statements and expert reports, exhibits (or a table of contents thereof), submissions by third parties and non disputing State Parties; and decisions and orders of the arbitral tribunal. The registry could foresee receiving documents in either paper or electronic format.

On that basis, the UNCITRAL Secretariat would appreciate receiving cost estimates from the [institution] on the assumption that, as a single registry

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[1] See *Latest Developments in Investor-State Dispute Settlement*, IIA Issues Note No. 1 (2010), International Investment Agreements, p. 2; available on 28 November 2011 at www.unctad.org/en/docs/webdiaeia20103_en.pdf; see also document A/CN.9/WG.II/WP.160, para. 29.

provider,[2] it might be expected to publish information on some 50 cases per year or, as one of several participating organizations acting as registry providers, it might be expected to deal with up to 10 cases per year. The registry would be asked to provide unique web addresses for each dispute so that they may be linked to from the UNCITRAL website."

3. The questions regarding the cost of establishing and maintaining a registry either as a unique provider [PCA and ICSID] or as one of several providers were as follows:

"(1) How much do you estimate it would initially cost your organization to put in place an online public registry system (either through tailoring existing electronic systems or developing a new system)?

(2) How much do you estimate the registry would cost your organization on an annual basis? Please, consider the costs of staff, electronic publication of case documents, data security, preservation of paper documents, server and system maintenance and any other recurrent expenses.

(3) How would your organization expect to cover the costs of the registry system (e.g., by charging a fee to parties to the dispute)?

(4) If your organization would expect to charge a fee to parties, how much do you estimate that fee would be?"

III. Comments received from arbitral institutions

A. London Court of International Arbitration ("LCIA")

Reply by the Director General
Date: 15 November 2011

I am pleased to confirm that the LCIA is, in principle, willing to serve as a registry provider in connection with the UNCITRAL rules on transparency in treaty-based investor-State arbitrations.

I would, therefore, respond to your four specific questions as follows.

Q1. How much do you estimate it would initially cost your organisation to put in place an online public registry system?

A1. We would propose to set up a dedicated website, with dedicated server; operated and maintained separately from our own website to ensure greater efficiency and ease of operation and access.

We estimate that the initial cost of setting up this system, including website design, and content and management systems (CMS), would be in the region of £10,000 (€11,700).

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[2] The reference to "single registry provider" was included in the questionnaire sent to the International Centre for Settlement of Investment Disputes (ICSID) and the Permanent Court of Arbitration ("PCA), only (see A/CN.9/717, para. 148).

Q2. How much do you estimate the registry would cost your organisation on an annual basis?

A2. We estimate that the ongoing annual costs of maintaining the website, including hosting, support, and CMS administration, would be in the region of £4,000 (€4,700).

This includes staff time related only to the maintenance of the systems. As regards time spent on administrative tasks arising, see A3 and A4, below.

It is not possible to estimate the cost of storage of paper documentation at this time, as we have no indication of the likely volume of papers, as opposed to documents in electronic format. On the understanding, however, that any paper documents received would be scanned and uploaded to the dedicated website, and the papers themselves stored for a prescribed time, the cost of storage would be £0,41 (€0,48) per cubic foot, per month; £14,47 (€16,95) per cubic metre per month.

Ongoing annual costs of this kind would, of course, be subject to review and adjustment for inflation and other market factors.

Q3. How would your organisation expect to cover the costs of the registry system (e.g. by charging a fee to parties to the dispute)?

A3. The LCIA would expect to cover the costs of the registry system by charging the parties an initial registration fee of £1,000 (€1,170) plus time spent in administration on each case, at prevailing published rates; currently £225 (€263) per hour for the Registrar, Deputy Registrar and Counsel; and between £100 (€117) and £150 (€175) for other secretariat personnel, depending upon the activity.

The LCIA would, in addition, charge for all expenses incurred by it in connection with any referral, including the cost of any storage or archiving of paper documentation.

Q4. If your organisation would expect to charge a fee to parties, how much do you estimate that fee would be?

A4. Once again, it is not possible, without further information about the likely demands on administrative time or the anticipated typical volume of documentation to be processed, to provide the likely total charge to the parties per case. Nonetheless, this service would be akin to the administrative services, typically fundholding, that the LCIA now routinely provides in ad hoc arbitrations, and which is generally regarded as highly efficient and cost effective.

If there are any further details that UNCITRAL were able to add to their brief, we should be more than pleased to firm up on these estimates to the extent that such additional information allowed us better to assess the likely volume of work per case referred, and, therefore, the likely time to be spent by LCIA staff.

B. Cairo Regional Centre for International Commercial Arbitration ("CRCICA")

Reply by the Director
Date: 17 November 2011

At the outset, the Cairo Regional Centre for International Commercial Arbitration (CRCICA) is pleased to confirm its willingness to act as a registry provider.

After requesting tentative information relating to the costs of establishing, running and maintaining such service, we roughly estimate that the costs of putting on line a public registry system to be 25,000 USD in addition to annual costs ranging from 3,000 USD to 5,000 USD.

CRCICA expects to charge a fee to parties ranging from 3,000 to 5,000 USD depending on the size/format of the documents to be published.

C. Arbitration Institute of the Stockholm Chamber of Commerce ("SCC")

Reply by the Secretary General
Date: 25 November 2011

1.   The below represents our preliminary assessment of the issues which may need to be addressed in connection with a potential registry service under a future set of UNCITRAL rules on transparency.

2.   For the sake of clarity, the SCC would like to underline that none of the below should be seen as the SCC advocating a specific standard on transparency. The objective has been to outline potential solutions by which arbitral institutions such as the SCC can contribute to an efficient and modern application on the UNCITRAL rules on transparency, irrespective of the final details of their content. The SCC recognizes that the rules on transparency have not yet been finalized, and this reply is thus presented with the caveat of any necessary changes needed as a result of the final versions of the texts.

3.   This paper out-lines three potential scenarios by which a registry system could be implemented, described in the first section. In the second section, we address the specific questions of your letter of 18 October 2011.

4.   The proposed provision in "Repository of published information ("registry")" refers to "information" that shall be made available to the public — in contrast to the term "document" which has also been used. For the purpose of this letter, the SCC has assumed that that data to be published refers to the wider term "information".

A. POSSIBLE SOLUTIONS. GENERAL REMARKS.

5.   A number of different technical solutions could be used to create an online public registry system. Formal prerequisites as finally defined by the UNCITRAL Rules on Transparency, the anticipated use of its content, the desired level of user-friendliness and standards of security all represent decisive factors in any

specification of such system, and consequently also to assess the costs associated with building and administrating the system.

6.   An important aspect when deciding the technical solution is to ensure that the registry is implemented in a user-friendly manner, to provide the rules with any practical significance.

7.   To further increase the public accessibility it may be worth exploring whether it would be possible and desirable if all information concerning treaty-based investor-State arbitration was made accessible in one common repository with one entry point, i.e. in one common web portal. The information in the portal could still be provided by several different institutions, but for the users there would merely be one point of access. Therefore, this paper out-lines three different scenarios for the implementation of the registry: (a) a common repository for all participating institutes, (b) separate repositories for each institute, but with a common framework and a common collection of links to the different disputes, and (c) completely separate registry services for each institute.

8.   Initially, however, some general remarks for all scenarios are addressed.

Security issues and statistics

9.   Information security is an important issue to address in any potential registry service implementation. The credibility of the registry and the rules on transparency will be closely connected with the accuracy and reliability of the information published. Thus, when developing the registry the information security aspect and how to prevent the possibility for any unauthorized person to alter or delete information in the system must be carefully considered. Information that has been made public in the registry should only be allowed to be altered or deleted under certain well defined conditions to secure information security and reliability.

10.   Possibly, recommendations and best practice in this context could be included in a future UNCITRAL recommendation, similar to the "1982 Recommendations to assist arbitral institutions and other interested bodies with regard to arbitrations under the UNCITRAL Arbitration Rules".

11.   To ensure the secure handling of the information, it is probably well advised to use a well-developed document management system with security and access rights control as well as tracking functionality. By security and access control it will be possible to prevent unauthorized access to the information. By adding a tracking functionality to the registry system it will further be possible to supervise the administration of the system and retrieve information on who has uploaded material, made alterations or deleted information.

12.   From a security perspective it is furthermore well advised that it is always the final version of any information that is uploaded in the registry. In regard to sensitive information exempted from transparency, the information in the registry should then be the reduced document where such sensitive information has been disguised, never the original file without reductions. Instead, it is advised that each administrator keeps the original file in a separate internal document management system.

Information format

13.   It is foreseen that data to be published in the registry refers to the wider term "information" in contrast to the term "document". Thus, SCC assumes that data in the registry will not only consist of documents in Word or PDF format, but may also consist of information in other formats like webcasts or recordings from hearings. Ideally, the technical solution should have the flexibility to support all kinds of relevant formats and in a way that ensures that users can access the information easily via the web page of the registry.

14.   An important consideration in this context is policies on how long the webcast or video recording should be made available, and with what functionality. It is well advised that web casts and video recordings are only made available via viewer functionality and not with any downloading possibilities. (For example at YouTube, videos may be viewed but not downloaded.)

15.   To safeguard the necessary durability and to provide a standard format accessible (from a reader that all users can download for free), documents preferably should be uploaded as a PDF, in a format supporting free text searching. This is normally included in the standard functionality when using digital migration from Word to PDF, but if paper documents are scanned into the system, an OCR scanner must be used.

16.   A question which needs to be addressed is whether it should be possible for users to download documents from the registry, or not. This means texts will either be published in an open PDF format or merely presented via secure view functionality.

Findable and accessible issues

17.   Investor-State arbitrations are complex, time-consuming disputes, which often contain voluminous documentation. Against this background, it is questionable whether a solution by which materials are merely published (listed) on a web site would sufficiently fulfil the transparency objective.

18.   The volume aspect and how to make the information in practice easy accessible would therefore need to be carefully considered in the development and implementation of a registry service. Where the information is very extensive and unstructured, access to information in a relevant manner will be potentially impeded. It may thus not be sufficient merely making the information publicly accessible, if the objectives of transparency shall be deemed to be met. Instead, the registry service may need to include tools facilitating not only access but actually making it possible to find relevant information, using modern search tools.

19.   Preferably, information in the registry system would be searchable via a combination of structured searching and free text searching. If a modern document management system is used to structure the information, there will be a functionality making it possible to set up a structure about what information will be saved together with each file ("meta-data"). This could for example be information about date, information type (document, presentation, webcast etc) and origin (one of the parties or a third party). This information can be used for filtering and searching in a structured manner.

20.   In summary, an efficient search function structure will enhance access to the information.

Personal data aspects

21.   An important issue which may need to be addressed is if the information in the registry would contain personal data that could be subject to the regulations under the EC Directive (95/46/EC) on data protection.

Language support

22.   If assumed that all information in the registry system will be in English, the search function needs to support English language only. However, it is likely that the system will include information in other languages as well, and this aspect needs to be addressed in the development of the structure and the filtering possibilities of the registry system as well as in the implementation of an additional language support for searches.

Support for mobile access

23.   To further increase the accessibility of the information in the registry it could be considered if a support for mobile devices, such as iPads, iPhones and Androids, should be implemented. Thereby a modern way of working and accessing information would be supported. If standard systems are used, there is often a built in support for mobile devices that could be used.

B.   POSSIBLE SOLUTIONS. THREE SCENARIOS.

(a)   Scenario 1: A common repository for all participating institutes

24.   The first suggested scenario for the implementation of the registry is to create a common repository for all participating institutes. Thus, all information concerning treaty-based investor-State arbitration would be made accessible in one common repository with one entry point, i.e. in one common web portal. For the users, there would only be one system to get acquainted to, even if the content would be provided by several different institutions.

25.   This common repository would provide a comprehensive overview of all treaty-based investor-State arbitration rather than scattered information depending on the appointed institute. A common high-standard secure back-up system for the registry could be developed and hence applicable to all cases published under the rules on transparency, regardless of choice of arbitration rules or institution.

26.   A possible technical solution and its administration are described below.

Possible solution

27.   The objective of the registry system is to support the rules on transparency in treaty-based investor-State arbitration by making relevant information publicly accessible. If the online registry truly shall support this objective with any practical meaning, it will be important with a search functionality, structure and user interface that supports finding the right information.

28. Furthermore, the solution for the registry system needs to be able to manage security issues and a variation of information file formats. An additional element to take into account is the possibility to safeguard the sustainability of the system, with long-term maintenance and development.

29. To create a stable technical solution with all the required functionality for the registry system, it is advisable to use standard system solutions, rather than to develop a bespoke system.

30. The technical solution could consist of a combination of three standard system sections: (1) a web portal as public point of access; (2) separate web pages for each dispute; and (3) a document management system with a web-interface.

A potential technical solution

31. The basis for the registry could be a modern standard document management system.

32. A user-friendly approach to the system would include a web portal which is added as a layer on top of the document management system. The web portal in turn could consist of separate web pages for each dispute, which would all be accessed through the common entry point of the portal.

33. Each web page relating to a specific dispute would contain for example the following information:

 – a brief description of the dispute as foreseen under the rules on transparency;

 – information on amendments and new material that has been added;

 – a calendar for the dispute and the time plan, including for example information on upcoming webcasts with a direct link;

 – a folder access point where all material in the digital file folder in the document management system is accessible via a web interface;

 – contact information to the administrating arbitral institution.

34. Each dispute could also be given a unique web address (URL). This would make it possible to link directly to the individual dispute from other websites, or even discussion forums where a case is being discussed (for example Kluwer Arbitration Blog and other foras). A possible — and modern — feature would be a track-back functionality to capture the discussions, analysis and other references made to any given dispute on other web pages, blogs and discussion forums. With a track-back functionality, discussions relating to a specific case will be easily accessible from the dispute web page. It would be important to make very clear for reasons of neutrality, that any reference by means of track-back refers to comments made by third parties, and not by any institution administrating the dispute.

Implementation time and cost aspects

35. If the registry system is developed on basis of a cloud computing SaaS-model,[3] costs could be evenly spread over time and standard well-developed software products could be used without any large up-front investment costs, which would reduce the costs of implementation.

36. It is not possible to estimate the total cost of a registry system at this time, given that this in the end will be very dependent on the specification or functions that this system is expected to demonstrate and perform. Potentially, and depending on the terms of the agreement with any third party provider for the system, the costs for development (only) could, in the experience of the SCC, range anywhere from 20,000 EUR to more than 150,000 EUR. Again, we emphasize that it is really not possible to foresee a cost at this time.

37. It is however possible to foresee that the costs for developing, implementing and administrating a registry system would comprise of the following three parts:

 i. start-up costs for specifying the system requirements and developing the system in cooperation with the service supplier, implementation costs, costs for the back-up system and training of the administrators;

 ii. recurrent expenses for licenses, system surveillance and maintenance;

 iii. operative administrative costs.

38. Potentially, the initial costs for the implementation could be kept to a reasonable level and the total costs for the project can be spread over time if allocated between the participating institutes and parties.

Administrative organization and the different roles

39. If the registry system is built as one common repository for all registry providers, there are several different roles to consider.

40. There needs to be an owner of the system. This could be for example the UNCITRAL Secretariat, a constellation of the arbitral institutions, one specific institution, or any other third party deemed suitable. The owner would be responsible for deciding policies for the system, approving administrators to system, approving the implementation and any important changes onwards and have control of all information in the system.

41. The day-to-day management of the system requires a head of system management, with a responsibility for the system administration. This includes technical support, system surveillance, back-up and accessibility.

42. There could be several administrators of the system. This would be the arbitral institutions administering treaty-based investor-State disputes where the UNCITRAL rules on transparency are applied.

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[3] Software as a Service, i.e. a cloud-based technique for providing software applications without requiring the installation of the application on the computer. For further information and descriptions on cloud computing and SaaS, please see Gartner's SaaS definition at www.gartner.com/technology/it-glossary/saas.jsp.

Allocation of administrative costs

43.   Following the initial start-up costs for the development and implementation of a registry system, there are two kinds of recurrent administrative costs, i.e.

   i.   expenses for licenses, system surveillance and maintenance, and

   ii.   operational administrative costs for creating dispute pages and publishing information.

44.   For the parties, the costs would be divided into (i) a set starting cost for the creation of a new dispute web page including folder and the right (license) to use the system and (ii) a cost that varies depending on the number of documents and other information that are published for each dispute.

45.   The SCC assumes that the cost issue will be solved in a manner by which the administrator of the registry will be reimbursed for its cost by the parties. Possibly, an advance on cost will be required by the parties at the outset of the arbitration to cover the costs of the transparency mechanism.

Data security and back-up systems

46.   Where the registry system is created as one common repository, only one back-up system needs to be implemented and monitored. In this scenario, the costs for the back-up system could be part of the cost for implementation and system maintenance, and hence divided among the participating institutes.

47.   As pointed out above, it is important that the system maintains a high level of data security. Information in the registry must be reliable, and under no circumstances possible to alter by unauthorized users. It is assumed that long durability is desired, which in turn needs to be reflected in the format of the content. The use of a well-developed document management system is likely to properly address issues of security and access rights control and tracking functionality.

48.   In addition, solid routines for back-ups need to be established.

(b)   Scenario 2: Separate repositories for each institute, but with a common framework and a common collection of links to the different disputes

49.   In this scenario, each registry, e.g. the SCC, develops a registry system on the same technical solutions as described above in Scenario 1.

50.   Still, a common framework may be desirable. An UNCITRAL recommendation could serve this purpose, just as the "1982 Recommendations to assist arbitral institutions and other interested bodies with regard to arbitrations under the UNCITRAL Arbitration Rules", assists arbitral institutions acting as appointing authority. The framework would address issues such as back-up systems, structures, definitions and meta-data standards, information file format etc.

51.   Also in this scenario, a common point of entry could be achieved by linking each separate registry systems from for example UNCITRAL.

(c) Scenario 3: Completely separate registry services for each institute

52. In this scenario it is assumed that it will be up to each participating institute to develop a registry service and to separately interpret how to implement the Rules on transparency in practice.

53. The disadvantage with this scenario of course is the loss of coordination and use of common framework for material assessments. Users would need to get acquainted to several different systems with different functionality and structure and the information on treaty-based investor-State arbitration would be scattered. There might also be different levels and standards on back-up systems, at the risk of varying degrees of information security.

C. THE QUESTIONS

1. How much do you estimate that it would initially cost your organization to put in place an online public registry system?

54. At this time it is not possible to estimate the total cost of a registry system, given that this in the end will be very dependent on the specification or functions that this system is expected to demonstrate and perform.

55. However, it is possible to foresee that in case the registry system is developed on basis of a cloud computing SaaS-model as described above, costs could be evenly spread over time and standard well-developed software products could be used without any large up-front investment costs, which would reduce the costs of implementation.

2. How much do you estimate the registry would cost your organization on an annual basis?

56. Please see the description on the administrative organization and the allocation of administrative costs above, for the factors which would affect such estimations.

3. How would your organization expect to cover the costs for the registry system (e.g. by charging a fee to parties to the dispute)?

57. Please see the general description above.

4. If your organization would expect to charge a fee to parties, how much do you estimate that fee would be?

58. Please know that this is not possible to estimate at this time, but will be entirely dependent on expectation regarding content and function of the system.

D. The Permanent Court of Arbitration ("PCA")

Reply by the Deputy Secretary-General
Date: 25 November 2011

1. The Permanent Court of Arbitration ("PCA") is pleased to reply to the UNCITRAL Secretariat's letter of 18 October 2011, requesting cost estimates of acting as registry of information and documents disclosed under the Transparency Rules currently under consideration by the UNCITRAL Working Group II ("Rules").

2.   The PCA is willing to act as such a registry, either as a unique provider of registry services or as one of several organizations providing such services. The PCA's detailed responses to the questions posed in the UNCITRAL Secretariat's letter of 18 October appear below.

(1)   How much do you estimate it would initially cost your organization to put in place an online public registry system (either through tailoring existing electronic systems or developing a new system)?

a.   As a unique provider?

3.   The PCA already publishes on its website information relating to cases conducted under its auspices,[4] in accordance with directions it receives from the parties and/or the duly constituted tribunal in each case.[5] Consequently, the establishment of an online public registry system would not entail additional infrastructure costs.

b.   As one of several providers?

4.   Please see response to 1(a) above.

(2)   How much do you estimate the registry would cost your organization on an annual basis?

5.   The requested cost estimate depends heavily on the amount of documents to be deposited per case. Since the UNCITRAL Secretariat's letter provides no information in this regard, we submit for your consideration four different cost scenarios. Each scenario takes into account the average processing time of a mix of electronic and hard copy documents,[6] and assumes a certain level of disclosure per case (for example 1, 10, or 50 documents). The estimates below reflect the time required for PCA staff to process, post online and store electronically the information and documents, and any additional electronic storage space needed to do so. The scenarios do not reflect the cost of translating any of the disclosed documents or storing hard copies for any period of time. Estimating the cost of

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4   The PCA's role as depository of case information and documents is foreseen in the PCA's founding conventions. According to Article 22 of the 1899 Convention for the Pacific Settlement of International Disputes, "an International Bureau, established at The Hague, serves as record office for the Court. This Bureau… has the custody of the archives and conducts all the administrative business." An identical provision is contained in article 43 of the 1907 Convention for the Pacific Settlement of International Disputes.

5   See, e.g., *Polis Fondi Immobliare di Banche Popolare S.G.R.p.A (Italy) v. Int'l Fund for Agr. Dev. (IFAD)*, PCA Case No. 2010-8, available at <http://pca-cpa.org/showpage.asp?pag_id=1380>; *Chemtura Corp. (USA) v. Government of Canada*, PCA Case No. 2008-1, available at <http://pca-cpa.org/showpage.asp?pag_id=1278>; and *Romak S.A. (Switzerland) v. The Republic of Uzbekistan*, PCA Case No. 2007-6, available at <http://pca-cpa.org/showpage.asp?pag_id=1339>; see also *The Government of Sudan v. The Sudan People's Liberation Movement/Army (Abyei Arbitration)*, PCA Case No. 2008-7, available at <http://pca-cpa.org/showpage.asp?pag_id=1306>. In Abyei, the parties agreed to make public the pleadings, transcripts, decisions, awards and other case-related information, more than 50 documents in all.

6   In other words, under the various cost scenarios set out *infra*, documents would be submitted to the registry in either electronic or hard copy format. If the Rules required or the parties opted for submission in both formats, processing time and the corresponding costs would increase accordingly.

storing hard copy documents requires additional information, such as the volume of documents involved and the frequency of access required.[7]

6.   We note that, even in scenarios where electronic storage-related expenditures would not be required during the first year or even the first few years of operation, over time such expenditures will become necessary for two reasons: first, because the accumulation of documents will require an upgrade of electronic storage space in the medium or long term; and second, because long-term electronic storage requires maintenance, which often entails transferring the files to new storage space to minimize the risk of equipment failure. The PCA's up-to-date infrastructure would contribute towards reducing such costs.

7.   Finally, additional costs could be incurred due to increased processing time of electronic or hard copy files that are damaged, incomplete, or submitted in uncommon formats.

a.   As a unique provider?

8.   In accordance with the UNCITRAL Secretariat's letter, in determining the estimated cost in each scenario we assumed that 50 cases would be deposited with the PCA annually if it were to act as the sole provider of registry services under the Rules.

Scenario 1: The approximate annual cost of uploading case information (e.g., parties' names and nationalities) and one document per case for 50 cases would be EUR 1,000. No additional electronic storage costs would be incurred for at least five years.

Scenario 2: The approximate annual cost of uploading case information and 10 documents per case for 50 cases would be EUR 5,000. No additional electronic storage costs would be incurred for at least one year.

Scenario 3: The approximate cost of uploading case information and 50 documents per case for 50 cases would be EUR 15,000. An electronic storage upgrade cost, ranging between EUR 1,000 and EUR 2,000, would be incurred during the first year.

Scenario 4: Different levels of disclosure may apply to the cases submitted to the depository under the Rules, so it seems useful to explore a "composite" scenario. Assuming that 75 percent of cases would fall under Scenario 1, 20 percent under Scenario 2, and 5 percent under Scenario 3, the estimated annual cost for 50 cases would be EUR 2,500. No additional electronic storage costs would be incurred for at least one year.

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[7] A certain amount of documents may be stored within the PCA premises at no charge; if necessary, additional space can become available at an annual cost of EUR 3.60 per box, with each box containing approximately five binders. Storage cost can also vary depending on the number of documents involved and the frequency and speed with which documents must be retrieved from the archive; for example, a single retrieval of up to 25 boxes within 24 hours can cost EUR 39. We remain available and willing to provide more specific information to the UNCITRAL Secretariat once additional operational parameters of the registry system become established.

b.   As one of several providers?

9.   In accordance with the UNCITRAL Secretariat's letter, in determining the estimated cost in each scenario we assumed that 10 cases would be deposited with the PCA annually if it were to act as one of several providers of registry services under the Rules.

Scenario 1: The approximate annual cost of uploading case information (e.g., parties' names and nationalities) and a single document per case for 10 cases would be EUR 200. No additional electronic storage costs would be incurred for at least five years.

Scenario 2: The approximate annual cost of uploading case information and 10 documents per case for 10 cases would be EUR 1,000. No additional electronic storage costs would be incurred for at least one year.

Scenario 3: The approximate annual cost of uploading case information and 50 documents per case for 10 cases would be EUR 3,000. An electronic storage upgrade cost, ranging between EUR 1,000 and EUR 2,000, would be incurred during the first year.

Scenario 4: Different levels of disclosure may apply to the cases submitted to the depository under the Rules, so it seems useful to explore a "composite" scenario. Assuming that 75 percent of cases would fall under Scenario 1, 20 percent under Scenario 2, and 5 percent under Scenario 3, the estimated annual cost for 10 cases would be EUR 500. No additional electronic storage costs would be incurred for at least one year.

(3)   How would your organization expect to cover the costs of the registry system (e.g., by charging a fee to parties to the dispute)?

10.   In small cases with few documents, the PCA would maintain its discretion to charge no fee. The PCA would determine whether to charge a fee by considering the totality of circumstances surrounding the documents to be registered, including but not limited to the number and format of the documents.

(4)   If your organization would expect to charge a fee to parties, how much do you estimate that fee would be?

a.   As a unique provider?

11.   Similar to its evaluation of whether to charge a fee at all, the PCA would determine the fee amount by considering the totality of circumstances surrounding the documents to be registered, including but not limited to the number and format of the documents.

b.   As one of several providers?

12.   Please see response to 4(a) above.

13.   The PCA is also pleased to respond to the UNCITRAL Secretariat's questions related to the registry services that the PCA currently provides.

- How does the PCA charge for registry services?

14.   The PCA follows an hourly rate system for registry services. The manner in which the PCA's registry fees are charged is negotiated on a case-by-case basis in

consultation with the parties and the tribunal. The PCA is usually successful in reaching agreement with the parties and the tribunal on application of the hourly rates set out in the PCA Schedule of Fees. The Schedule of Fees, which is available on the PCA website,[8] appears below for your reference:

PCA Schedule of Fees for Registry Services

Secretary-General	€250/hour
Deputy Secretary-General	€250/hour
Senior Legal Staff	€ 175/hour
Junior Legal Staff	€ 125/hour
Secretarial/Clerical	€ 50/hour

- How does the PCA assure the authenticity of documents?

15.   The PCA occasionally receives requests from parties for certified or legalized copies of documents emanating from PCA proceedings. The "certification" of documents refers to the process by which a member of the PCA staff certifies that a copy of a PCA document is true and accurate as compared to the document on file with the PCA. The "legalization" of documents refers to the process of endorsing the PCA staff member's signature, for example by notarization, or the placement of an apostille. Any expenses associated with such requests, for example courier fees or notary/apostille fees are charged to the requesting party.

- In what form are the parties expected to submit documents?

16.   The format in which documents are submitted to the PCA is subject to agreement by the parties or to directions issued by a duly constituted tribunal. The parties may decide, for example, that all materials be submitted in hard copy, accompanied by copies in electronic format. In recent cases, parties increasingly agree to submit documents only in electronic format. For purposes of hosting an online public registry system, the submission of documents in electronic format would be most efficient and cost-effective.

17.   In view of the fact that the role of the registry is not yet fully defined, our responses are based in part on estimates and assumptions and should therefore be treated as indicative, but not binding on the PCA.

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[8] See <http://www.pca-cpa.org/showpage.asp?pag_id=1060>.