

The Hague Court of Arbitration for Aviation

ARBITRATION RULES
in force as of 14 February 2023



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HAGUE CAA ARBITRATION RULES
THE HAGUE COURT OF ARBITRATION FOR AVIATION
MODEL CLAUSES

I. TEXT OF THE MODEL CLAUSES

1. The Hague Court of Arbitration for Aviation (“Hague CAA”) offers two types of recommended model clauses: one for future disputes and one for existing disputes (also sometimes referred to as a ‘submission agreement’).
2. The two variations of the model clause are as follows:

A. For Future Disputes

Any dispute arising out of or in connection with the present contract, including any questions, claims or controversies regarding its existence, validity, breach or termination, shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of The Hague Court of Arbitration for Aviation.

The arbitral tribunal shall be composed of [].

The place of arbitration shall be [].

The law applicable to the arbitration agreement shall be [].

The language to be used in the arbitration shall be [].

Optional: The arbitration shall be conducted as the extended arbitration proceedings as defined in the Arbitration Rules of the Hague Court of Arbitration for Aviation.

B. Existing Disputes (‘Submission Agreement’)

The parties hereby agree that the dispute having arisen between the parties concerning [specification of the dispute and the underlying contract], shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of The Hague Court of Arbitration for Aviation. This agreement supersedes and replaces any prior dispute resolution agreement between the parties in respect of the dispute.

The arbitral tribunal shall be composed of [].

The place of arbitration shall be [].

The law applicable to the arbitration agreement shall be [].

The language to be used in the arbitration shall be [].

Optional: The arbitration shall be conducted as the extended arbitration proceedings as defined in the Arbitration Rules of the Hague Court of Arbitration for Aviation.

II. ISSUES TO BE ADDRESSED UNDER THE MODEL CLAUSES

1. The model clauses contain a number of fundamental elements which are ordinarily found in arbitration agreements, and which are for the parties to choose and complete or otherwise exclude. The square brackets suggesting that these issues are open points to be agreed upon and added by the parties. These issues concern: (a) the number of arbitrators; (b) the place of the arbitration; (c) the law applicable to the arbitration agreement; and (d) the language of the arbitration. While an arbitration agreement may be valid and effective without those elements, the parties are typically well advised to include those determinations in their arbitration agreement in order to avoid problems and delays that may arise during the arbitration.

A. Number of Arbitrators

2. Arbitrations under the Hague CAA take place before an odd numbered panel of arbitrators. It should be noted that, as a rule, three arbitrators will cost more than one. If the parties have not agreed on the number of arbitrators, this will be determined by the administrator (for administrator, see Article 1 - definitions).
3. Assessing whether the parties should explicitly state the number of arbitrators in the arbitration agreement is not straightforward and depends on the circumstances of the case. On the one hand, if the parties prefer the dispute to be heard by a specific number of arbitrators, the parties should make this clear in their arbitration agreement. On the other hand, if the parties have no strong preference, the best solution regarding the number of the arbitrators may only appear once the dispute has arisen and its complexity and specific needs can be assessed. While the parties may always reach an agreement on the number of arbitrators after the dispute has arisen, this rarely happens in practice due to the parties’ contentious posture by that time.

B. Place of Arbitration

4. If the parties have not agreed on the place of arbitration, it will be determined by the Arbitration Rules of the Hague CAA (“Rules”), which empower the arbitral tribunal to determine the place of arbitration.
5. The determination of the place of arbitration is critical for arbitral proceedings because, among other things, it typically determines: (i) the courts which have jurisdiction to set aside the award; and (ii) the law governing the arbitration procedure (which applies to both the procedure in the arbitration (e.g., evidentiary rules and conduct of the proceedings) and the relationship between the arbitral tribunal and the national courts (e.g. judicial assistance for the formation of the arbitral tribunal, interim and provisional relief, and evidence taking)).
6. In selecting an appropriate place of arbitration, the parties should consider several practical concerns including:
 - a. Whether the place of arbitration is situated in a country which has ratified the New York Convention (which governs the enforcement of arbitration agreements and awards).
 - b. Whether the place of arbitration provides for only limited review of the award in annulment proceedings.
 - c. Whether the law of the place of arbitration provides acceptable mandatory procedural laws.
 - d. Whether the national courts at the place of arbitration will readily provide support to the arbitration where needed but not otherwise unduly interfere with the process.

C. Law Applicable to the Arbitration Agreement

7. A different law may apply to the arbitration agreement itself (as distinguished from the parties’ underlying contract); this is because most legal systems will treat the arbitration agreement as a separate contract, which may not be subject to a substantive choice-of-law clause in the underlying contract. The law governing the arbitration agreement applies to questions regarding its existence, validity and interpretation.

D. Language of the Arbitration

8. The proceedings will be conducted in the language or languages agreed on by the parties. In the absence of such agreement, the language will be determined by the arbitral tribunal.

III. Multi-tiered Clause: Mandatory Mediation

1. In the arbitration agreement, parties sometimes add requirements regarding the notification of disputes or require mediation as a preliminary step. Such preliminary steps before commencing arbitration aim at encouraging settlements. If the parties wish to adopt a reference to mediation as a prerequisite to arbitration, the parties could use the following variation of the model clause:

Any dispute arising out of or in connection with the present contract, including any questions, claims or controversies regarding its existence, validity, breach or termination, shall be submitted to mediation in accordance with the Mediation Rules of The Hague Court of Arbitration for Aviation.

Any mediation shall take place in [].

Any dispute which has not been resolved by mediation within [] days after initiation of the mediation shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of The Hague Court of Arbitration For Aviation.

The arbitral tribunal shall be composed of [].

The place of arbitration shall be [].

The law applicable to the arbitration agreement shall be [].

The language to be used in the arbitration shall be [].

Optional: the arbitration shall be conducted as the extended arbitration proceedings as defined in the Arbitration Rules of the Hague Court of Arbitration for Aviation.

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SECTION ONE - GENERAL

Article 1 - Definitions

1. In these Rules, the following terms and expressions shall have the following meanings:
 - (a) “administrator”: the designated NAI – employees as elected by the NAI Executive Board; the NAI Executive Board may also appoint one or more acting administrators;
 - (b) “day”: a calendar day;
 - (c) “documents”: procedural and other documents, including data on a data carrier as well as data presented by electronic means;
 - (d) “NAI Executive Board”: the executive board of the Netherlands Arbitration Institute;
 - (e) “Committee”: the committee appointed by the NAI Executive Board that decides on challenge requests as referred to in Article 20 of these Rules;
 - (f) “claimant”: one or more claimants;
 - (g) “the Hague CAA”: the Hague Court of Arbitration for Aviation;
 - (h) “NAI”: the Netherlands Arbitration Institute (*Stichting Nederlands Arbitrage Instituut*);
 - (i) “arbitration agreement”: an agreement by which the parties refer disputes between them to arbitration under these Rules, whether such agreement is entered into before or after a dispute has arisen;
 - (j) “Rules”: the arbitration rules of the Hague CAA;
 - (k) “arbitral tribunal”: an arbitral tribunal consisting of one or more arbitrators that has been composed in accordance with the provisions of these Rules or according to the applicable rules of arbitration law;
 - (l) “respondent”: one or more respondents;
 - (m) “chair”: the chair of the arbitral tribunal appointed in accordance with Articles 14, 15 or 38(10) and, in the event of an arbitral tribunal consisting of one arbitrator, the arbitrator where permitted by the context of the provision;
 - (n) “extended arbitration proceedings”: arbitration proceedings with extended time limits compared to the time limits in the default proceedings set out in these Rules, which apply if the parties have so agreed or if the arbitral tribunal, on its own motion or upon the request of a party as prescribed in Article 22(11), determines that it is inappropriate under the circumstances to apply the default proceedings as set out in these Rules;
 - (o) “additional party”: a party or parties seeking to be joined to the arbitration pursuant to Article 37;
 - (p) “independent third person”: a person who is independent and impartial from all parties and the arbitrators in the pending arbitrations and shall render a reasoned decision on a request for consolidation as prescribed in Article 38;
 - (q) “party” or “parties”: claimant and/or respondent, or an additional party; and
 - (r) “emergency arbitration”: the request from a party to the administrator for urgent interim or conservatory measures, as referred to in Article 36.

Article 2 - Scope

1. These Rules shall apply if the parties have agreed to refer their dispute or disputes to arbitration by or before the Hague CAA or in accordance with these Rules.
2. These Rules shall come into force on 14 February 2023 and shall, unless otherwise agreed by the parties, apply to any arbitration which is commenced on or after that date.

Article 3 - Communications

1. Requests and communications shall be made or confirmed in writing in the manner provided for in this article.
2. Unless the sender is unable to do so, all requests, communications and other documents to the administrator, the Committee, the independent third person and/or the NAI shall only be sent electronically or by any other means specified by the NAI.
3. The time at which a request or communication is received electronically by the administrator, the Committee, the independent third person and/or the NAI shall be the time at which the request or communication has reached a data processing system in respect of which the respective addressee has communicated that it can be reached via this system.
4. The NAI shall send a request or communication addressed to one or more addressees electronically if the addressee has communicated that it may be reached for these purposes by such means.
5. After sending the arbitration file to the arbitral tribunal, the parties shall send their requests, communications and other documents directly to the arbitral tribunal while at the same time sending it to all parties. Each request, communication or other document shall be sent to the administrator at the same time. The same applies to requests, communications or documents from the arbitral tribunal to the parties and between the parties, it being understood that, in the latter event, these must also be sent to the arbitral tribunal.
6. Unless the arbitral tribunal decides otherwise, all requests, communications or other instruments in writing between the parties and the arbitral tribunal shall be sent electronically if the parties have communicated that they may be reached for these purposes by such means.
7. The time at which a request, communication or other document is received electronically by the arbitral tribunal shall be the time at

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which the request, the communication and/or the other document has reached a data processing system in respect of which the arbitral tribunal has communicated that it can be reached via this system.

8. The time at which a request, communication or other document is sent electronically by the arbitral tribunal, the administrator, the Committee, the independent third person and/or the NAI shall be the time at which the message has reached a data processing system for which the sender is not responsible.

Article 4 - Time limits

1. For the purposes of these Rules, a time limit shall commence on the day after a request or communication is sent or, if not sent electronically as provided for in Article 3, on the day following receipt of a request or communication, unless explicitly provided otherwise in these Rules or by the arbitral tribunal.
2. In exceptional circumstances, the administrator shall be authorised to extend or to shorten the time limits mentioned in Articles 8(4), 13(3), 14(1), 14(2), 14(3), 14(5), 14(6), 15(2), 23(2), 36(5), 38(8), 40(1), 52(5) and 55(6) at the request of any party or on his or her own motion.
3. In exceptional circumstances, the arbitral tribunal shall be authorised to extend a time limit set by it or agreed by the parties at the request of a party or on its own motion.

Article 5 - Language

1. The proceedings shall be conducted in the language or languages agreed upon by the parties or, in the absence of such agreement, in the language or languages determined by the arbitral tribunal.
2. Until such time that the arbitral tribunal has determined the language or languages as referred to in paragraph 1 and at the request of a party or on his or her own motion, the administrator may require a party to submit a translation of the requests, communications and other documents it has submitted in a language in which the other party is proficient, and in a form and within a time limit as determined by the administrator.
3. Subject to the provisions of paragraphs 1 and 2, if any request, a communication or other document is written in a language in which the administrator or the arbitral tribunal is not proficient, the administrator and, after acceptance of the mandate, the arbitral tribunal may require the party making the request or the communication or submitting the document to provide an unofficial or a sworn translation in a language, in a form and within a time limit determined by the administrator or the arbitral tribunal.

Article 6 - Confidentiality

1. Save as provided in this article, all persons involved in the arbitration, either directly or indirectly, shall be bound to secrecy, except and insofar as disclosure ensues from the law or the parties' agreement.
2. Unless expressly agreed to in writing by the parties, no matter relating to the arbitration shall be disclosed to a third party except:
 - (a) for the strict purpose of making an application to any competent court to protect or pursue a legal right or claim, or to enforce or challenge the award;
 - (b) where disclosure to a government body, regulator or any other authority, court or tribunal is required by the law binding the party making the disclosure;
 - (c) for the purpose of seeking legal, expert or other advice in relation to the proceedings, or securing funding for the arbitration, provided that these third parties agree to be themselves bound by paragraphs 1 and 3; and/or
 - (d) for the purposes of any application for joinder or consolidation under these Rules.
3. A matter relating to the arbitration as referred to in paragraph 2 includes the existence of the arbitration, all materials created for the arbitration, all documents produced in the proceedings and any awards in the arbitration, but excludes any matter that is otherwise in the public domain.
4. The discussions and deliberations of the arbitral tribunal shall remain confidential at all times notwithstanding any other provisions of these Rules.

SECTION TWO - COMMENCEMENT OF ARBITRATION

Article 7 - Request for arbitration

1. Arbitration shall be commenced by submitting a request for arbitration to the administrator. Arbitration shall be deemed to have been commenced on the day of receipt of the request for arbitration by the administrator.
2. The request for arbitration shall contain the following particulars:
 - (a) the name, the address, the place of residence, the telephone number, the e-mail address and, if applicable, the VAT number of each of the parties;

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- (b) the name, the address, the place of residence, the telephone number and the e-mail address of the person or persons representing the claimant in the arbitration;
 - (c) the e-mail address of the claimant that will be used for electronic communication for the duration of the arbitral proceedings;
 - (d) a brief description of the dispute;
 - (e) a clear specification of the claim along with a specification of the monetary interest of each of the claims;
 - (f) a reference to the arbitration agreement(s) and any other contract(s) to which the arbitration relates, along with copies of the relevant agreement(s) and the other contract(s);
 - (g) insofar as already appointed, the name, the address, the place of residence, the telephone number and the e-mail address of the arbitrator(s) appointed by the claimant or the parties;
 - (h) the method of appointment of the arbitrator(s) if the parties have agreed on a method of appointment that deviates from Articles 14 and 15;
 - (i) the arrangements between the parties, or the claimant's preference, with respect to the number of arbitrators, the qualifications of arbitrators, the place of arbitration and the language of the arbitration;
 - (j) the name of any party, other than the parties to the arbitration, which has entered into an arrangement with a party to the arbitration for the financing of claims or counterclaims and pursuant to which such party has an economic interest in the outcome of the arbitration. If such an arrangement has been made with a party to the arbitration only after the submission of the request for arbitration, such information shall be shared by the respective party as soon as possible with all other parties to the arbitration, the (prospective) arbitrators and the administrator; and
 - (k) insofar as applicable, any other particulars concerning the arbitral proceedings.
3. The request for arbitration shall be submitted in the manner provided for in Article 3(2). If the claimant is unable to do so, the request for arbitration may be submitted in another manner.
 4. The administrator shall be authorised to suspend handling the request as long as it does not satisfy the requirements mentioned in paragraph 2. Suspension shall not prejudice the provisions of paragraph 1.
 5. The administrator shall confirm receipt of the request for arbitration to the claimant, stating the date of receipt.

Article 8 - Short answer

1. The administrator shall send a copy of the request for arbitration to the respondent, stating the date of receipt, and shall invite the respondent to submit a short written answer in response.
2. The short answer shall contain the following information:
 - (a) the name, the address, the place of residence, the telephone number, the e-mail address and, if applicable, the VAT number of the respondent;
 - (b) the name, the address, the place of residence, the telephone number and the e-mail address of the person or persons representing the respondent in the arbitration;
 - (c) the e-mail address at which the respondent may be reached for electronic communication for the duration of the arbitral proceedings;
 - (d) a reply to the information referred to in Article 7(2)(e), (f), (g) insofar as an appointment by the parties is concerned, (h) and (i), and, insofar as applicable, the respondent's preference with respect to the number of arbitrators, the qualifications of arbitrators, the place of arbitration, and the language of the arbitration;
 - (e) insofar as applicable, the name, the address, the place of residence, the telephone number and the e-mail address of the arbitrator appointed by the respondent;
 - (f) the name of any party, other than the parties to the arbitration, that has entered into an arrangement with a party to the arbitration for the financing of claims or counterclaims and pursuant to which such party has an economic interest in the outcome of the arbitration. If such an arrangement has been made with a party to the arbitration only after the submission of the request for arbitration such information shall be shared by the respective party as soon as possible with all other parties to the arbitration, the (prospective) arbitrators and the administrator;
 - (g) insofar as applicable, any other particulars concerning the arbitral proceedings.
3. The respondent may present a counterclaim against the claimant in the short answer, with due observance of the provisions of Article 25(2). The requirements mentioned in Articles 7(2)(d), (e) (f) and (j) shall apply *mutatis mutandis* to the counterclaim.
4. The short answer shall be submitted within ten days of the invitation referred to in paragraph 1 in the manner provided for in Article 3(2), a copy of which shall be sent to the claimant at the same time. If the extended arbitration proceedings apply, the short answer shall be submitted within fourteen days of the invitation referred to in paragraph 1. If it is not possible for the respondent to send the short answer electronically, it may be submitted in another manner within this time limit, while sending a copy to the claimant at the same time. The administrator shall confirm receipt of the short answer to the parties. The administrator shall be authorised to suspend handling the short answer as long as it does not satisfy the requirements mentioned in paragraph 2 and/or 3, if applicable.

Article 9 - Purport of the request for arbitration and the short answer

1. The request for arbitration and the short answer do not prejudice the parties' right to present a statement of claim and a statement of defence, respectively, with due observance of the provisions of Article 24.
2. Insofar as the administrator is involved in the determination of the number of arbitrators and/or the appointment of the arbitrator or the

arbitrators, the administrator shall derive the necessary information from the request for arbitration and the short answer.

Article 10 - Multi-contract

Subject to Article 11 of these Rules, disputes between parties arising from more than one contract between them may also be dealt with in one arbitration under these Rules to the extent that such disputes are subject to arbitration under these Rules.

Article 11 - Plea as to the non-existence of an arbitration agreement

1. By cooperating in the appointment of the arbitrator(s) in the manner provided for in Section Three, the parties shall not forfeit the right to challenge the jurisdiction of the arbitral tribunal on the ground of non-existence of a valid arbitration agreement.
2. A respondent that has appeared in the arbitral proceedings and that wishes to raise a plea that the arbitral tribunal does not have jurisdiction on the ground of non-existence of a valid arbitration agreement must do so before submitting any defence. At the latest, such a plea may be made in the statement of defence or, in absence thereof, by the first written or oral defence after the arbitral tribunal's acceptance of its mandate.
3. If a respondent has failed to raise a plea in accordance with the provisions of the previous paragraph, its right to rely on this later, in the arbitral proceedings or before the court, shall be forfeited, unless this plea is made on the ground that the dispute is not capable of settlement by arbitration.
4. The arbitral tribunal shall rule on its lack of jurisdiction. If the arbitral tribunal declares that it has no jurisdiction, the declaration of no jurisdiction shall constitute an arbitral award to which the provisions of Sections Five and Six are applicable.
5. An arbitration agreement shall be considered and decided upon as a separate agreement. The arbitral tribunal shall have the power to decide on the existence and the validity of the main contract of which the arbitration agreement forms part or to which it is related.
6. A plea that the arbitral tribunal does not have jurisdiction shall not prevent the NAI from administering the case.

SECTION THREE - THE ARBITRAL TRIBUNAL

Article 12 - The arbitrator

1. Any natural person of legal capacity may be appointed as arbitrator. Subject to the provisions of Articles 14(4) and 15(4), no person shall be precluded from appointment by reason of their nationality.
2. An arbitrator shall perform his or her mandate independently, impartially, and to the best of his or her knowledge and ability.
3. A person approached to be engaged as arbitrator who has reason to suspect that there could be justifiable doubts as to his or her impartiality and/or independence shall communicate the same in writing to the person who approached him or her, stating the suspected reason(s).
4. A person who intends to accept his or her mandate shall, prior to the confirmation of appointment as provided for in Article 17(1), sign a statement confirming his or her independence and impartiality, availability, and acceptance of the mandate on the condition of confirmation by the administrator, and send this statement to the administrator. Any communication as referred to in paragraph 3 that has been sent shall be included in the statement. The administrator shall send a copy of the statement to the parties and, if the arbitral tribunal consists of multiple arbitrators, to the co-arbitrators.
5. An arbitrator who, during the arbitral proceedings, suspects that there could be justifiable doubts as to his or her impartiality and/or independence shall communicate the same in writing to the administrator, the parties and, if the arbitral tribunal consists of multiple arbitrators, to the co-arbitrators in writing, stating the suspected reason(s).
6. The chair of a three-member arbitral tribunal as well as a sole arbitrator must be qualified to practise law. He or she must have demonstrated experience sitting as an arbitrator.

Article 13 - Number of arbitrators

1. The proceedings shall be conducted before an odd number of arbitrators.
2. If the parties have not agreed on the number of arbitrators, or if the agreed method of determining that number is not carried out and the parties cannot reach an agreement on the number, the administrator shall set the number at one or three. The administrator will take into account the parties' preferences, the scope of the dispute, the complexity of the case and the parties' interest in efficient proceedings. In principle, one arbitrator will be appointed in arbitrations with a total monetary interest below €3,000,000.

Article 14 - Appointment of the arbitral tribunal

1. If an arbitral tribunal consisting of one arbitrator must be appointed, the administrator shall directly appoint the arbitrator as soon as possible, unless parties have agreed otherwise or a mandatory provision of the law(s) applicable to the arbitration prescribe otherwise.

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If the extended arbitration proceedings apply and an arbitral tribunal consisting of one arbitrator must be appointed, the parties, if no joint appointment has become evident by the short answer at the latest, shall notify the administrator of the name, the address, the place of residence, the telephone number and the e-mail address of the arbitrator jointly appointed by them within fourteen days after a request from the administrator to that end. If such a notice is not received within this period, the arbitrator shall be appointed in accordance with the provisions of Article 15.

2. If an arbitral tribunal consisting of three arbitrators must be appointed, the claimant and the respondent shall each appoint an arbitrator in the request for arbitration and the short answer, respectively. Any party that has not yet appointed an arbitrator in the request for arbitration or the short answer shall appoint an arbitrator, stating the name, the address, the place of residence, the telephone number and the e-mail address of the arbitrator appointed, within five days after a request from the administrator. If no notice of such an appointment is received within this period, the arbitrator shall be appointed directly by the administrator. If the extended arbitration proceedings apply and an arbitral tribunal consisting of three arbitrators must be appointed, the claimant and the respondent shall each appoint an arbitrator in the request for arbitration and the short answer, respectively. Any party that has not yet appointed an arbitrator shall appoint an arbitrator, stating the name, the address, the place of residence, the telephone number and the e-mail address of the arbitrator appointed, within fourteen days after a request from the administrator to that end. If no notice of such an appointment is received within this period, the arbitrator shall be appointed in accordance with the provisions of Article 15, it being understood that the list shall only be sent to the party that did not appoint an arbitrator on time.
3. If an arbitral tribunal consisting of three arbitrators must be appointed in accordance with paragraph 2, the administrator shall directly appoint the chair of the arbitral tribunal as soon as possible. If the extended arbitration proceedings apply and an arbitral tribunal consisting of three arbitrators must be appointed in accordance with paragraph 2, the two arbitrators appointed shall jointly, if applicable with due observance of the request referred to in paragraph 4, appoint a chair of the arbitral tribunal, stating the name, the address, the place of residence, the telephone number and the e-mail address of the chair, within fourteen days after a request from the administrator to that end. If no notice of such an appointment is received within this period, the chair shall be appointed in accordance with the provisions of Article 15.
4. If an arbitral tribunal consisting of three arbitrators must be appointed in arbitration proceedings between parties that do not have the same nationality, each of the parties may require that the chair shall not have the same nationality as any of the parties by giving notice to the administrator in the request for arbitration or the short answer, respectively. The administrator shall state this request in the request referred to in paragraph 3.
5. The arbitral tribunal shall be constituted within one month of the commencement of the arbitral proceedings unless parties choose for the appointment of the arbitral tribunal in accordance with the list procedure of Article 15. In case of appointment in accordance with the list procedure of Article 15, the arbitral tribunal shall be appointed within three months of the commencement of the arbitral proceedings. If the extended arbitration proceedings apply, the arbitral tribunal shall be constituted within three months of the commencement of the arbitral proceedings.
6. If the parties have agreed a method of appointment of the arbitrator(s) that deviates from the procedures provided for in paragraphs 1 to 5 and Article 15, the appointment shall take place in the manner as agreed by the parties. If this method of appointment is not, or not entirely, performed within the time limit agreed by the parties or, in the absence of such time limit, within four weeks of the commencement of the arbitral proceedings, the appointment of the arbitrator(s) shall take place in accordance with the time limits of the extended arbitration proceedings prescribed in paragraphs 1 to 4 of this article.

Article 15 - List procedure

1. In derogation of the method of appointment provided for in Article 14, the parties may agree that the arbitrator(s) shall be appointed in accordance with the list procedure provided for in this Article 15. In that event, the administrator shall send the list referred to in paragraph 2 as soon as possible after receipt of the short answer or, in the absence thereof, after expiry of the time limit for submitting the short answer.
2. The administrator shall send each of the parties an identical list of names. This list shall contain at least three names in the event that one arbitrator is to be appointed and at least nine names, three of which being prospective chairpersons, in the event that three arbitrators are to be appointed. A party may delete from the list the names of persons against whom it has objections, and may number the remaining names in its order of preference. If the administrator has not received a list back from a party within fourteen days, it shall be assumed that all of the persons named on the list are equally acceptable as arbitrator to that party.
3. With due observance of the preferences and/or objections expressed by the parties, the administrator shall invite the persons on the list to serve as arbitrator(s). If the returned lists show that there are an insufficient number of persons on those lists who are acceptable to each of the parties as arbitrator(s), or a person will not or cannot accept the administrator's invitation to serve as arbitrator, or proves unable to serve as arbitrator for any other reason, and an insufficient number of persons remain on the returned lists that are acceptable to each of the parties as arbitrator(s), the administrator shall be authorised to directly appoint one or several other persons as arbitrator(s).
4. If an arbitral tribunal must be appointed in arbitration proceedings between parties that do not have the same nationality, each of the parties may require that, in the event of an arbitral tribunal consisting of one arbitrator, this arbitrator and, in the event of an arbitral tribunal consisting of three arbitrators, the chair will not have the same nationality as any of the parties by giving notice to the administrator in the request for arbitration or the short answer, respectively.

Article 16 - Appointment in the event of multiple claimants and/or respondents

1. If an arbitral tribunal consisting of one arbitrator must be appointed and there are multiple claimants and/or respondents, the

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appointment of the arbitral tribunal shall take place in the manner provided for in Article 14(1), provided that the claimants and the respondents jointly appoint the arbitrator. If an arbitral tribunal consisting of three arbitrators must be appointed and there are multiple claimants and/or respondents, the appointment of the arbitral tribunal shall take place in the manner provided for in Article 14(2), provided that the claimants jointly and the respondents jointly shall each appoint an arbitrator.

2. If an arbitral tribunal consisting of three arbitrators must be appointed and if the claimants jointly fail and/or the respondents jointly fail to appoint an arbitrator within the time limit set in Article 14(2), the administrator shall directly appoint the entire arbitral tribunal. If the extended arbitration proceedings apply the entire arbitral tribunal shall be appointed in the manner provided for in Article 15.

Article 17 - Confirmation of appointment

1. The appointment of an arbitrator under the provisions of this section and Article 36(5) shall be confirmed by the administrator after receipt of the statement referred to in Article 12(4) and 36(6), unless the arbitrator, in the administrator's opinion, offers insufficient safeguards for sound arbitration.
2. If the administrator does not confirm an appointment, the administrator shall directly appoint an arbitrator. If the extended arbitration proceedings apply and if the administrator does not confirm an appointment, the administrator shall request the party that was entitled to appoint the arbitrator to appoint a different arbitrator or, in the event that the administrator refuses to confirm an appointment of the chair, the administrator shall request the arbitrators appointed by the parties to appoint a different chair or, if the parties have so agreed, to appoint a different arbitrator or chair in accordance with the list procedure provided for in Article 15. A time limit of fourteen days applies to each of the options referred to in the previous sentence. If the administrator refuses to confirm the appointment of the new arbitrator or if the parties or the arbitrators appointed by the parties fail to respond to the administrator's request to appoint a new arbitrator, the right of appointment will lapse and the administrator shall directly appoint the relevant arbitrator.

Article 18 - Release from mandate

1. An arbitrator who has accepted his or her mandate may, at his or her own request, be released from his or her mandate either with the consent of the parties or by the administrator.
2. An arbitrator who has accepted his or her mandate may be released from his or her mandate by the parties jointly. The parties shall immediately notify the arbitrator and the administrator of the release.
3. An arbitrator who has accepted his or her mandate and who has become unable, *de jure* or *de facto*, to perform his or her mandate may, at the request of any party, be released from his or her mandate by the administrator.
4. An arbitrator who has accepted his or her mandate may be released from his or her mandate by the administrator on his or her own motion if he or she (i) has become unable, *de jure* or *de facto*, to perform his or her mandate, or (ii) does not perform his or her mandate in accordance with these Rules.
5. An arbitral tribunal that has accepted its mandate may, at the request of any of the parties, be released from its mandate by the administrator if, taking into account all circumstances, it performs its mandate in an unacceptably slow manner despite reminders.
6. In the events mentioned in paragraphs 1, 3, 4 and 5, the administrator shall not proceed with the release from the mandate until the parties have been given the opportunity to make their views known to him or her.

Article 19 - Replacement of an arbitrator

1. Unless the parties have agreed another manner of replacement, an arbitrator who has been released from his or her mandate or an arbitral tribunal that has been released from its mandate, for any reason whatsoever, shall be replaced pursuant to the rules applicable to the original appointment. The same shall apply in the event of the death of an arbitrator.
2. The proceedings shall be suspended by operation of law for the duration of the replacement. After replacement, the proceedings shall continue from the stage they had reached, unless the arbitral tribunal wishes to handle the case again in full or in part.

Article 20 - Challenge

1. An arbitrator may be challenged by a party in accordance with the provisions of this article if there are justifiable doubts as to his or her impartiality and/or independence.
2. A party may only challenge an arbitrator appointed by that party for reasons which that party became aware of after the appointment was made. A party may not challenge an arbitrator appointed in accordance with Article 14(3) or Article 15 if it has acquiesced in this appointment, unless that party only became aware of the ground for the challenge afterwards.
3. The challenging party shall give written notice of the challenge, stating its reasons, to the arbitrator concerned, the other party, the administrator and, if the arbitral tribunal consists of multiple arbitrators, the co-arbitrators. The notice shall be given within fourteen days of the communication referred to in Articles 12(3), 12(4) or 12(5) or, in other events, within fourteen days after the reason for the challenge becomes known to the challenging party.
4. The arbitral tribunal may suspend the arbitral proceedings from the day of receipt of the notice, as referred to in paragraph 3, or afterwards, pending the challenge procedure, from the moment that the arbitral tribunal considers appropriate.

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5. If a challenged arbitrator does not resign within fourteen days after the day of receipt of a timely notice as referred to in paragraph 3, the Committee shall, at the request of the most diligent party, decide as soon as possible whether the challenge is well founded. The Committee may give the arbitrator who has been challenged and the parties the opportunity to be heard. The decision shall be sent by the administrator to the parties, the arbitrator and, if the arbitral tribunal consists of multiple arbitrators, the co-arbitrators.
6. If the challenged arbitrator resigns or if the Committee finds the challenge to be well founded, the challenged arbitrator shall be replaced in accordance with Article 19(1).
7. If a challenged arbitrator resigns, this does not imply acceptance that the reasons for the challenge are well founded.
8. A party that has reasons to challenge an arbitrator shall base a challenge request in accordance with the provisions of this article on these reasons, on pain of forfeiture of the right to invoke these reasons later in the arbitral proceedings or in court.

Article 21 - Secretary

1. At the request of the arbitral tribunal, the administrator may appoint a lawyer as the arbitral tribunal's secretary. The provisions of Articles 12, 17, 18, 19 and 20 shall apply *mutatis mutandis*.
2. The work of a secretary shall be performed on behalf of and under the supervision of the arbitral tribunal. The arbitral tribunal may not delegate any decision-making authority to a secretary.

SECTION FOUR - THE PROCEDURE (GENERAL)

Article 22 - Procedure in general

1. Subject to any mandatory provision of the law(s) applicable to the arbitration, the arbitral tribunal shall determine the manner in which and the time limits within which the proceedings will be conducted, with due observance of any arrangements between the parties in that regard, the provisions of these Rules, and the circumstances of the arbitration.
2. The arbitral tribunal shall treat the parties equally. The arbitral tribunal shall give each of the parties the opportunity to set out and explain their positions and to comment on each other's positions and on all documents and other information brought to the attention of the arbitral tribunal during the proceedings.
3. The arbitral tribunal shall guard against unreasonable delay of the proceedings and, if necessary, at the request of a party or on its own motion, take measures to ensure the fair, expeditious and final resolution of the proceedings.
4. At any stage of the proceedings, at the request of a party or on its own motion, the arbitral tribunal may hold a meeting with the parties to discuss the course of the proceedings and/or further determine the disputed points of fact and law.
5. If a party fails to wholly or partially satisfy any provision mentioned in Section Four or any order, decision or measure of the arbitral tribunal under the provisions of Section Four, the arbitral tribunal may draw any conclusions from such failure that it considers appropriate.
6. Each party may appear in the proceedings in person, or be represented by a practising lawyer or by a representative expressly authorised in writing for this purpose.
7. If the parties have not determined the place of arbitration by agreement such place shall, as soon as possible, be determined by the arbitral tribunal and communicated to the parties and to the administrator.
8. The arbitral tribunal may hold hearings, deliberate, and hear witnesses and experts at any location it considers appropriate. Except in the events provided for in Articles 27(2), hearings shall be held in the presence of the full arbitral tribunal.
9. If the arbitral tribunal consists of multiple arbitrators, procedural matters of minor importance may be decided by the chair of the arbitral tribunal.
10. Instead of a personal appearance of a witness, an expert, or a party, the arbitral tribunal may determine that the relevant person has direct contact with the arbitral tribunal and, insofar as applicable, with others by electronic means. The arbitral tribunal shall determine, in consultation with those concerned, which electronic means shall be used and the manner in which this shall occur.
11. If the arbitral tribunal, on its own motion or upon the request of a party, determines, after considering the views of the parties and having regard to the circumstances of the case, that it is not or no longer appropriate to apply the default proceedings as set out in these Rules, the extended arbitration proceedings apply.

Article 23 - File dispatch and determination of rules of procedure

1. After the appointment of all members of the arbitral tribunal has been confirmed, the administrator shall send the arbitration file to the arbitral tribunal.

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2. As soon as possible after receipt of the arbitration file and within three days of its constitution, the arbitral tribunal shall determine, in consultation with the parties, the date, time and form for a case management conference. The case management conference shall take place to enable the arbitral tribunal to establish a procedural calendar and issue procedural orders. The case management conference shall preferably be conducted electronically and shall take place as soon as possible and no later than ten days after the date of constitution of the tribunal, subject to any extension of this time limit granted by the administrator.
3. At the case management conference, the arbitral tribunal shall address:
 - (a) the financial aspects of the case;
 - (b) the use of certain electronic formats and/or electronic devices in order to ensure the effective and efficient use of electronic means of communication; and
 - (c) any requests by the parties for the production of documents and any requests for the further taking of evidence. Such requests should be proportionate, in particular taking into account the circumstances of the case, the nature of the dispute and the applicable law.
4. If the extended arbitration proceedings apply, paragraphs 2 and 3 do not apply. Instead, the arbitral tribunal shall, as soon as possible after receipt of the arbitration file, at a case management conference, determine the rules of procedure following consultation with the parties including a (provisional) schedule for the further course of the arbitration.

Article 24 - Exchange of statements

1. Unless the parties have agreed otherwise, the arbitral tribunal shall allow parties to each file one written submission: a statement of claim and a statement of defence, respectively. The claimant shall be entitled to respond to a counterclaim in a statement of defence to the counterclaim.
2. Unless the parties have agreed otherwise, the arbitral tribunal shall be free to determine whether any further statements may be presented. The arbitral tribunal may, after consultation with the parties, limit the number and length of written submissions, witness statements and expert reports.

Article 25 - Counterclaim

1. A counterclaim shall be admissible if it is subject to the same arbitration agreement as the one on which the claim is based or if that same arbitration agreement has been expressly or tacitly declared applicable by the parties.
2. A counterclaim that is not presented at the latest in the statement of defence or, in the absence thereof, at the hearing, or if the extended arbitration proceedings apply, in the absence of a statement of defence, with the first written or oral defence after the arbitral tribunal has accepted its mandate, cannot be presented afterwards in the same arbitration except in exceptional circumstances at the arbitral tribunal's discretion.
3. Articles 11, 24, 32 and 34 shall apply *mutatis mutandis* to the counterclaim.

Article 26 - Hearing

1. The arbitral tribunal shall give the parties the opportunity to present their case at a hearing, unless the parties waive that opportunity. This hearing shall also provide for, where appropriate, the taking of evidence. In exceptional circumstances, the arbitral tribunal may decide to hold further hearings.
2. The arbitral tribunal shall, in consultation with the parties, determine the day and time of the hearing. The hearing shall take place electronically unless the arbitral tribunal orders otherwise.
3. If the extended arbitration proceedings apply, procedural hearings shall take place electronically, while other hearings shall take the form of a physical hearing unless the arbitral tribunal orders otherwise.
4. In addition to the parties and persons mentioned in Articles 21, 22(6), 29 and 30, the arbitral tribunal may, after consultation with the parties, admit other persons to the hearing.

Article 27 - Evidence in general

1. The arbitral tribunal shall be free to determine the rules of evidence, the admissibility of evidence, the division of the burden of proof and the assessment of evidence, unless the parties have agreed otherwise.
2. After consultation with the parties, the arbitral tribunal may designate its chair to hear witnesses or experts or to conduct an on-site examination or viewing, unless the parties have agreed otherwise.

Article 28 - Production of documents

1. Unless the parties have agreed otherwise, the statements referred to in Article 24 shall, insofar as possible, be accompanied by the

documents relied upon by the parties.

2. The arbitral tribunal may, at the request of any of the parties or on its own motion, order the inspection of a copy of or an extract from documents that the arbitral tribunal deems relevant for the dispute from the party which has these documents at its disposal, unless the parties have agreed otherwise. The arbitral tribunal shall determine the conditions under which and the manner in which inspection of, a copy of or an extract from documents are provided.

Article 29 - Witnesses and experts

1. The arbitral tribunal shall address the need for evidence by hearing witnesses and/or experts with the parties at the case management conference as referred to in Article 23(3). The arbitral tribunal may allow the parties to furnish evidence by hearing witnesses and/or experts or, at the request of any of the parties or on its own motion, order the parties to furnish evidence by hearing witnesses and/or experts.
2. The arbitral tribunal may determine the form in which statements of witnesses and experts are given. A party shall be free to submit written witness statements or expert advice it has obtained along with the statements referred to in Article 24. If a party so requests or if the arbitral tribunal so determines, the party submitting the advice shall call the expert to provide a further explanation at the hearing.
3. If an oral examination of witnesses and/or experts takes place, the arbitral tribunal shall determine the time, place and the order in which the witnesses and/or experts will be heard for the oral examination, and the manner in which the examination will be conducted.
4. The names of the witnesses and/or experts that a party wishes to be heard shall be communicated to the arbitral tribunal and the other party in a timely manner.
5. If the arbitral tribunal considers it necessary, it shall hear the witnesses after they have sworn or affirmed that they will tell the whole truth and nothing but the truth.
6. The arbitral tribunal shall decide whether and in what form a report of the examination will be drafted. If the chair of the arbitral tribunal hears the witnesses or experts in accordance with Article 27(2), a report of the examination shall in any event be drafted.

Article 30 - Assistance to the arbitral tribunal

1. The arbitral tribunal may appoint one or more experts to give written advice. The arbitral tribunal shall consult the parties regarding the terms of reference to be issued to the experts. The arbitral tribunal shall send the parties a copy of the appointment and the terms of reference of the experts as soon as possible.
2. If a party does not provide the expert with the information he or she requires or render the cooperation he or she needs, the expert may request that the arbitral tribunal order the relevant party to do so.
3. After receipt of the expert's report, the arbitral tribunal shall send a copy thereof to the parties as soon as possible.
4. At the request of any of the parties, the experts shall be heard at a hearing of the arbitral tribunal. If a party wishes to make such a request, it shall so notify the arbitral tribunal and the other party as soon as possible. At the hearing, the arbitral tribunal shall give the parties the opportunity to ask the experts questions and to present their own experts.
5. Without prejudice to the provisions in paragraph 4, the arbitral tribunal shall give the parties the opportunity to be heard regarding the advice of the experts appointed by the arbitral tribunal.
6. The arbitral tribunal may call in technical assistance in the arbitral proceedings and make arrangements for the presence of an interpreter at the hearing.

Article 31 - On-site inspection

The arbitral tribunal may, at the request of any of the parties or on its own motion, perform an on-site examination or conduct a viewing. The arbitral tribunal shall give the parties the opportunity to be present at the on-site examination or viewing.

Article 32 - Amendment of claim

1. A party may amend or increase its claim or the grounds thereof until the beginning of the last hearing or, if no hearing is held, in the last admissible statement at the latest. No amendment shall be permitted afterwards, except in exceptional circumstances at the arbitral tribunal's discretion. Subject to Article 52(6), a party may reduce its claim at any time.
2. The other party is authorised to object to an amendment or increase if it will be unreasonably hindered in its defence or the proceedings will be unreasonably delayed as a result. Having heard the parties, the arbitral tribunal shall decide on the other party's objection as soon as possible.
3. In the event of a party's non-appearance as referred to in Article 34, the arbitral tribunal shall give this party the opportunity to comment on an amendment or increase.

Article 33 - Withdrawal of a request for arbitration

1. The claimant may withdraw its request for arbitration as long as the respondent has not presented a statement of defence, as referred to in Article 24, or a counterclaim, as referred to in Article 25, or, if there are no written statements, as long as no hearing has been held.
2. Afterwards, the request for arbitration may only be withdrawn with the respondent's permission, subject to the provisions of Articles 52(5), 52(6) and 55(6).
3. The administrator and, after acceptance of its mandate, the arbitral tribunal shall confirm the withdrawal through the intervention of the administrator.

Article 34 - Default of a party

1. If the claimant fails to present a statement of claim as referred to in Article 24 within the time limit determined by the arbitral tribunal or to reasonably explain its claim within a time limit determined by the arbitral tribunal in accordance with an order of the arbitral tribunal, although reasonably having been given the opportunity to do so and without asserting well founded reasons, the arbitral tribunal may, by award, or in another manner it considers appropriate, bring an end to the arbitral proceedings.
2. If the respondent fails to present a statement of defence as referred to in Article 24 within the time limit determined by the arbitral tribunal, although reasonably having been given the opportunity to do so and without asserting well founded reasons for not having done so, the arbitral tribunal may make an award.
3. In the award referred to in paragraph 2, the claim shall be wholly or partially awarded, unless it appears to the arbitral tribunal to be unlawful or unfounded. The arbitral tribunal may require proof from the claimant of one or more of its assertions before making the award.
4. If a party, although reasonably having been called, fails to appear at the hearing without asserting well founded reasons, the arbitral tribunal may continue with the arbitral proceedings and make an award.

SECTION FOUR A - INTERIM AND CONSERVATORY MEASURES

Article 35 - Interim and conservatory measures

1. Subject to any mandatory provision of the law(s) applicable to the arbitration, the arbitral tribunal may, at the request of any party, order any interim and conservatory measures it deems appropriate unless the parties have agreed otherwise.
2. Any such measure shall take the form of a reasoned order or a reasoned award, to which Sections Five and Six apply *mutatis mutandis*.
3. The arbitral tribunal may, in conjunction with the interim and conservatory measures requested, require any party to provide appropriate security.
4. An arbitration agreement shall not preclude a party from applying to any competent judicial authority for interim or conservatory measures. Any such application and any measures taken by the judicial authority must be notified without delay to the arbitral tribunal and the administrator.

Article 36 - Emergency arbitration

1. Subject to any mandatory provision of the law(s) applicable to the arbitration, a party that needs urgent interim or conservatory measures that cannot await the constitution of the arbitral tribunal may make a request for emergency arbitration unless the parties have agreed otherwise.
2. The party requesting emergency arbitration as referred to in paragraph 1, shall send the request to the administrator and to every respondent in the emergency arbitration. Proof that notice has been given to every respondent shall be submitted at the hearing at the latest.
3. The request shall contain (i) the particulars mentioned in Article 7(2)(a), (b), (c), (d), (e), (f) and (j), (ii) the agreed place of arbitration, language of the arbitration as well as the applicable rules of law; (iii) a description of the nature and circumstances of the claim; and (iv) a statement of the relief sought. Articles 7(3), 7(4) and 7(5) shall apply *mutatis mutandis*.
4. Any request for emergency arbitration shall be accepted as submitted only if it is received by the administrator prior to the transmission of the arbitration file to the arbitral tribunal in accordance with Article 23 and irrespective of whether the party making the request has already submitted its request for arbitration.
5. The administrator shall directly appoint an emergency arbitrator who shall decide on the measures urgently requested in the emergency arbitration. The appointment shall take place within three days of the receipt of the request for emergency arbitration as referred to in paragraph 1 by the administrator and following proof of payment of the administration costs as referred to in Article 52 and proof that the deposit as referred to in Article 55 has been made. If, after a single reminder from the administrator, a party fails to satisfy its payment obligation pursuant to this paragraph within the time limit specified by the administrator it shall be deemed to have withdrawn

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its claim. The provisions of Section Six apply *mutatis mutandis*.

6. Prior to accepting an appointment, a prospective emergency arbitrator shall disclose to the administrator any circumstances that may give rise to justifiable doubts as to his or her impartiality and/or independence. Articles 12(2), 12(3), 12(4), 12(5), 17, 18, 19(2), 20 and 21 shall apply *mutatis mutandis*. In the events provided for in Article 19(1), a new arbitrator shall be appointed by the method provided in paragraph 5.
7. An emergency arbitrator may not act as an arbitrator in any future arbitration relating to the parties' dispute, unless otherwise agreed upon by the parties.
8. If the parties have agreed on the place of arbitration as prescribed in Article 22(7) for the arbitral proceedings on the merits, this place shall be the place of arbitration for emergency arbitration proceedings. Failing such agreement, the place of arbitration for the emergency arbitration proceedings shall be The Hague, without prejudice to the arbitral tribunal's determination of the place of arbitration for the arbitral proceedings on the merits under Article 22(7).
9. Immediately upon his or her appointment, the emergency arbitrator shall receive the arbitration file from the administrator. The emergency arbitrator shall as soon as possible, but in any event within three days of his or her appointment, establish a procedural timetable for the emergency proceedings. The emergency arbitrator shall organise the proceedings in the manner which he or she deems to be most appropriate. In all cases, the emergency arbitrator shall ensure that each party has a reasonable opportunity to present its case.
10. In principle, the emergency arbitrator shall render his or her decision at the latest within fifteen days of his or her receipt of the file. The decision shall be in writing and shall include the reasoning upon which the decision is based. The decision shall be in the form of a reasoned order or a reasoned award, to which Sections Five and Six apply *mutatis mutandis*. The costs associated with any request for emergency arbitration pursuant to this Article 36 may initially be apportioned by the emergency arbitrator, subject to the power of the arbitral tribunal in the arbitral proceedings on the merits to finally determine the apportionment of such costs. The emergency arbitrator shall send his or her decision to the administrator and the administrator shall send the decision on behalf of the emergency arbitrator to the parties. The parties agree that any such order or award shall be binding on the parties from the date it is made, and undertake to carry out the order or the award immediately and without delay.
11. The administrator shall terminate the mandate of the emergency arbitrator if a request for arbitration for arbitral proceedings on the merits, as referred to in Article 7, has not been received by the administrator within ten days from the administrator's receipt of the request for emergency arbitration as referred to in paragraph 1, subject to any extension of this time limit granted by the administrator.
12. Without prejudice to Section Five, the emergency arbitrator shall have no power to act after the arbitral tribunal is appointed. The emergency arbitrator's decision shall not bind the arbitral tribunal with respect to any question, issue or dispute determined in the reasoned order or the reasoned award. The decision on the measures urgently requested in the emergency arbitration shall not in any way prejudice the arbitral tribunal's ultimate ruling in the arbitral proceedings on the merits. The arbitral tribunal shall decide upon any party's requests or claims related to the emergency arbitrator proceedings, including the reallocation of the costs of such proceedings and any claims arising out of or in connection with compliance or non-compliance with the reasoned order or the reasoned award.
13. The provisions under this Article 36 do not prevent a party from seeking urgent interim or conservatory measures from a competent judicial authority at any time prior to making an application for such measures, and in appropriate circumstances even thereafter. Any application for such measures from a competent judicial authority shall not be deemed to be an infringement or a waiver of the arbitration agreement. Any such application and any measures taken by the judicial authority must be notified without delay to the emergency arbitrator and administrator.

SECTION FOUR B - THE PROCEDURE AND THIRD PERSONS

Article 37 - Joinder

1. Subject to any mandatory provision of the law(s) applicable to the arbitration, the arbitral tribunal may decide to join any person to the arbitral proceedings, provided that (i) all parties and the additional party consent to the joinder, or (ii) the additional party is a party to the arbitration agreement on the basis of which the jurisdiction of the arbitral tribunal is established or purported to be established.
2. Joinder may be decided upon submission of the request for joinder to the administrator by any party to the arbitration or by the person seeking to be joined to the arbitration. The administrator shall send a copy of the request to the parties and to the arbitral tribunal as soon as possible.
3. A request for joinder shall indicate:
 - (a) the basis on which the arbitral tribunal can be satisfied that (i) all parties and the additional party consented to the joinder, or (ii) the additional party is a party to the arbitration agreement on the basis of which the jurisdiction of the arbitral tribunal is established or purported to be established;
 - (b) the relief that the additional party intends to seek; and
 - (c) the legal interest that is pursued by the request for joinder.
4. By submitting a request for joinder, an additional party shall irrevocably state that it accepts the constitution of the arbitral tribunal as

it stands.

5. The arbitral tribunal shall, upon receipt of the request for joinder, grant the parties and the additional party an opportunity to submit their views on the admissibility and merits of the request for joinder. The arbitral tribunal may suspend the proceedings after receipt of the request for joinder.
6. When deciding on a request for joinder, the arbitral tribunal shall take into account all relevant circumstances, which may in particular include: (i) whether the arbitral tribunal has jurisdiction over the additional party, (ii) considerations of party equality in the constitution of the arbitral tribunal, (iii) the sufficient interest of the additional party, (iv) relevant considerations of procedural fairness, (v) the timing of the request for joinder, (vi) possible conflicts of interests, and (vii) the impact of the joinder on the arbitral procedure. Any decision to join an additional party is subject to the arbitral tribunal's decision as to its jurisdiction with respect to that party.
7. Any decision on a request for joinder may be made in the form of a reasoned order or a reasoned award.
8. Regardless of whether the same arbitration agreement as the one between the original parties applies or enters into force between the parties and the additional party, by submitting the request for joinder or intervention, the additional party agrees that the provisions of Section Six and Article 61 shall apply *mutatis mutandis*.

Article 38 - Consolidation

1. Subject to any mandatory provision of the law(s) applicable to the arbitration, any party may request that the arbitral proceedings be consolidated with one or more other arbitration proceedings if one or more of the following conditions are satisfied:
 - (a) the parties in all proceedings have agreed to consolidation; or
 - (b) all of the claims in the arbitrations are made under the same arbitration agreement(s); or
 - (c) the claims in the arbitrations are not made under the same arbitration agreement(s) but the arbitration agreements are compatible and (i) the disputes in the arbitrations arise in connection with the same legal relationship, or (ii) the arbitrations involve common issues of fact or law, where adjudication in separate proceedings would risk resulting in inconsistent decisions.
2. A request for consolidation shall be decided by an independent third person.
3. A request for consolidation shall be submitted to the administrator. The administrator will promptly send the request for consolidation to the arbitrators and the parties in the arbitrations concerned.
4. Unless the parties to the pending arbitrations agree on the appointment of an independent third person, the administrator shall, within ten days from the date of receipt of the request for consolidation, appoint the independent third person.
5. The independent third person shall be independent and impartial from all parties in the pending arbitrations. None of the arbitrators appointed in the arbitral proceedings whose consolidation is requested shall be appointed as the independent third person.
6. Unless decided otherwise by the administrator or the independent third person, a request for consolidation shall not have the effect of suspending the pending arbitrations.
7. The independent third person shall give the parties and the arbitrators in the pending arbitrations a fair opportunity to state their views on the request for consolidation.
8. The independent third person shall make a reasoned decision on the request for consolidation within fifteen days from the date of its appointment. This time limit may be extended with the approval of the administrator.
9. In deciding whether to consolidate, the independent third person shall assess whether the conditions set in paragraph 1 above are satisfied. The independent third person may also take into account any circumstances it considers to be relevant, including, (i) whether consolidation would generate conflicts of interests, (ii) whether consolidation would result in more efficient proceedings, (iii) whether a sufficiently close nexus between the to-be-consolidated arbitrations exists, (iv) any relevant considerations of procedural fairness, and/or (v) whether consolidation may put the validity of the award(s) at risk.
10. The independent third person may decide that, in case of consolidation and after having heard the parties, a new arbitral tribunal shall be appointed in the consolidated proceedings. In such case, the parties shall, in mutual consultation, appoint the arbitrator(s). If the parties fail to reach agreement in this regard within four weeks of the reasoned decision, the administrator shall, at the request of the most diligent party and in consultation with the independent third person, appoint the arbitrator(s). Subject to considerations of party equality, the independent third person may appoint arbitrators who participated to the consolidated proceedings in the reconstituted arbitral tribunal. Articles 12(3), 12(4) and 17 shall apply *mutatis mutandis*.
11. In case of the appointment of a new arbitral tribunal in the consolidated proceedings, the mandate of the arbitrator(s) who are not re-appointed shall terminate upon the appointment of the arbitrator(s) in the consolidated proceedings. The administrator shall, if necessary, determine the fees and disbursements for the work already carried out by the arbitrator(s) with due observance of the provisions of Article 53.
12. These Rules shall continue to apply to the consolidated arbitral proceedings.

SECTION FOUR C - EARLY DETERMINATION

Article 39 - Early determination

1. At the request of any party, and after giving the parties an opportunity to express their views, the arbitral tribunal may decide one or more points of law or fact by way of an early determination procedure solely on the basis that the point or points of law or of fact in question are either manifestly: (i) without legal merit; (ii) outside the arbitral tribunal's jurisdiction; or (iii) inadmissible.
2. Any such early determination shall take the form of a reasoned order or a reasoned award. The arbitral tribunal shall make such order or award within thirty days from the date of its decision to proceed with the request for early determination. Sections Five and Six apply *mutatis mutandis*.

SECTION FIVE - THE AWARD

Article 40 - Time limit

1. The arbitral tribunal shall endeavour to render its final award within five months from the date of the case management conference, but shall render its final award in any event no later than six months after that date. This time limit may be extended with the approval of the parties, or in the absence thereof, the administrator. If the extended arbitration proceedings apply, the aforementioned time limits do not apply, but the arbitral tribunal shall communicate, at the end of the hearing as referred to in Article 26, to the parties at which time the arbitral tribunal will make its award. If the parties decided not to hold a hearing as referred to in Article 26, the notice shall be sent after presentation of the last statement. The arbitral tribunal shall be authorised to extend the time limit one or more times if necessary, taking into account the notions of efficiency and thoroughness. In any event the arbitral tribunal shall issue final, interim and partial awards and procedural orders expeditiously.
2. The mandate to the arbitral tribunal shall continue until its last final award is sent to the parties, subject to the provisions of Articles 47 and 48.

Article 41 - Types of award

The arbitral tribunal may make a final award, a partial final award or an interim award.

Article 42 - Measure for decision-making

1. The arbitral tribunal shall decide in accordance with the rules of law.
2. If a choice of law has been made by the parties, the arbitral tribunal shall decide in accordance with the rules of law designated by the parties. Failing such designation of law, the arbitral tribunal shall decide in accordance with the rules of law which it considers appropriate.
3. The arbitral tribunal shall decide as *amiable compositeur* if the parties, by agreement, have authorised it to do so.
4. In any event, in its decision, the arbitral tribunal shall take into account any applicable trade usages.

Article 43 - Decision and signing

1. If the arbitral tribunal consists of multiple arbitrators it shall decide by a majority of votes.
2. The award containing the decision shall be drawn up in an adequate number of written and signed copies, increased by two.
3. If a minority of the arbitrators refuses to sign the award, this shall be stated by the other arbitrators in the award signed by them. A similar statement shall be made if a minority is incapable of signing and it is unlikely that the impediment will cease to exist shortly.
4. The award shall not state a minority opinion. However, a minority may express its opinion to the co-arbitrators and the parties in a separate written document. This document shall not be considered to be a part of the award.

Article 44 - Contents of the award

1. The award shall, in any event, contain:
 - (a) the name and place of residence of the arbitrator or each of the arbitrators;
 - (b) the name and place of residence of each of the parties;
 - (c) a brief summary of the proceedings;
 - (d) a description of the claim and, if submitted, of the counterclaim;
 - (e) the reasons for the decision given in the award;
 - (f) the determination and order to pay the arbitration costs as referred to in Article 56;
 - (g) the decision;
 - (h) the place where the award is made, as determined by the parties or by the arbitral tribunal, with the determination of the place

of arbitration in accordance with Article 22(7); and
(i) the date on which the award is made.

2. If the award is a decision to grant interim and conservatory measures, a partial final award, or an interim award, the determination of and the order to pay the arbitration costs mentioned in paragraph 1(f) may be stayed until a later point in the proceedings.

Article 45 - Sending and deposit of the award

1. The administrator shall ensure, on behalf of the arbitral tribunal that an original of the award, or a copy thereof certified by an arbitrator or by the administrator, is sent to the parties as soon as possible.
2. An original of the award shall remain in the NAI archives for a period of ten years. During that period, each of the parties may request the administrator to provide a certified copy of the award at cost.

Article 46 - Binding effect of the award

An arbitral award shall be binding upon the parties with effect from the day on which it is made. By agreeing to arbitration by or before the Hague CAA or in accordance with these Rules, the parties shall be deemed to have accepted the obligation to comply with the award without delay.

Article 47 - Rectification of the award

1. A party may, within three months after the date of the award, request that the arbitral tribunal correct a manifest computing error, clerical error or other error that lends itself to simple rectification in the award.
2. If the particulars referred to in Article 44(1)(a), (b), (h) and (i) are stated incorrectly or are partially or wholly absent from the award, a party may, within three months after the date of the award, request that the arbitral tribunal correct such particulars.
3. The request shall be submitted to the administrator. The administrator shall send a copy of the request to the arbitral tribunal and the other party as soon as possible.
4. The arbitral tribunal may also on its own motion proceed with the correction referred to in paragraph 1 and paragraph 2 within three months after the date of the award.
5. Before the arbitral tribunal decides on the request referred to in paragraph 1 or paragraph 2, or decides on its own motion to proceed with the correction as referred to in paragraph 4, it shall give the parties the opportunity to comment on the matter.
6. If the arbitral tribunal proceeds with the correction, it shall do so within one month of receipt of the request for rectification. The rectification shall be mentioned by the arbitral tribunal in a separate document, which document shall be considered to be a part of the award. The document shall be drawn up in an adequate number of written copies, increased by two, and shall contain:
 - (a) the particulars stated in Article 44(1) (a) and (b);
 - (b) a reference to the award to which the rectification relates;
 - (c) the correction;
 - (d) the date of the correction, it being understood that the date of the award to which the correction relates remains decisive; and
 - (e) a signature to which the provisions of Article 43 apply.
7. The administrator shall ensure that the document referred to in paragraph 6 will be sent to the parties as soon as possible; Article 45(1) shall apply *mutatis mutandis*.
8. If the arbitral tribunal denies the request for the correction, it shall notify the parties accordingly by intervention of the administrator.

Article 48 - Additional award

1. Within two months after the date of the award, any party may request the arbitral tribunal to make an additional award regarding one or more claims or counterclaims presented to the arbitral tribunal but not decided on by it.
2. The request shall be submitted to the administrator. The administrator shall send a copy of the request to the arbitral tribunal and the other party as soon as possible.
3. Before the arbitral tribunal decides on the request, it shall give the parties the opportunity to comment on the matter.
4. An additional award shall constitute an arbitral award to which the provisions of this section shall be applicable.
5. If the arbitral tribunal denies a request for an additional award, it shall notify the parties accordingly by intervention of the administrator.

Article 49 - Arbitral award on agreed terms

1. If the parties reach a settlement during the proceedings, the parties may jointly request the arbitral tribunal to record its contents in an arbitral award.
2. The award on agreed terms referred to in paragraph 1 shall be regarded as an arbitral award to which the provisions of this section shall apply, it being understood that the award, in derogation of the provisions of Article 44(1)(e) need not contain any grounds for the decision rendered.

Article 50 - Publication of the award

The NAI shall be authorised to have the award published without stating the names of the parties and leaving out all other information that might reveal the parties' identities, unless a party objects to such publication with the administrator within two months of the date of the award. The NAI may authorise the Hague CAA to have the award published in the same manner.

SECTION SIX - COSTS

Article 51 - Costs of the arbitration

The costs of the arbitration shall be understood to mean the costs mentioned in Articles 52, 53, 54 and the other costs necessarily incurred in the arbitration in the opinion of the arbitral tribunal.

Article 52 - Administration costs

1. Upon commencing the arbitration, the claimant shall owe the NAI administration costs in accordance with the provisions of paragraph 2. The administrator shall notify the claimant of this amount as soon as possible after receipt of the request for arbitration.
2. The administration costs shall be calculated on the basis of the total monetary interest of the claims, including contingent claims, using the scale determined by the NAI Executive Board as included in Appendix A to these Rules. The NAI Executive Board may make interim changes to this scale. In the event that the administration costs cannot be calculated on the basis of the scale, or where non-monetary relief has been sought, the administrator shall decide.
3. In the event that a counterclaim, including a contingent counterclaim, is submitted, the respondent shall also owe the NAI administration costs in accordance with the provisions of paragraph 2. The administrator shall notify the respondent of this amount as soon as possible after the counterclaim has been presented.
4. In the event of an increase of claim or counterclaim or if it emerges during the proceedings that the total monetary interest is higher than assumed by the administrator at the time notice was given as referred to in paragraph 1 or paragraph 3, the claimant and the respondent, respectively, shall owe a supplemental amount of administration costs according to the provisions of paragraph 2.
5. The administrator shall see to the collection of the administration costs owed. If, after a single reminder from the administrator, the administration costs owed by a party are not received by the NAI within the time limit specified by the administrator, this party shall be deemed to have withdrawn its claim or counterclaim. If the administration costs owed by a party are not received by the NAI within fourteen days after a second reminder from the administrator, this party shall be deemed to have withdrawn its claim or counterclaim.
6. If a claimant withdraws its request for arbitration before the arbitration file is sent to the arbitral tribunal, it shall receive back half of the administration costs it has paid. The same applies if a respondent withdraws its counterclaim before the arbitration file is sent. In other events, the administration costs shall not be reimbursed.

Article 53 - Arbitrator fees and disbursements

1. The fees and disbursements of the arbitrator(s) shall be reasonably determined by the administrator after consulting with the arbitrator(s).
2. If an arbitrator is released from his or her mandate before the last final award, such arbitrator may claim reasonable compensation, to be determined by the administrator, for fees and disbursements, except in exceptional circumstances at the administrator's discretion.
3. If the arbitral tribunal's mandate is terminated before the last final award, the arbitrator(s) may also claim reasonable compensation, to be determined by the administrator, for fees and disbursements, unless termination is effected pursuant to Article 18(5).
4. In determining the fee, the time that the arbitrator(s) devoted to the proceedings, the monetary interest of the claims and counterclaims and the complexity of the proceedings shall be taken into account, using the hourly rate scale determined by the NAI Executive Board as included in Appendix B to these Rules.

Article 54 - Costs of legal assistance

The arbitral tribunal may order the unsuccessful party to pay reasonable compensation for the successful party's legal assistance, if and insofar as these costs were, in the arbitral tribunal's opinion, necessary.

Article 55 - Deposit

1. The administrator shall require a deposit from the claimant from which the fees and disbursements of the arbitrator(s) shall be paid. If the respondent has submitted a counterclaim, including a contingent counterclaim, the administrator may also require a deposit from the respondent.
2. The costs of the secretary, the expert appointed by the arbitral tribunal, technical assistance and an interpreter shall also be paid from the deposit if and insofar as these costs were incurred by the arbitral tribunal. If the parties have agreed to deposit the award with the court registry, the deposit shall also be used to pay the associated costs.
3. As soon as possible after the arbitration file has been sent, the arbitrator or the chair shall consult with the administrator regarding the scope of work expected from him or her, in order to determine the amount of the deposit.
4. The administrator may require the claimant and/or the respondent to increase the deposit until fourteen days after the last hearing at the latest or, in the absence of a hearing, until fourteen days after receipt by the arbitral tribunal of the last permitted statement at the latest.
5. The administrator shall notify the arbitral tribunal of the deposit.
6. The arbitral tribunal shall be authorised to suspend the arbitration in respect of the claim or the counterclaim as long as the relevant party has not made the required deposit. If, after a single reminder from the administrator, the deposit owed by a party is not received by the NAI within the time limit specified by the administrator, this party shall be deemed to have withdrawn its claim or counterclaim. If the extended arbitration proceedings apply and the deposit owed by a party is not received by the NAI within fourteen days after a second reminder from the administrator, this party shall be deemed to have withdrawn its claim or counterclaim.
7. The NAI shall not be held to pay any costs that are not covered by a deposit. The costs referred to in paragraph 2 shall first be paid from the deposit. No interest shall be paid on the amount made in deposit.

Article 56 - Determination of arbitration costs and order

1. The arbitral tribunal shall determine the costs of the arbitration with due observance of the provisions of Article 53.
2. The unsuccessful party shall be ordered to pay the costs of the arbitration, except in exceptional circumstances at the arbitral tribunal's discretion. If each of the parties is partially unsuccessful, the arbitral tribunal may divide all or part of the costs of the arbitration.
3. In ordering a party to pay the costs, the arbitral tribunal shall take into account the deposit made under Article 55. Insofar as the deposit made by a party is used to pay costs that the other party is ordered to pay in accordance with the previous paragraph, the latter party shall be ordered to reimburse the former party for such amount.
4. Payment of the costs of the arbitration may also be ordered if a party did not expressly seek such payment.
5. If the mandate of an arbitrator(s) is terminated before the last final award, the compensation for fees and disbursements determined in accordance with Article 53 and the costs referred to in Article 55(2) shall be borne by the parties in proportion to their contribution to the deposit. The administrator may, insofar as necessary in derogation of Article 55(4), require the claimant and/or the respondent to supplement the deposit to the full amount of said compensation and costs.

SECTION SEVEN - FINAL PROVISIONS

Article 57 - Timely objection

A party that has appeared in the proceedings shall make an objection to the arbitral tribunal without unreasonable delay, sending a copy thereof to the other party and the administrator as soon as it knows or reasonably should know of any act contrary to, or failure to act in accordance with, any provision of these Rules, the arbitration agreement, or any order, decision or measure of the arbitral tribunal. If a party fails to do so then the right to rely on this later in the arbitral proceedings or before national courts shall be forfeited.

Article 58 - Contingencies

Subject to the provisions of Article 22(1), in all events not provided for in these Rules, action shall be taken in accordance with the spirit of these Rules.

Article 59 - Diversity and environmental impact

In proposing or appointing any arbitrator or expert under the Rules, the parties, their counsel or other representatives, the arbitral tribunal, and the NAI shall, without prejudice to the parties' rights, be mindful of the benefits of racial, gender, sexual, religious, age, cultural, nationality and other diversity in arbitration. The parties, their counsel or other representatives, the arbitral tribunal, and the NAI shall, without prejudice to the parties' rights, further be mindful of the environmental impact of the conduct of the arbitral proceedings.

Article 60 - Processing of personal data

1. The processing of personal data by the NAI under these Rules is subject to the applicable regulations on the protection of personal data as well as the NAI's privacy notice, which can be consulted on the NAI website.
2. The NAI and the arbitral tribunal may, with due observance of the applicable provisions of mandatory law, issue directions regarding the security of information and/or protection of personal data, which shall be binding on the parties, and, in the case of directions issued by the NAI, also on the members of the arbitral tribunal.

Article 61 - Limitation of liability

The NAI, its board members and personnel, the members of its Advisory & Supervisory Board, the members of the Committee, the arbitrator(s) and any secretary that may have been appointed, the independent third person and any other persons involved in the case by any or all of them shall not be liable either by contract or otherwise for any damage caused by their own or any other person's acts or omissions or caused by the use of any aids in or involving arbitration, all this unless and insofar as mandatory Dutch law precludes exoneration. The NAI, its board members and personnel shall not be liable for payment of any amount that is not covered by the deposit. The foregoing shall apply *mutatis mutandis* to the (founders of the) Hague CAA, its board members, secretary to the board, officers, staff members, the members of its Advisory Board and any members of its committees and any other persons that one or more of them involve. Any claims arising out of or in connection with the administration of the arbitration proceedings by the NAI under the Rules shall be governed by Dutch law and settled by the District Court of The Hague in the Netherlands, which shall have exclusive jurisdiction.

Article 62 - Amendment of the Rules

1. The NAI Executive Board may amend the NAI Arbitration Rules at any time.
2. The Rules can only be amended jointly by the Hague CAA board and the NAI Executive Board. The amendments shall have no effect on arbitrations already pending.
3. The Rules shall apply in the form they have at the time at which the arbitration is commenced.

Appendix A - Administration Costs

Appendix A to these Rules refers to Appendix A to the Arbitration Rules of the Netherlands Arbitration Institute in Rotterdam, the Netherlands, in force as of 1 January 2015, version 17 dated 15 February 2022 and shall apply *mutatis mutandis* to the Arbitration Rules of the Hague Court of Arbitration for Aviation.

**NETHERLANDS ARBITRATION INSTITUTE APPENDIX TO THE ARBITRATION RULES
ADMINISTRATION COSTS**

The following scale applies with respect to administration costs as of 15 February 2022, exclusive of VAT (see Art. 53(2) of the Rules):

to		€ 25,000	:	€660
from	€ 25,000	to	€ 50,000	: 0.60%
from	€ 50,000	to	€ 75,000	: 0.96%
from	€ 75,000	to	€ 100,000	: 0.85%
from	€ 100,000	to	€ 150,000	: 0.45%
from	€ 150,000	to	€ 200,000	: 0.025%
from	€ 200,000	to	€ 500,000	: 0.167%
from	€ 500,000	to	€ 1,000,000	: 2.40%
from	€ 1,000,000	to	€ 2,000,000	: 0.50%
from	€ 2,000,000	to	€ 5,000,000	: 0.167%
from	€ 5,000,000	to	€ 10,000,000	: 0.13%
from	€ 10,000,000	to	€ 20,000,000	: 0.085%
from	€ 20,000,000	to	€ 30,000,000	: 0.04%
from	€ 30,000,000	to	€ 40,000,000	: 0.07%
from	€ 40,000,000	to	€ 50,000,000	: 0.065%
from	€ 50,000,000	to	€ 75,000,000	: 0.034%
from	€ 75,000,000	to	€ 100,000,000	: 0.01%
from	€ 100,000,000	to	€ 250,000,000	: 0.005%
from	€ 250,000,000			: €75,000

To calculate the NAI administration costs, the amounts calculated for each step in the scale must be added together, except in the event the total monetary interest of the claim is below €25,000.- or is equal to or greater than €250 million, in which case a flat fee of €660.- or €75,000.-, respectively, shall cover the administration costs.

Example calculation using a total monetary interest of €137,520.-:

Up to €25,000.-	=	€660.-
€25,000.- to €50,000.-	to €25,000.- * 0.60% =	€150.-
€50,000.- to €75,000.-	to €25,000.- * 0.96% =	€240.-
€75,000.- to €100,000.-	to €25,000.- * 0.85% =	€212.50
€100,000.- to €137,520.-	to €37,520.- * 0.45% =	€168.84
Total €1,431.34		

HAGUE CAA ARBITRATION RULES

Appendix B - Hourly rates

Table of hourly rates for arbitrators/secretaries

Hourly rates arbitrators/secretaries (in €)

Category	Financial interest	Hourly rate arbitrator		Hourly rate secretary
		Merits	Emergency arbitration	
1	0 - 50,000	175	225	100
2	50,001 - 100,000	200	250	100
3	100,001 - 200,000	225	275	100
4	200,001 - 500,000	225	275	100
5	500,001 - 1,000,000	300	350	150
6	1,000,001 - 2,000,000	325	375	150
7	2,000,001 - 5,000,000	375	425	150
8	5,000,001 - 10,000,000	400	450	175
9	10,000,001 - 20,000,000	425	475	175
10	20,000,001 - 30,000,000	475	525	175
11	30,000,001 - 40,000,000	525	575	175
12	40,000,001 - 50,000,000	550	575	190
13	50,000,001 - 75,000,000	550	575	190
14	75,000,001 - 100,000,000	550	575	225
15	100,000,001 - 250,000,000	550	575	225
16	more than 250,000,000	550	575	225