

# EXPERT RULES

PROPOSAL OF  
EXPERTS AND NEUTRALS

APPOINTMENT OF  
EXPERTS AND NEUTRALS


ADMINISTRATION OF  
EXPERT PROCEEDINGS

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EXPERT PROCEEDINGS



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# FOREWORD

Through its International Centre for ADR, ICC offers under the rules published in this booklet three distinct services relating to experts and neutrals:

- 1 **Proposal of experts and neutrals**, whereby the ICC puts forward the name(s) of one or more experts or neutrals upon a request from one or more parties, a court or an arbitral tribunal;
- 2 **Appointment of experts and neutrals**, whereby the ICC makes an appointment that is binding upon the requesting parties;
- 3 **Administration of expert proceedings**, whereby the ICC is chosen to administer and supervise the entire expert proceedings.

The rules refer to the proposal and appointment of neutrals, as well as experts, confirming the practice that has developed through the ICC's extensive experience of sourcing neutrals not only for the proceedings it administers but also for *ad hoc* and court proceedings. Indeed, neutrals can act in many different settings, e.g. as adjudicators, mediators, neutral evaluators or dispute board members.

## Proposal

The proposal of an expert or a neutral may serve various purposes, not limited to disputes. Parties might wish to obtain an expert opinion on an issue of importance to them in the ordinary course of business, or they might wish to call upon a neutral to facilitate their negotiations. An expert may also be required in an arbitration or other dispute resolution proceedings. In such cases, a party may unilaterally request the ICC to propose the name of an expert and no other person will be informed of this request unless the requesting party explicitly asks the ICC to do so. A neutral may be needed to act as a mediator or a dispute board member or to assist in resolving a dispute not administered by the ICC. A proposal is not binding on the requesting party or parties and the ICC's involvement ends with the delivery of the proposal.

## ICC EXPERT RULES

### FOREWORD

#### Appointment

When disputes arise, parties might wish to have an expert appointed by the ICC to decide on a particular issue, or they might have agreed on a dispute resolution procedure for which they need a neutral, e.g. to act as mediator, but cannot agree on the person who shall fulfil this role. An appointment by the ICC International Centre for ADR is binding on the parties. The Centre's involvement ends upon completion of the appointment process; it does not extend to the administration of the ensuing expert proceedings, which are the subject of a separate set of rules.

#### Administration of expert proceedings

When faced with differences or in dispute, parties may wish an expert to give findings on certain matters. In this case, the ICC International Centre for ADR is available to supervise the entire expert proceedings. In addition to appointing an expert or confirming an expert nominated by the parties, the Centre's role covers supervision of the proceedings, including such tasks as coordinating between the parties and the expert, monitoring deadlines, overseeing costs and, unless explicitly excluded, scrutinizing the draft expert report. It is the Centre that notifies the report to the parties at the end of the proceedings. The expert's findings may be useful to the parties when negotiating a settlement of their dispute or differences. Although, in principle, they are not binding, parties may, if they wish and subject to applicable law, agree to give the findings the force of a contractually binding expert determination.

#### Suggested clauses

While the proposal of an expert or neutral may be requested with or without a prior agreement, parties wishing to have the ICC appoint experts or neutrals or administer expert proceedings are advised to make a prior agreement to this effect. The Rules for the Appointment of Experts and Neutrals and the Rules for the Administration of Expert Proceedings are each preceded by suggested clauses covering different needs and

situations, with guidance on how to use them. The parties can include one of the suggested clauses in their contracts after adapting it, if necessary, to their particular circumstances. These clauses, like the rules themselves, are available in different languages at [www.iccwbo.org](http://www.iccwbo.org).

## **Appendices**

Each set of rules is accompanied by two appendices. The first contains the statutes of the Standing Committee, whose principal functions are to oversee the application of the rules, review the attributes of experts and neutrals proposed or appointed, make final decisions on the appointment and replacement of experts and neutrals, and fix the expert's fees and expenses in administered proceedings. The second appendix relates to costs and, in particular, determines the administrative expenses charged by the ICC for the different services.

No administrative charges are levied for the proposal of experts to ICC arbitral tribunals, which is a unique service offered free of charge in all cases administered by the ICC International Court of Arbitration. To support market demand for greater use of mediation, the proposal and appointment of neutrals to act as mediators in ongoing ICC arbitration proceedings is likewise offered free of charge.

## **International Centre for ADR**

The rules contained in this booklet are administered exclusively by the ICC International Centre for ADR, which incorporates the former ICC International Centre for Expertise, established in 1976. Standing at the heart of a worldwide organization, the Centre has unmatched access to experts and neutrals on all continents and from all disciplines, including accounting, finance, engineering, information technology, construction, energy and the law. Businesses, states and state entities regularly turn to the Centre, assured of an understanding and efficient response to their requirements.

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# **PROPOSAL OF EXPERTS AND NEUTRALS**

## **ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS**

IN FORCE AS FROM 1 FEBRUARY 2015

# ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS

## PREAMBLE

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The ICC Rules for the Proposal of Experts and Neutrals (the “Rules”) are administered by the ICC International Centre for ADR (the “Centre”), which is a separate administrative body within the International Chamber of Commerce (the “ICC”). In administering the Rules, the Centre is assisted by a Standing Committee, the statutes of which are set forth in Appendix I.

Upon the request of any physical or legal person(s) or any court or tribunal (the “Person”), the Centre can provide the name of one or more experts in a particular field of activity or the name of one or more neutrals. An expert proposed under the Rules may be a physical person or a legal person, such as a company or a partnership.

Under the Rules, the Centre’s role is limited to proposing the name of one or more experts or neutrals. The Person requesting a proposal may then contact directly the proposed expert(s) or neutral(s) and, as the case may be, agree with such expert(s) or neutral(s) on the scope of the appropriate mission and fees. There is no obligation to make use of the services of an expert or a neutral proposed by the Centre.

The proposal of an expert may be useful in many different contexts. A person may require an expert in connection with its ongoing business activities or in connection with contractual relations. A party to an arbitration or other contentious process may wish to obtain the name of a potential expert witness. A court or arbitral tribunal that has decided to appoint an expert may wish to obtain the proposal of an expert.

The proposal of a neutral may be useful to parties who wish to use the services of a neutral as a mediator or a dispute board member, or to assist them with the resolution of a dispute in a similar procedure that is not administered by the ICC.

## ARTICLE 1

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### Recourse to the Centre

- 1 Any Person may ask the Centre to propose one or more experts or neutrals by submitting a request for the proposal of an expert or a neutral (the “Request for Proposal”) to the Centre.
- 2 The Request for Proposal shall include:
  - a) the name, address, telephone number, email address and any other contact details of each Person filing the Request for Proposal;
  - b) if applicable, the name and contact details of any person or entity relevant for checking potential conflicts of interest of the expert or neutral;
  - c) when the Request for Proposal is for an expert:
    - i a description of the field of activity of the expert to be proposed;
    - ii any desired attributes of the expert, including but not limited to education, qualifications, language skills and professional experience;
    - iii any undesired attributes of the expert and a description of any matters that would disqualify a potential expert;
    - iv a detailed description of the work to be carried out by the expert, including whether an expert report or site visits will be required;
    - v the desired time frame for completing such work;
    - vi the language(s) in which the expert is to carry out such work; and
    - vii the proposed location of any physical meetings with the expert;
  - d) when the Request for Proposal is for a neutral:
    - i a description of the dispute resolution or other procedure for which the neutral’s assistance is sought;
    - ii a description of the dispute, if any;
    - iii any desired attributes of the neutral, including but not limited to education, qualifications, language skills and professional experience;
    - iv any undesired attributes of the neutral and a description of any matters which would disqualify a potential neutral;
    - v the desired time frame for conducting and completing the procedure;

## ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS

- vi the agreed location of any physical meetings with the neutral, or any proposal regarding such location; and
  - vii the agreed language(s) of the procedure, or any proposal regarding such language.
- 3 Unless requested to do so by the Person seeking the proposal of an expert or a neutral, the Centre will not inform any other person of the filing of a Request for Proposal except as needed in order to find the prospective expert or neutral.

### ARTICLE 2

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#### The Proposal

- 1 Any proposal of an expert or a neutral by the Centre shall be made by the Centre either through an ICC National Committee or Group, or otherwise. The Centre's role under the Rules ends upon the notification of the proposal.
- 2 The Centre shall make all reasonable efforts to propose an expert or a neutral having the attributes set out by the requesting party pursuant to Article 1(2). If, despite such efforts, the Centre is not able to identify an expert or a neutral having all of the attributes set out by the requesting party, the Centre may ask the requesting party whether it wishes the Centre to propose more than one expert or neutral (who between them have the requested attributes), or whether the attributes set out in the Request for Proposal may be modified.
- 3 Before a proposal is made, a prospective expert or neutral shall sign a statement of acceptance, availability, impartiality and independence. The prospective expert or neutral shall disclose in writing to the Centre any facts or circumstances which might be of such a nature as to call into question the expert's or neutral's independence in the eyes of the Person filing the Request for Proposal, as well as any circumstances that could give rise to reasonable doubts as to the expert's or neutral's impartiality. The Centre shall provide such information in writing to such Person and shall fix a time limit for any comments from such Person.

- 4 Any information or documents given to the prospective expert or neutral by the Centre or any party in connection with the proposal shall be used by the prospective expert or neutral only for the purposes of the proposal and shall be treated by the prospective expert or neutral as confidential.

### **ARTICLE 3**

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#### **Costs for the Proposal**

- 1 Each Request for Proposal must be accompanied by the non-refundable filing fee specified in Article 1 of Appendix II. No Request for Proposal shall be processed unless accompanied by the filing fee.
- 2 When the Centre is requested to propose more than one expert or more than one neutral, the non-refundable filing fee accompanying the Request for Proposal and to be paid by the requesting Person is the amount referred to in the preceding paragraph multiplied by the number of experts or neutrals requested.
- 3 After taking into consideration the specificities of the case, the Centre may fix an additional fee, as specified in Article 2 of Appendix II, to be paid by the party or parties having filed the Request for Proposal.
- 4 The Centre may cease acting if any requested additional fee has not been paid.

### **ARTICLE 4**

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#### **General Provisions**

- 1 An expert proposed under the Rules may be a physical person or a legal person, such as a company or a partnership. The term “expert” as used in the Rules applies *mutatis mutandis* to both physical and legal persons.
- 2 Where, prior to the date of the entry into force of the Rules, the parties have agreed to request the proposal of an expert or a neutral pursuant to the Rules for Expertise of the ICC, they shall be deemed to have agreed to make their request pursuant to the ICC Rules for the Proposal of Experts and Neutrals, unless any of the parties objects thereto, in which case the Rules for Expertise of the ICC shall apply.

## **ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS**

- 3 The expert or neutral, the Centre, the ICC and its employees, and the ICC National Committees and Groups and their employees and representatives shall not be liable to any person for any act or omission in connection with the proposal of an expert or a neutral, except to the extent such limitation of liability is prohibited by applicable law.
- 4 In all matters not expressly provided for in the Rules, the Centre shall act in the spirit of the Rules.

# ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS

## APPENDIX I - STATUTES OF THE STANDING COMMITTEE

### ARTICLE 1

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#### Composition of the Standing Committee

The Standing Committee is composed of a maximum of fifteen members (a president, three vice-presidents and up to eleven other members) appointed by the ICC for a three-year renewable term.

### ARTICLE 2

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#### Meetings

A meeting of the Standing Committee shall be convened by its president whenever necessary.

### ARTICLE 3

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#### Function and Duties of the Standing Committee

- 1 The Standing Committee shall advise the Centre concerning all aspects of the services carried out by the Centre pursuant to the Rules, in order to help ensure the quality of those services. It shall assist the Centre in reviewing the attributes of the experts or neutrals to be proposed under the Rules.
- 2 The Centre shall inform the members of the Standing Committee about all Requests for Proposal and ask the members for their advice.
- 3 The president shall make the final decision on the proposal of the expert or neutral.
- 4 In the absence of the president, or otherwise at the president's request, one of the three vice-presidents shall be authorized by the Centre to fulfil the tasks of the president, including taking decisions pursuant to these statutes.

### ARTICLE 4

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#### Confidentiality

The work of the Standing Committee and the Centre is of a confidential nature, which must be respected by everyone who participates in that work in whatever capacity.



# ICC RULES FOR THE PROPOSAL OF EXPERTS AND NEUTRALS

## APPENDIX II – COSTS

### ARTICLE 1

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#### Filing Fee

Save as provided in Article 3 below, each Request for Proposal pursuant to the Rules must be accompanied by a filing fee of US\$ 3,000 per expert or neutral to be proposed. The filing fee is non-refundable. No Request for Proposal shall be processed unless accompanied by the requisite payment.

### ARTICLE 2

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#### Additional Fee for Proposal

- 1 Depending on the specificities of the case, the Centre may request the payment of an additional fee from the party or parties by which the Request for Proposal has been filed.
- 2 When fixing the additional fee, the Centre shall take into account all circumstances of the case, including the requested attributes of the expert or neutral, the specific nature of the case, including the amount of time needed by the Centre to identify suitable candidates, the time frame in which the Centre shall proceed with the proposal and any other relevant circumstances.
- 3 The additional fee shall not exceed US\$ 3,000 per expert or neutral to be proposed.

## **ARTICLE 3**

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### **Proposal of an Expert or a Neutral in an ICC Arbitration**

- 1 If the Request for Proposal of an expert is made by an arbitral tribunal acting pursuant to the ICC Rules of Arbitration, the services of the Centre shall be provided free of charge.
- 2 If the Request for Proposal of a neutral who shall act as mediator is made jointly by all the parties in ongoing proceedings pursuant to the ICC Rules of Arbitration, the services of the Centre shall be provided free of charge.

## **ARTICLE 4**

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### **Currency, VAT and Scope**

- 1 All amounts fixed by the Centre or pursuant to any Appendix to the Rules are payable in US dollars except where prohibited by law, in which case the ICC may apply a different scale and fee arrangement in another currency.
- 2 Any ICC administrative expenses, including the filing fee and the additional fee, may be subject to value added tax (VAT) or charges of a similar nature at the prevailing rate.
- 3 The above provisions on the costs of proposals of experts and neutrals shall be effective as of 1 February 2015 in respect of any Request for Proposal filed on or after such date under the present Rules and in respect of any request for the proposal of an expert filed on or after such date under the Rules for Expertise of the ICC.



# **APPOINTMENT OF EXPERTS AND NEUTRALS**

**SUGGESTED CLAUSE  
PROVIDING FOR THE ICC  
AS APPOINTING AUTHORITY  
FOR EXPERT PROCEEDINGS**

**ICC RULES FOR THE  
APPOINTMENT OF EXPERTS  
AND NEUTRALS**

**IN FORCE AS FROM 1 FEBRUARY 2015**

## SUGGESTED CLAUSE PROVIDING FOR THE ICC AS APPOINTING AUTHORITY FOR EXPERT PROCEEDINGS

Set out below is a suggested clause for use by parties who wish to have the ICC appoint an expert for *ad hoc* expert proceedings that are not administered by the ICC.

*In the event of any dispute arising out of or in connection with [clause X of the present contract], the parties agree to submit the dispute to ad hoc expert proceedings. The expert shall be appointed by the ICC International Centre for ADR in accordance with the Rules for the Appointment of Experts and Neutrals of the International Chamber of Commerce.*

**Notes:** The above clause may be used where the parties have provided in their contract for *ad hoc* expert proceedings (i.e. expert proceedings that are not administered by the ICC) but wish to have the ICC International Centre for ADR appoint the expert. In order to use the above clause, the parties will need to replace the phrase “[clause X of the present contract]” with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) to be referred to the expert proceedings.

Parties are also advised to take account of any factors, such as the requirements of mandatory law, that may have an impact on the effect of a clause or its enforceability under applicable law.

### Notes on Drafting a Clause Providing for the ICC as Appointing Authority for Neutrals

Parties may wish to have the ICC appoint a neutral for *ad hoc* mediation, neutral evaluation, dispute boards or other similar dispute resolution proceedings. Given the broad range of situations in which parties may wish to have a neutral appointed, it is not possible to offer a suggested clause that easily fits every situation. These notes are therefore provided to assist parties in drafting their tailor-made clause.

The clause should:

- clearly describe the type of dispute which is to be the subject of the proceedings (e.g. any dispute arising out of or in connection with the present contract or disputes arising under specific provisions of the contract);
- clearly describe the type of proceedings that the neutral and the parties are to use (e.g. mediation, neutral evaluation or dispute board); and
- state that the neutral shall be appointed by the ICC International Centre for ADR in accordance with the Rules for the Appointment of Experts and Neutrals of the International Chamber of Commerce.

At all times, care must be taken to avoid any risk of ambiguity in the drafting of the clause. Unclear wording causes uncertainty and delay and can hinder or even compromise the dispute resolution process.

# ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

## PREAMBLE

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The ICC Rules for the Appointment of Experts and Neutrals (the “Rules”) are administered by the ICC International Centre for ADR (the “Centre”), which is a separate administrative body within the International Chamber of Commerce (the “ICC”). In administering the Rules, the Centre is assisted by a Standing Committee, the statutes of which are set forth in Appendix I.

The Centre will appoint an expert or a neutral pursuant to the Rules in situations where the parties have agreed to use the Centre as the appointing authority or where the Centre is otherwise satisfied that there is a sufficient basis for appointing an expert or a neutral. In such cases the appointment by the Centre shall be binding on the parties. An expert appointed under the Rules may be a physical person or a legal person, such as a company or a partnership. The Centre’s role is limited to the process of appointing the expert or neutral in question and the Centre does not administer any proceedings under the Rules.

There are various situations in which the parties may agree to have an expert appointed by the Centre. Experts from a broad range of specializations may be appointed. Such specializations include accounting, finance, engineering, information technology, construction, energy and law. The parties may agree to appoint an expert to give a contractually binding expert determination or to give non-binding advice. This can be in either a contentious or non-contentious context.

There are also various situations in which the parties may agree to have a neutral appointed by the Centre. An appointed neutral may serve as a mediator or dispute board member or may assist them with the resolution of a dispute in any similar procedure that is not administered by the ICC.

## ARTICLE 1

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### Recourse to the Centre

- 1 Any request for the appointment of an expert or a neutral (the “Request for Appointment”) shall be submitted to the Centre. Any Request for Appointment shall be processed by the Centre only when it is based upon an agreement between the parties for the appointment of an expert or a neutral by the Centre or when the Centre is otherwise satisfied that there is a sufficient basis for appointing an expert or a neutral.
- 2 The Request for Appointment shall include:
  - a) the names, addresses, telephone numbers, email addresses and any other contact details of:
    - i each person filing the Request for Appointment and any other person involved in the relevant proceedings, including any other parties to the agreement for the appointment of an expert or a neutral; and
    - ii any person representing each person filing the Request for Appointment;
  - b) if applicable, the name and contact details of any person or entity relevant for checking potential conflicts of interest of the expert or neutral;
  - c) when the Request for Appointment is for an expert:
    - i a description of the field of activity of the expert to be appointed;
    - ii any desired attributes of the expert, including but not limited to education, qualifications, language skills and professional experience;
    - iii any undesired attributes of the expert and a description of any matters that would disqualify a potential expert;
    - iv a detailed description of the work to be carried out by the expert, including whether an expert report or site visits will be required;
    - v the desired time frame for completing such work;
    - vi any agreement as to the language(s) to be used by the expert or, in the absence thereof, any proposal as to such language(s);



## ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

- vii any agreement as to the location of any physical meetings or, in the absence thereof, any proposal as to such location; and
  - viii a copy of any agreement for the appointment of an expert by the Centre and/or of any other elements which form the basis of the Request for Appointment;
- d) when the Request for Appointment is for a neutral:
- i a description of the dispute resolution or other procedure for which a neutral's assistance is sought;
  - ii a description of the dispute, if any;
  - iii any desired attributes of the neutral, including but not limited to education, qualifications, language skills and professional experience;
  - iv any undesired attributes of the neutral and a description of any matters which would disqualify a potential neutral;
  - v the desired time frame for conducting and completing the procedure;
  - vi any agreement as to the language(s) to be used by the neutral or, in the absence thereof, any proposal as to such language(s);
  - vii any agreement as to the location of any physical meetings or, in the absence thereof, any proposal as to such location; and
  - viii a copy of any agreement for the appointment of a neutral by the Centre and/or of any other elements which form the basis of the Request for Appointment.
- 3 The Centre shall inform the other party or parties in writing of the Request for Appointment once the Centre has sufficient copies of the Request for Appointment and has received the filing fee required under Article 4.
- 4 When the Request for Appointment is not made jointly by all of the parties, and/or when the parties do not agree on the attributes of the expert or the neutral, and/or when the parties do not agree on the expert's work or the neutral's role, the Centre shall send a copy of the Request for Appointment to the other party or parties, who may make observations within a time limit fixed by the Centre. Observations received shall be communicated by the Centre to the

other party or parties for comments within a time limit fixed by the Centre.

- 5 The Centre shall proceed with the Request for Appointment as it sees fit and will inform the parties of how it will proceed.

## **ARTICLE 2**

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### **Written Notifications or Communications**

- 1 All written communications submitted to the Centre by any party, as well as all documents annexed thereto, shall be supplied in a number of copies sufficient to provide one copy for the Centre and one copy for each party.
- 2 All notifications or communications from the Centre shall be made to the last address of the party or its representative for whom the same are intended, as notified either by the party in question or by the other party. Such notification or communication may be made by delivery against receipt, registered post, courier, email or any other means of telecommunication that provides a record of the sending thereof.
- 3 A notification or communication shall be deemed to have been made on the day it was received by the party itself or by its representative, or would have been received if made in accordance with the preceding paragraph.

## **ARTICLE 3**

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### **The Appointment**

- 1 Any appointment of an expert or a neutral by the Centre shall be made by the Centre either through an ICC National Committee or Group, or otherwise. The Centre's role under the Rules ends upon the notification of the appointment, except as provided in Article 3(5) below.
- 2 In confirming or appointing an expert or a neutral, the Centre shall consider the prospective expert's or neutral's nationality, residence, training and experience, and the prospective expert's or neutral's availability and ability to conduct the work to be carried out. The Centre shall make all reasonable

## ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

efforts to appoint an expert or a neutral having the attributes, if any, which have been agreed upon by all of the parties. If, despite such efforts, the Centre is not able to identify an expert or a neutral having all of the attributes agreed upon by all of the parties, the Centre may ask the parties whether they wish the Centre to appoint more than one expert or neutral (who between them have the requested attributes), or whether the attributes agreed upon by the parties may be modified.

- 3 Every expert or neutral must be and remain impartial and independent of the parties involved in the proceedings, if any, unless otherwise agreed in writing by such parties.
- 4 Before an appointment, a prospective expert or neutral shall sign a statement of acceptance, availability, impartiality and independence. The prospective expert or neutral shall disclose in writing to the Centre any facts or circumstances which might be of such a nature as to call into question the expert's or neutral's independence in the eyes of the parties, as well as any circumstances that could give rise to reasonable doubts as to the expert's or neutral's impartiality. The Centre shall provide such information to the parties in writing and shall fix a time limit for any comments from them.
- 5 If any party files a written objection with the Centre asserting that the expert or neutral does not have the necessary attributes, is not fulfilling the expert's or neutral's functions or is not independent or impartial, the Centre may replace the expert or neutral after having considered the observations of the expert or neutral and the other party or parties.
- 6 Any information or documents given to the expert or the neutral by the Centre or any party in connection with the appointment shall be used by the expert or the neutral only for the purposes of the appointment and shall be treated by the expert or the neutral as confidential.

## ARTICLE 4

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### Costs for the Appointment

- 1 Each Request for Appointment must be accompanied by the non-refundable filing fee specified in Article 1 of Appendix II. No Request for Appointment shall be processed unless accompanied by the filing fee.
- 2 When the Centre is requested to appoint more than one expert or more than one neutral, the non-refundable filing fee accompanying the Request for Appointment and to be paid by the requesting Person is the amount referred to in the preceding paragraph multiplied by the number of experts or neutrals requested.
- 3 After taking into consideration the specificities of the case, the Centre may fix an additional fee, as specified in Article 2 of Appendix II, to be paid by the party or parties having filed the Request for Appointment.
- 4 Each written objection pursuant to Article 3(5) of the Rules must be accompanied by the non-refundable amount specified in Article 1 of Appendix II. No objection shall be processed unless accompanied by the requisite payment.
- 5 The Centre may cease acting if any requested additional fee or amount has not been paid.
- 6 When the Centre is requested to appoint an expert who has already been proposed by the Centre under the ICC Rules for the Proposal of Experts and Neutrals in connection with the same matter, the Centre shall charge a maximum of one half of the non-refundable filing fee specified in Article 1 of Appendix II in addition to the amount already paid pursuant to the ICC Rules for the Proposal of Experts and Neutrals.

**ARTICLE 5**

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**General Provisions**

- 1 An expert appointed under the Rules may be a physical person or a legal person, such as a company or a partnership. The term “expert” as used in the Rules applies *mutatis mutandis* to both physical and legal persons.
- 2 Where, prior to the date of the entry into force of the Rules, the parties have agreed to the appointment of an expert or a neutral pursuant to the Rules for Expertise of the ICC, they shall be deemed to have agreed to such appointment pursuant to the ICC Rules for the Appointment of Experts and Neutrals, unless any of the parties objects thereto, in which case the Rules for Expertise of the ICC shall apply.
- 3 The expert or neutral, the Centre, the ICC and its employees, and the ICC National Committees and Groups and their employees and representatives shall not be liable to any person for any act or omission in connection with the appointment of an expert or a neutral, except to the extent such limitation of liability is prohibited by applicable law.
- 4 In all matters not expressly provided for in the Rules, the Centre shall act in the spirit of the Rules.

# ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

## APPENDIX I - STATUTES OF THE STANDING COMMITTEE

### ARTICLE 1

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#### Composition of the Standing Committee

The Standing Committee is composed of a maximum of fifteen members (a president, three vice-presidents and up to eleven other members) appointed by the ICC for a three-year renewable term.

### ARTICLE 2

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#### Meetings

A meeting of the Standing Committee shall be convened by its president whenever necessary.

### ARTICLE 3

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#### Function and Duties of the Standing Committee

- 1 The Standing Committee shall advise the Centre concerning all aspects of the services carried out by the Centre pursuant to the Rules, in order to help ensure the quality of those services. It shall assist the Centre in reviewing the attributes of the experts or neutrals to be appointed under the Rules.
- 2 The Centre shall inform the members of the Standing Committee about all Requests for Appointment and ask the members for their advice.
- 3 The president shall make the final decision on the appointment of the expert or neutral.
- 4 The president will decide whether an objection is justified and shall decide on the manner in which a replacement will be made.
- 5 In the absence of the president, or otherwise at the president's request, one of the three vice-presidents shall be authorized by the Centre to fulfil the tasks of the president, including taking decisions pursuant to these statutes.

### ARTICLE 4

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#### Confidentiality

The work of the Standing Committee and the Centre is of a confidential nature, which must be respected by everyone who participates in that work in whatever capacity.

# ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

## APPENDIX II – COSTS

### ARTICLE 1

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#### Filing Fee

Save as provided in Article 3 below, each Request for Appointment pursuant to the Rules must be accompanied by a filing fee of US\$ 3,000 per expert or neutral to be appointed. The filing fee is non-refundable. No Request for Appointment shall be processed unless accompanied by the requisite payment.

### ARTICLE 2

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#### Additional Fee for Appointment

- 1 Depending on the specificities of the case, the Centre may request the payment of an additional fee from the party or parties having filed the Request for Appointment.
- 2 When fixing the additional fee, the Centre shall take into account all circumstances of the case, including the requested attributes of the expert or neutral to be appointed, the specific nature of the case, including the amount of time needed by the Centre to identify suitable candidates, the time frame in which the Centre shall proceed with the appointment and any other relevant circumstances.
- 3 The additional fee shall not exceed US\$ 3,000 per expert or neutral to be appointed.

## **ARTICLE 3**

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### **Appointment of a Neutral to act as Mediator**

If the appointment of a neutral who shall act as a mediator is made at the joint request of all of the parties in ongoing proceedings pursuant to the ICC Rules of Arbitration, the appointment of the neutral shall be free of charge.

## **ARTICLE 4**

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### **Additional Costs for Objection and Replacement**

Each written objection to the appointment of an expert or a neutral by the Centre pursuant to Article 3(5) of the Rules shall be accompanied by a non-refundable amount of US\$ 3,000. The amount is to be paid by the party or parties filing the objection. No objection shall be processed unless accompanied by the requisite payment.

## **ARTICLE 5**

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### **Administrative Expenses**

For additional services, the Centre may at its discretion fix ICC administrative expenses, which shall be commensurate with the services provided and shall normally not exceed a maximum amount of US\$10,000.



# ICC RULES FOR THE APPOINTMENT OF EXPERTS AND NEUTRALS

## APPENDIX II - COSTS

### ARTICLE 6

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#### Currency, VAT and Scope

- 1 All amounts fixed by the Centre or pursuant to any Appendices to the Rules are payable in US dollars except where prohibited by law, in which case the ICC may apply a different scale and fee arrangement in another currency.
- 2 Any ICC administrative expenses, including the filing fee and the additional fee, may be subject to value added tax (VAT) or charges of a similar nature at the prevailing rate.
- 3 The above provisions on the costs of appointments of experts and neutrals shall be effective as of 1 February 2015 in respect of any Request for Appointment filed on or after such date under the present Rules and in respect of any request for the appointment of an expert filed on or after such date under the Rules for Expertise of the ICC.

# **ADMINISTRATION OF EXPERT PROCEEDINGS**

**SUGGESTED CLAUSES  
REFERRING TO THE  
ICC RULES FOR THE  
ADMINISTRATION OF  
EXPERT PROCEEDINGS**

**ICC RULES FOR THE  
ADMINISTRATION OF  
EXPERT PROCEEDINGS**

IN FORCE AS FROM 1 FEBRUARY 2015

## SUGGESTED CLAUSES REFERRING TO THE ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

Set out below are suggested clauses covering different situations. Parties should use whichever clause corresponds to their needs. It may be necessary or desirable for them to adapt the chosen clause to their particular circumstances.

At all times, care must be taken to avoid any risk of ambiguity in the drafting of the clause. Unclear wording causes uncertainty and delay and can hinder or even compromise the dispute resolution process. When incorporating any of the clauses below in their contracts, parties are advised to take account of any factors, such as the requirements of mandatory law, that may have an impact on their effect or enforceability under applicable law.

### Clause A: Optional Administered Expert Proceedings

*The parties may at any time, without prejudice to any other proceedings, agree to submit any dispute arising out of or in connection with [clause X of the present contract] to administered expert proceedings in accordance with the Rules for the Administration of Expert Proceedings of the International Chamber of Commerce.*

**Notes:** By including this clause, the parties acknowledge that proceedings under the ICC Rules for the Administration of Expert Proceedings are available to them at any time. This clause does not commit the parties to do anything, but the presence of the clause is designed to remind them of the possibility of using administered expert proceedings. In addition, it can provide a basis for one party to propose expert proceedings to the other party.

In order to use Clause A, the parties will need to replace the phrase “[clause X of the present contract]” in the suggested clause with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) that may be referred to expert proceedings.

## Clause B: Obligation to Submit Dispute to Non-Binding Administered Expert Proceedings

*In the event of any dispute arising out of or in connection with [clause X of the present contract], the parties agree to submit the dispute to administered expert proceedings in accordance with the Rules for the Administration of Expert Proceedings of the International Chamber of Commerce.*

**Notes:** Under the ICC Rules for the Administration of Expert Proceedings, the expert's findings are not binding upon the parties unless the parties expressly agree to be bound by them. Clause B, by referring generally to the Rules, creates an obligation to refer a dispute to non-binding expert proceedings under the ICC Rules for the Administration of Expert Proceedings. It is designed to ensure that when a dispute of a specified type arises, the parties will attempt to resolve the dispute by submitting it to expert proceedings under the Rules.

Clause B may be appropriate, for example, where the parties intend to use the expert's non-binding findings as a basis for reaching an agreed settlement of the dispute that is the subject of the proceedings.

In order to use Clause B, the parties will need to replace the phrase "[clause X of the present contract]" in the suggested clause with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) to be referred to the expert proceedings.

## SUGGESTED CLAUSES REFERRING TO THE ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

### Clause C: Obligation to Submit Dispute to Contractually Binding Administered Expert Proceedings

*In the event of any dispute arising out of or in connection with [clause X of the present contract], the parties agree to submit the dispute to administered expert proceedings in accordance with the Rules for the Administration of Expert Proceedings of the International Chamber of Commerce. The parties agree that the findings of the expert shall be contractually binding upon them.*

**Notes:** Clause C provides a simple form of clause for binding expert proceedings, sometimes referred to as expert determination proceedings. Clause C creates an obligation to refer a dispute to binding expert proceedings under the ICC Rules for the Administration of Expert Proceedings. It is designed to ensure that when a dispute of a specified type arises, the parties will resolve the dispute by submitting it to expert proceedings under the Rules.

Clause C is appropriate where the parties want to be contractually bound by the expert's findings.

In order to use Clause C, the parties will need to replace the phrase “[clause X of the present contract]” in the suggested clause with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) to be referred to the expert proceedings.

When Clause C is used, the parties should determine the effect under applicable law of their agreement to be contractually bound by the expert's findings.

A more complex tailor-made clause may be needed in certain cases (for example, where a price adjustment in an M&A contract is referred to an expert accountancy firm for determination). Such a tailor-made clause may still provide for the expert determination to be conducted pursuant to the ICC Rules for the Administration of Expert Proceedings.

## Clause D: Obligation to Submit Dispute to Non-Binding Administered Expert Proceedings, Followed by Arbitration if Required

*In the event of any dispute arising out of or in connection with [clause X of the present contract], the parties agree to submit the dispute, in the first instance, to administered expert proceedings in accordance with the Rules for the Administration of Expert Proceedings of the International Chamber of Commerce. After the International Centre for ADR's notification of the termination of the administered expert proceedings, the dispute, if it has not been resolved, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.*

**Notes:** Clause D is appropriate where the parties intend to use the expert's non-binding findings as a basis for reaching an agreed settlement of the dispute that is the subject of the administered expert proceedings. If no settlement is reached, then the dispute is referred to ICC arbitration.

In order to use Clause D, the parties will need to replace the phrase “[clause X of the present contract]” in the suggested clause with a reference to the relevant contractual provision(s), so as to identify clearly the type of dispute(s) to be referred to the expert proceedings and subsequently to ICC arbitration proceedings.

If desired, Clause D can be modified to provide instead for judicial or other similar proceedings following the administered expert proceedings.

### Specific Issues Concerning the Emergency Arbitrator Provisions

The parties should determine whether they wish to have recourse to the Emergency Arbitrator Provisions in the ICC Arbitration Rules under Clause D.

If the parties wish to exclude any recourse to the Emergency Arbitrator Provisions, the following wording should be added to Clause D:

*The Emergency Arbitrator Provisions shall not apply.*

## **SUGGESTED CLAUSES REFERRING TO THE ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS**

If the parties wish to have recourse to the Emergency Arbitrator Provisions, and want that recourse expressly to be available prior to the termination of the expert proceedings, the following wording should be added to Clause D:

*The requirement to refer a dispute to administered expert proceedings, before referring a dispute to arbitration, shall not prevent the parties from making an application, prior to termination of the administered expert proceedings, for Emergency Measures under the Emergency Arbitrator Provisions in the Rules of Arbitration of the International Chamber of Commerce.*

If the parties wish to have recourse to the Emergency Arbitrator Provisions, but only after termination of the administered expert proceedings, the following wording should be added to Clause D:

*The parties shall not have the right to make an application for Emergency Measures under the Emergency Arbitrator Provisions in the Rules of Arbitration of the International Chamber of Commerce prior to the International Centre for ADR's notification of the termination of the administered expert proceedings.*

# ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

## PREAMBLE

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The ICC Rules for the Administration of Expert Proceedings (the “Rules”) are administered by the ICC International Centre for ADR (the “Centre”), which is a separate administrative body within the International Chamber of Commerce (the “ICC”). In administering the Rules, the Centre is assisted by a Standing Committee, the statutes of which are set forth in Appendix I.

When disputes or differences arise, parties may wish to have recourse to an expert who can provide findings on specified issues through expert proceedings administered by the ICC. Such issues may concern specialist areas such as accounting, finance, engineering, information technology, construction, energy and law. The expert may be a physical person or a legal person, such as a company or a partnership.

In the absence of an agreement of the parties to the contrary, the expert’s findings shall be non-binding and can be used by the parties as a basis for negotiations with a view to reaching a settlement of their dispute or differences. However, the parties may agree, subject to applicable law, that the expert’s findings shall constitute a contractually binding expert determination. In all cases, an expert appointed under the Rules is not an arbitrator, and the expert’s findings are not enforceable like an arbitral award. Unless otherwise agreed by the parties, the expert’s report shall be admissible in any judicial or arbitral proceedings between the same parties.

The Centre will administer expert proceedings pursuant to the Rules when all of the parties have agreed to refer a dispute to the Rules or where the Centre is otherwise satisfied that there is a sufficient basis for administering expert proceedings under the Rules. In administering the proceedings, the Centre appoints the expert in the absence of a joint nomination by the parties, coordinates between the parties and the expert, initiates the appropriate steps to encourage the expeditious completion of the expert proceedings, supervises the financial aspects of the proceedings and scrutinizes the expert’s report.



## **ARTICLE 1**

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### **Recourse to the Centre**

- 1 Any request for the administration of expert proceedings (the “Request”) shall be submitted to the Centre. Any Request shall be processed by the Centre only when it is based upon an agreement for the administration of expert proceedings by the Centre or when the Centre is otherwise satisfied that there is a sufficient basis for administering expert proceedings.
- 2 The Request shall include:
  - a) the names, addresses, telephone numbers, email addresses and any other contact details of the parties to the dispute and any person(s) representing the parties in the proceedings;
  - b) if applicable, the name and contact details of any person or entity relevant for checking potential conflicts of interest of the expert;
  - c) a description of the dispute including, if possible, an assessment of its value;
  - d) a description of the field of activity of the expert to be appointed;
  - e) any desired attributes of the expert, including but not limited to education, qualifications, language skills and professional experience;
  - f) any undesired attributes of the expert and a description of any matters that would disqualify a potential expert;
  - g) a detailed description of the work to be carried out by the expert, including whether site visits will be required;
  - h) the desired time frame for completing such work;
  - i) any agreement as to the location of any physical meetings between the expert and the parties or, in the absence thereof, any proposal as to such location;
  - j) any agreement as to the language(s) of the proceedings or, in the absence thereof, any proposal as to such language(s);

- k) any agreement that the findings of the expert shall be contractually binding on the parties or, in the absence thereof, any proposal to that effect; and
  - l) a copy of any agreement for the administration of expert proceedings by the Centre and/or of any other elements which form the basis of the Request.
- 3 Together with the Request, the party or parties filing the Request shall pay the non-refundable amount specified in Article 1 of Appendix II.
  - 4 The Centre shall acknowledge receipt of the Request and of the filing fee in writing to the party or parties that filed the Request.
  - 5 The Centre shall notify the other party or parties in writing of the Request once the Centre has sufficient copies of the Request and has received the filing fee required under Article 12.
  - 6 The date on which the Request is received by the Centre shall, for all purposes, be deemed to be the date of the commencement of the expert proceedings.

## **ARTICLE 2**

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### **Written Notifications or Communications**

- 1 All written communications submitted to the Centre by any party to the expert proceedings, as well as all documents annexed thereto, shall be supplied in a number of copies sufficient to provide one copy for the Centre, one copy for each party and one copy for each expert.
- 2 All notifications or communications from the Centre and the expert shall be made to the last address of the party or its representative for whom the same are intended, as notified either by the party in question or by the other party. Such notification or communication may be made by delivery against receipt, registered post, courier, email or any other means of telecommunication that provides a record of the sending thereof.

## ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

- 3 A notification or communication shall be deemed to have been made on the day it was received by the party itself or by its representative, or would have been received if made in accordance with the preceding paragraph.

### ARTICLE 3

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#### Selection of the Expert

- 1 The parties may jointly nominate an expert for confirmation by the Centre.
- 2 In the absence of a joint nomination of an expert by the parties, the Centre shall appoint an expert.
- 3 Before appointment or confirmation, a prospective expert shall sign a statement of acceptance, availability, impartiality and independence. The prospective expert shall disclose in writing to the Centre any facts or circumstances which might be of such a nature as to call into question the expert's independence in the eyes of the parties, as well as any circumstances that could give rise to reasonable doubts as to the expert's impartiality. The Centre shall provide such information to the parties in writing and shall fix a time limit for any comments from them.
- 4 In confirming or appointing an expert, the Centre shall consider the prospective expert's nationality, residence, training and experience, and the prospective expert's availability and ability to conduct the expert proceedings in accordance with the Rules.
- 5 Where the Centre appoints an expert, it shall do so either on the basis of a proposal by an ICC National Committee or Group, or otherwise. The Centre shall make all reasonable efforts to appoint an expert having the attributes, if any, that have been agreed upon by all of the parties. If, despite such efforts, the Centre is not able to identify an expert having all of the attributes agreed upon by all parties, the Centre may ask the parties whether they wish the Centre to appoint more than one expert (who between them have the requested attributes), or whether the attributes agreed upon by the parties may be modified.

- 6 Upon agreement of all of the parties, the parties may nominate more than one expert or request the Centre to appoint more than one expert, in accordance with the provisions of the Rules. In appropriate circumstances, the Centre may propose to the parties that there be more than one expert.
- 7 The Centre may terminate the administered expert proceedings by notifying the parties that, in the judgment of the Centre, there has been a failure to nominate an expert or that it has not been reasonably possible to appoint an expert.

#### **ARTICLE 4**

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##### **Continued Impartiality and Independence of the Expert - Replacement of the Expert**

- 1 Every expert must be and remain impartial and independent of the parties involved in the expert proceedings, unless otherwise agreed in writing by such parties.
- 2 An expert shall immediately disclose in writing to the Centre and to the parties any facts or circumstances of a similar nature to those referred to in Article 3(3) concerning the expert's impartiality or independence which may arise during the expert proceedings.
- 3 An expert confirmed or appointed by the Centre, who has died or resigned or is unable to carry out the expert's functions, shall be replaced.
- 4 An expert confirmed or appointed by the Centre shall be replaced upon acceptance by the Centre of a written request of all of the parties.
- 5 If any party files a written objection with the Centre asserting that the expert does not have the necessary attributes, is not fulfilling the expert's functions in accordance with the Rules or in a timely fashion, or is not independent or impartial, the Centre may replace the expert after having considered the observations of the expert and the other party or parties.
- 6 When an expert is to be replaced, the Centre has discretion to decide whether or not to follow the original appointing process.

## **ARTICLE 5**

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### **Location and Language(s) of the Expert Proceedings**

- 1 In the absence of an agreement of the parties, the expert, after consulting the parties, shall determine the location of any physical meeting of the expert and the parties.
- 2 In the absence of an agreement of the parties, the expert, after consulting the parties, shall determine the language(s) in which the expert proceedings shall be conducted.

## **ARTICLE 6**

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### **The Expert's Mission**

- 1 The expert and the parties shall make every effort to conduct the expert proceedings in an expeditious and cost-effective manner, having regard to the complexity and value of the findings to be made in the expert's report.
- 2 As soon as the expert has received the file from the Centre, the expert, after having consulted the parties, shall set out the expert's mission in a written document. That document shall be consistent with the Rules and any agreement of all of the parties. It shall be communicated to the parties and to the Centre and shall include:
  - a) the names in full, descriptions, addresses and other contact details of the expert, of each of the parties and of any person(s) representing a party in the administered expert proceedings;
  - b) addresses to which notifications and communications arising in the course of the administered expert proceedings may be made;
  - c) a list of the issues on which the expert shall make findings in the expert's report;
  - d) the procedure to be followed by the expert; and
  - e) the location of any physical meeting of the expert and the parties and the language(s) in which the administered expert proceedings will be conducted.

- 3 Modifications to the expert's mission may be made by the expert, in writing, only after consultation with the parties. Any such written modifications shall be communicated to the parties and to the Centre.
- 4 In the event of a disagreement between the parties as to the scope of the expert's mandate, the expert may continue with the administered expert proceedings to the extent the expert considers that the issues set out in the expert's mission fall within the scope of the expert's mandate. Unless otherwise agreed by all of the parties, the expert shall give reasons for such considerations. The continuation of the administered expert proceedings shall be without prejudice to any determination by an arbitral tribunal or a competent judicial authority as to the scope of the expert's mandate.

## **ARTICLE 7**

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### **Procedural Timetable**

Upon preparing the document setting out the expert's mission or as soon as possible thereafter, the expert, after having consulted the parties, shall prepare a procedural timetable for the conduct of the administered expert proceedings. The procedural timetable shall be communicated to the parties and to the Centre. Any subsequent modifications to the provisional timetable shall be promptly communicated to the parties and to the Centre.

## **ARTICLE 8**

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### **The Expert's Report**

- 1 The expert's main task is to make findings in a written expert's report within the limits set by the expert's mission after giving each party a reasonable opportunity to present its case. Unless otherwise agreed by all of the parties, the expert's report shall give reasons for the findings made.
- 2 The findings of the expert shall not be binding on the parties, unless all of the parties expressly agree in writing that such findings shall be contractually binding upon them.

## ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

- 3 Unless otherwise agreed by all of the parties, the expert's report shall be admissible in any judicial or arbitral proceedings in which all of the parties thereto were parties to the administered expert proceedings in which such report was prepared.

### ARTICLE 9

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#### Scrutiny of the Expert's Report by the Centre

- 1 The expert's report shall be submitted in draft form to the Centre before it is signed. The Centre may lay down modifications as to the form of the report and, without affecting the expert's liberty of decision, may also draw the expert's attention to points of substance. No report shall be communicated to the parties by the expert. No report shall be signed by the expert prior to the Centre's approval of such report.
- 2 The Centre may waive the requirements laid down in Article 9(1) if expressly requested to do so in writing by all the parties and if the Centre considers that such a waiver is appropriate under the circumstances of the case.

### ARTICLE 10

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#### Notification of the Expert's Report and Termination of the Administered Expert Proceedings

The expert's report, once signed by the expert, shall be sent to the Centre in as many copies as there are parties plus one for the Centre. Thereafter, the Centre shall notify the expert's report to the party or parties and declare in writing that the administered expert proceedings have been terminated.

## ARTICLE 11

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### Duties and Responsibilities of the Parties and the Expert

- 1 The non-participation of a party in the administered expert proceedings does not deprive the expert of the power to make findings and render the expert's report, provided that such party has been given the opportunity to participate.
- 2 In agreeing to the application of the Rules, the parties shall provide the expert with all necessary means to implement the expert's mission and, in particular, make available all documents the expert may consider necessary and also grant the expert free access to any place where the expert may be required to go for the proper completion of the expert's mission. The expert shall give each party the opportunity to comment on any information or documents provided by any other party.
- 3 Any information or documents given to the expert by the Centre or any party in connection with the administered expert proceedings shall be used by the expert only for the purposes of such proceedings and shall be treated by the expert as confidential.

## ARTICLE 12

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### Fees and Costs

- 1 Each Request must be accompanied by the non-refundable filing fee specified in Article 1 of Appendix II. This amount will be credited to the requesting party's or parties' portion of the deposit pursuant to Article 12(2). No Request shall be processed unless accompanied by the filing fee.
- 2 Following the receipt of a Request, the Centre shall request the parties to pay one or more deposits in an amount likely to cover the administrative costs of the Centre and the fees and expenses of the expert for the administered expert proceedings, as set out in Articles 2 and 3 of Appendix II. The Centre may stay such proceedings until payment of such deposit has been received by the Centre, or the Centre may set a time limit on the expiry of which the administered expert proceedings may be considered withdrawn.



## ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

- 3 Each written objection pursuant to Article 4(5) of the Rules must be accompanied by the non-refundable amount specified in Article 1 of Appendix II. No objection shall be processed unless accompanied by the requisite payment.
- 4 Upon the termination of administered expert proceedings, the Centre shall fix the total costs of the proceedings and shall, as the case may be, reimburse the party or parties for any excess payment or bill the party or parties for any balance required pursuant to the Rules. The balance, if any, shall be payable before the notification of the final expert's report to the party or parties.
- 5 All above deposits and costs shall be borne in equal shares by the parties, unless they agree otherwise in writing. However, any party shall be free to pay the unpaid balance of such deposits and costs should the other party or parties fail to pay its or their share.
- 6 A party's other expenditure shall remain the responsibility of that party, unless otherwise agreed by the parties.

### ARTICLE 13

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#### Waiver

A party that proceeds with the administered expert proceedings without raising an objection to a failure to comply with any provision of the Rules, any direction given by the Centre or by the expert, any requirement of the expert's mission, or any requirement relating to the appointment of an expert or to the conduct of the administered expert proceedings, shall be deemed to have waived its right to object.

## ARTICLE 14

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### General Provisions

- 1 An expert appointed under the Rules may be a physical person or a legal person, such as a company or a partnership. The term “expert” as used in the Rules applies *mutatis mutandis* to both physical and legal persons.
- 2 Where, prior to the date of the entry into force of the Rules, the parties have agreed to refer their dispute to the administration of expertise proceedings pursuant to the Rules for Expertise of the ICC, they shall be deemed to have referred to the ICC Rules for the Administration of Expert Proceedings, unless any of the parties objects thereto, in which case the Rules for Expertise of the ICC shall apply.
- 3 The expert, the Centre, the ICC and its employees, and the ICC National Committees and Groups and their employees and representatives shall not be liable to any person for any act or omission in connection with the administration of expert proceedings, except to the extent such limitation of liability is prohibited by applicable law.
- 4 In all matters not expressly provided for in the Rules, the Centre and the expert shall act in the spirit of the Rules.

# ICC RULES FOR THE ADMINISTRATION OF EXPERT PROCEEDINGS

## APPENDIX I - STATUTES OF THE STANDING COMMITTEE

### ARTICLE 1

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#### Composition of the Standing Committee

The Standing Committee is composed of a maximum of fifteen members (a president, three vice-presidents and up to eleven members) appointed by the ICC for a three-year renewable term.

### ARTICLE 2

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#### Meetings

A meeting of the Standing Committee shall be convened by its president whenever necessary.

### ARTICLE 3

---

#### Function and Duties of the Standing Committee

- 1 The Standing Committee shall advise the Centre concerning all aspects of the proceedings, in order to help ensure the quality of the services carried out by the Centre. It shall assist the Centre in reviewing the attributes of the experts to be confirmed or appointed and in scrutinizing the expert's report pursuant to the Rules.
- 2 The president shall make the final decision on the confirmation or appointment of experts.
- 3 The Standing Committee shall be informed of the death or resignation of any expert, of any objection by a party or parties or the Centre concerning an expert, or of any other matter requiring the replacement of an expert. It shall provide recommendations to the president as to whether there is any reason not to comply with a request of all of the parties pursuant to Article 4(4) of the Rules and as to whether the objection of a party pursuant to Article 4(5) of the Rules is justified.

- 4 The president will make the final decision on whether the objection is justified and on the manner in which a replacement will be made.
- 5 Upon the termination of administered expert proceedings, the president shall fix the expert's fees and expenses in accordance with the Rules.
- 6 In the absence of the president, or otherwise at the president's request, one of the three vice-presidents shall be authorized by the Centre to fulfil the tasks of the president, including taking decisions pursuant to these statutes.

## **ARTICLE 4**

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### **Confidentiality**

The work of the Standing Committee and the Centre is of a confidential nature, which must be respected by everyone who participates in that work in whatever capacity.

**ICC RULES FOR THE ADMINISTRATION  
OF EXPERT PROCEEDINGS**

**APPENDIX II – COSTS**

**ARTICLE 1**

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**Filing Fee**

Each Request pursuant to the Rules must be accompanied by a filing fee of US\$ 3,000. The filing fee is non-refundable and shall be credited towards the deposit of the party or parties having filed the Request. No Request shall be processed unless accompanied by the requisite payment.

**ARTICLE 2**

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**Administrative Expenses**

1 The administrative expenses of the ICC for the administration of expert proceedings shall be fixed at the Centre’s discretion depending on the tasks carried out by the Centre. The administrative expenses are added to the filing fee; they shall normally not be less than US\$ 2,500 and they shall not exceed the following:

US\$ 10,000	for amounts in dispute up to and including US\$ 200,000
US\$ 15,000	for amounts in dispute between US\$ 200,001 and US\$ 2,000,000
US\$ 20,000	for amounts in dispute between US\$ 2,000,001 and US\$ 10,000,000
US\$ 30,000	for amounts in dispute between US\$ 10,000,001 and US\$ 50,000,000
US\$ 40,000	for amounts in dispute between US\$ 50,000,001 and US\$ 100,000,000
US\$ 50,000	for amounts in dispute over US\$ 100,000,000

2 Where the amount in dispute is not stated, the administrative expenses may be fixed by the Centre at its discretion, taking into account all the circumstances of the case, including indications regarding the value of the dispute, but they shall not exceed US\$ 50,000.

- 3 In exceptional circumstances, the Centre may fix the administrative expenses at a higher figure than that which would result from the application of the above scale, provided that such expenses shall normally not exceed the maximum amount of the scale.
- 4 The Centre may require the payment of administrative expenses in addition to those provided in the scale described in Article 2(1) of this Appendix as a condition for holding the proceedings in abeyance at the request of the parties or of one of them with the acquiescence of the other. Such abeyance fee shall normally not exceed US\$ 2,000 per party per year.

### **ARTICLE 3**

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#### **Expert's Fees and Expenses**

- 1 The fees of the expert shall be calculated on the basis of the time reasonably spent by the expert in the administered expert proceedings, taking into account the diligence and efficiency of the expert and any other relevant circumstances. These fees shall be based on an hourly rate fixed by the Centre when appointing or confirming the expert and after having consulted the expert and the parties. The hourly rate shall be reasonable in amount and shall be determined in light of the complexity of the work to be performed by the expert.
- 2 The amount of reasonable expenses of the expert shall be fixed by the Centre.
- 3 The expert's fees and expenses shall be fixed exclusively by the Centre as required by the Rules. Separate fee arrangements between the parties and the expert are not permitted by the Rules.

### **ARTICLE 4**

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#### **Additional Costs for Objection and Replacement**

Each written objection to the appointment of an expert by the Centre pursuant to Article 4(5) of the Rules shall be accompanied by a non-refundable amount of US\$ 3,000. The amount is to be paid by the party or parties filing the objection. No objection shall be processed unless accompanied by the requisite payment.

## **ARTICLE 5**

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### **Early Termination**

If administered expert proceedings terminate before the notification of the expert's report, the Centre shall fix the costs of the administered expert proceedings, including the fees and expenses of the expert and the ICC administrative expenses, at its discretion, taking into account the stage attained in the administered expert proceedings and any other relevant circumstances.

## **ARTICLE 6**

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### **Currency, VAT and Scope**

- 1 All amounts fixed by the Centre or pursuant to any Appendix to the Rules are payable in US dollars except where prohibited by law, in which case the ICC may apply a different scale and fee arrangement in another currency.
- 2 Amounts paid to the expert do not include any possible value added tax (VAT) or other taxes or charges and imposts applicable to the expert's fees. Parties have a duty to pay any such taxes or charges; however, the recovery of any such taxes or charges is a matter solely between the expert and the parties.
- 3 Any ICC administrative expenses may be subject to value added tax (VAT) or charges of a similar nature at the prevailing rate.
- 4 The above provisions on the costs of the administration of expert proceedings shall be effective as of 1 February 2015 in respect of all proceedings commenced on or after such date under the present Rules and in respect of the administration of any expertise proceedings commenced on or after such date under the Rules for Expertise of the ICC.



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