

ANNEX V

ARBITRATION PROCEDURE

- 1 Unless the Parties to the dispute referred to arbitration in accordance with Article 22 of this Agreement otherwise agree, the arbitration procedure shall be conducted in accordance with the provisions of this Annex.
- 2 The claimant Party shall notify the Secretary General and the other Parties to the dispute of its decision to submit the dispute to arbitration and shall include in its notice a brief statement of claim setting out the subject matter and issues in dispute. The Secretary General shall forward this notice to the other Parties to the Agreement.
- 3 The relevant Parties shall agree upon and name an individual to serve as arbitrator to their dispute. If the relevant Parties cannot agree on an individual to serve as an arbitrator, the Secretary General shall select an arbitrator from the list of potential arbitrators maintained pursuant to Paragraph 4 of Article 22 of this Agreement. In selecting an arbitrator, the Secretary General shall give due consideration to the special expertise any potential arbitrator may have regarding the subject matter of the dispute and any possible conflicts of interest which the potential arbitrator may have.
- 4 Not later than the first meeting of the Parties under Paragraph 1 of Article 23 of this Agreement, the Parties shall adopt governing principles for the rules of procedure to be applied to any arbitration under this Annex and Article 22 of this Agreement. Such principles shall be consistent with relevant international law, due process, and the objectives of this Agreement.
- 5 Upon being named, and before undertaking substantive consideration of the dispute, the arbitrator shall adopt and inform the relevant Parties of rules of procedure to be followed over the course of arbitration. The rules so adopted shall be consistent with the principles set by the Parties to this Agreement pursuant to Paragraph 4 of this Annex.
- 6 After consultation with the Parties to the dispute, the Secretary General shall appoint an appropriate arbitrator within 30 days of receiving the claimant Party's notice. The arbitrator shall not be a citizen of, or be ordinarily resident in, any of the Parties to the dispute, nor be employed by any of them, nor have dealt with the dispute in any other capacity.
- 7 The arbitrator may take all appropriate measures in order to establish the facts. The arbitrator may, at the request of one of the Parties, recommend essential interim measures of protection. The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings. The absence or default of a Party to the dispute shall not constitute an impediment to the proceedings.
- 8 The arbitrator may hear and determine counter-claims arising directly out of the subject matter of the dispute.

- 9 The arbitrator shall keep a record of all costs and shall furnish a final statement thereof to the Parties.
- 10 Any Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the arbitrator's decision may intervene in the proceedings with the arbitrator's consent.
- 11 The arbitrator shall render his or her award within 180 days from the date of his or her appointment, unless it is necessary to extend this time limit for a further period which shall not exceed 180 days.
- 12 The arbitrator's award shall be accompanied by a statement of reasons, and shall be final and binding on the Parties to the dispute.
- 13 Any dispute which may arise between the Parties concerning the interpretation or execution of the award may be submitted by any Party to the dispute to the arbitrator who made the award or, if the arbitrator cannot be seised thereof, to another arbitrator appointed for this purpose in the same manner as the first.