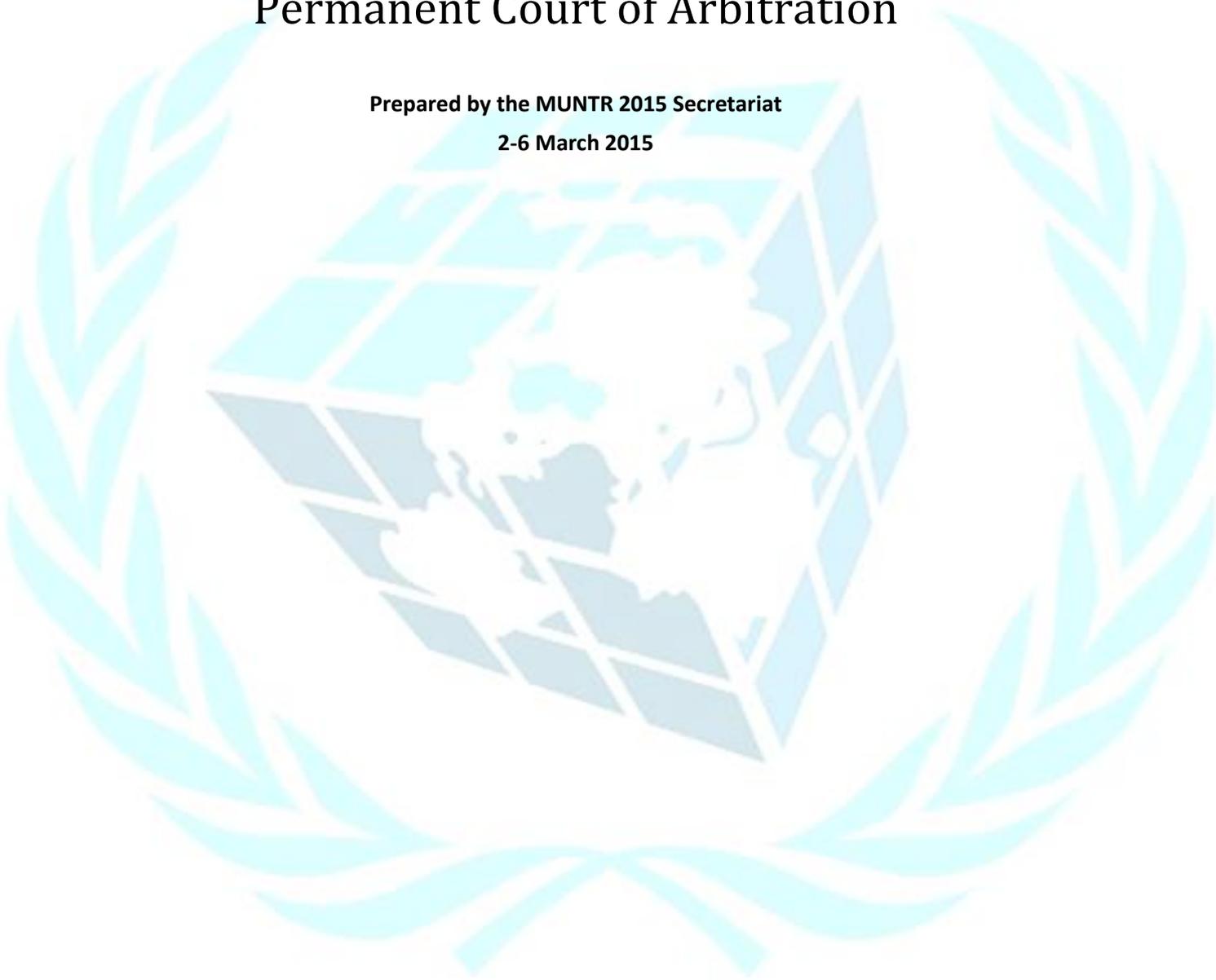




Rules of Procedure

Permanent Court of Arbitration

Prepared by the MUNTR 2015 Secretariat
2-6 March 2015





A. General Statements

Article 1: Scope

1. The Model Permanent Court of Arbitration Rules of Procedure shall be considered as adopted in advance and shall not be challenged or appealed.

Article 2: Language

1. The official language in all matters related to the Court's function shall be English.

Article 3: Courtesy and Disciplinary Rules

1. All arbitrators and the agents hold the responsibility to show utmost respect to each other and shall act accordingly.
2. One to one discussions during the sessions are strictly prohibited, with the exception of communication through the note passing.
3. Three official warnings which may only be given when a certain member of the court persistently resists the Rules of Procedure may cause the dismissal of the concerned member temporarily or indefinitely.

Article 4: Communication via Note-Passing

1. Written notes are the means of communication between the Members of the Court not recognized to speak.
2. Notes are distributed by the Administrative Staff present in the Court.
3. All notes must be in English and the content of the notes shall not be irrelevant or abusive, otherwise, the Administrative Staff may take the note to the Board of Tribunal for investigation and the Board may decide not to pass the note if the language or the content is found to be inappropriate.
4. Communication through Note- Passing between an arbitrator and an agent is strictly prohibited.

Article 5: Statements by the Secretariat and Organization Team

1. The Secretary General, members of the Academic and Organization teams may at any time address the Court in relation with the cases or organizational matters.

Article 6: Composition of the Court

1. The Tribunal of the Permanent Court of Arbitration shall consist of two Presidents, one Rapporteur, 15 arbitrators and two agents' advocates for each party.



Article 7: Quorum

1. The arbitrators and the agents are expected to attend on time and not to skip any sessions unless there is an urgent health issue at stake.
2. The quorum is met if at least two-thirds of the registered arbitrators are present.
3. Verification of quorum shall take place at the commencement of the every session by a roll call conducted by the Presidency.
4. When a Member of the Court is late for the roll call of the session, a note should be sent to the Presidency requesting for being noticed and, in case of an arbitrator being late, for being eligible for the Speakers' List.
5. A quorum will be assumed to be present during sessions, unless specifically challenged and shown to be absent by a roll call or deemed as such by the Presidency.
6. Decisions taken during the Arbitrators' Deliberation sessions shall be taken by the referred majority of the arbitrators present.

B. Members of the Court

Article 8: President

1. MUNTR 2015 Permanent Court of Arbitration shall have **two presidents of equal authority**.
2. Presidents of the Tribunal shall be appointed by the Secretariat prior to the conference amongst the applicants and they shall remain in duty until the closing of proceedings unless otherwise is decided by the Secretariat.
3. The president shall be responsible for the implementation of the Rules of Procedure prepared for the Permanent Court of Arbitration. This moderation duty will be the same as a chair's in another committee simulated in MUNTR 2015.
4. The presidents also act as arbitrators. They shall have equal vote and say with another arbitrator in all matters relating to the arbitration before the Tribunal.
5. Presidents shall also have one vote in procedural voting procedures.
6. The presidents are obliged to follow the instructions given by the Secretariat. Should any disagreement or ambiguity exist as to which article or provision of this Rules of Procedure shall apply to a specific situation the decision of the Secretariat shall be certain.
7. Although the presidents shall dictate the implementation of Rules of Procedure in the Court, they shall not have authority over the decision of the other arbitrators unless certain arbitrators' opinion is obviously biased in which case the concerned arbitrator shall be given an official warning by the Presidency or the Secretariat.



Article 9: Rapporteur

1. The Rapporteur of the Permanent Court of Arbitration shall be appointed by the Secretariat prior to the conference and s/he shall remain in duty until the closing of proceedings.
2. The Rapporteur will primarily be responsible for taking copious notes of arbitration proceedings, arguments of the conflicted parties, deliberation of the arbitrators and the decisions taken.
3. The Rapporteur shall not possess the right to participate in decision-making process. In other words, s/he does not have the right to vote in procedural and substantive matters.
4. The Rapporteur will take and record the oaths of the agents and witnesses before the opening statements of the agents or the testimony of the witnesses.
5. The Oath shall follow as: “*I solemnly declare upon my honor and conscience that I will speak the truth, the whole truth and nothing but the truth*”.
6. The Rapporteur is obliged to study the arbitrations to the detail. If need be, the rapporteur may be required to share his or her knowledge of facts by the majority of arbitrators. This motion may only be given during the arbitrators’ deliberation or anytime that the agents are asked to leave the court room.
7. The Rapporteur will provide the linkage between the Tribunal and the Press. S/he is authorized to inform the press of the proceedings; however, any information that will have impact on the trial proceeding shall not be released.

Article 10: Arbitrators

1. The Arbitrators shall be appointed by the Secretariat amongst the applicants prior to the conference and shall remain in duty until the closing of proceedings unless otherwise is decided by the Secretariat.
2. The Arbitrators are members of the Tribunal which has been registered by the Permanent Court of Arbitration for the two appointed arbitrations.
3. A solemn declaration shall be made by the arbitrators prior to the trial. This declaration shall follow as: “I, Arbitrator *Surname*, solemnly declare that I will perform my duties and exercise my powers as an arbitrator honorably, faithfully, impartially and conscientiously.”
4. Arbitrators will be provided with access to the evidence portal throughout the conference. They will listen to the statements, evidence presentations and rebuttals of the agents, will listen to the testimonies of the witnesses and question them, and they may make researches for evidence by their own.
5. The arbitrators are authorized to invite experts on the specific topics throughout the arbitrations to the Court and consult them. For the consultation procedure, the arbitrators shall prepare their questions and submit them to the Secretariat beforehand. If the Secretariat approves the request of the Tribunal, an expert on the topic will be



appointed. The arbitrators do not have an obligation to solely depend on the evidences presented to them by the agents.

6. If the Tribunal decides to take evidences which have not been included in the evidence presentations of the agents into consideration, they will be obliged to inform both parties about the content of the evidence, explain the legal ground they will depend on and will provide a copy of the evidence for both teams if requested. The teams may raise a motion to make a defense upon the foregoing evidence. The defenses of the teams are not binding for the Tribunal.
7. Arbitrators are responsible and authorized to examine the merits of the claims of the parties, analyze the disputes brought before them, select the rules of international law they will apply, determine which evidences and sources of law they will take into consideration, make assessment on each claim and reach a final decision. The final decision of the Tribunal shall be written in the final award prepared by the arbitrators.
8. Each arbitrator shall have one vote in procedural and substantive voting procedures.
9. The decisions and actions of the arbitrators must be unbiased. If they fail to meet this criterion they may be given official warning by the President or the Secretariat as stated by Section B, Article 8, and paragraph 7.
10. Agents may ask questions to the agents or witnesses in designated phases of the arbitration proceedings.

Article 11: Agents

1. Agents shall be appointed by the Secretariat prior to the conference amongst the applicants and they shall remain in duty until otherwise is decided by the Secretariat. The agents will represent each the parties of the disputes.
2. Agents are obliged to defend the stance of their parties.
3. Agents represent parties to the dispute as two for the Applicant and two for the Respondent and they are obliged to act for the best interest of their representative parties. The written memorials, presentation of evidence, questioning of the witnesses, rebuttal of their counter-party statements and evidences and other methods of proof shall constitute the instruments of agents while carrying out their duty.
4. Agents of the Applicant party shall carry the burden of proof. Burden of proof can only be reversed if the Respondent has extraordinary claims such as trying to disprove an acknowledged fact or an incident that has already been proved by the Applicant party.
5. Agents, as any other member of the Court, are obliged to abide by the whole Rules of Procedure and final decisions of the Presidents. The official warning procedure envisaged for the arbitrators in Section B, Article 8, paragraph 7 shall also apply to the agents.
6. The agents will be required to write a memorandum prior to the conference and send it to the Secretariat of MUNTR 2015.



7. Stipulations will be prepared by the two parties during the conference after the agents deliver their opening statements. The stipulation process will be monitored by a member of the Secretariat.
8. Agents do not have the right to vote in substantive or procedural voting. They may raise some motions however such as “motion to appeal President’s decision” or “motion to reduce/extend the speaker’s time.”
9. Agents may also raise a Point of Order, Point of Parliamentary Inquiry or Point of Personal Privilege. However, they cannot raise a Point of Information.

C. PHASES OF ARBITRATION

Article 12: Opening Statements

1. Opening statements are brief speeches which can be considered as the re-statement of the memorandum. The parties intend to show what the stances of their parties are.
2. The time allocated for each party is set by the presidents and it can be amended by the agents or arbitrators before that specific arbitration phase begins. Once it begins it cannot be amended. If need be, some extra time determined by the President may be given to the agents provided that same additional time will also be granted to the opposing side. If the Applicant was not given any additional time, the respondent must complete their opening statements by the time originally designated.
3. Prior to the opening statements, the Rapporteur shall have the agents take their oaths. An agent refusing to take the oath will not be able to continue counseling.
4. The Applicant shall start the phase with the opening statement and after the Applicant completes the opening statement the Respondent shall proceed.
5. Questioning of the agents by the arbitrators will not be possible until the parties start presenting their evidence.

Article 13: Stipulations

1. A stipulation is a document agreed upon by the Applicant and Respondent parties which state certain number of pre-determined facts that cannot be challenged during the arbitration.
 - a. Since the agents have the opportunity to submit new evidences to the evidence portal until the end of the presentation of the evidences phase, (this phase will be explained in detail in the following part of the Rules of Procedure) if the newly submitted evidence violates an article of the stipulation, the agents of the counter-party may write a message paper to the Presidency requesting the removal of a particular article. The removal request will be voted by the Tribunal. Other than this aberrant condition, no alterations can be made on a stipulation.
2. Preparation of the stipulations will start after both sides are finished with the opening statements while the arbitrators are deliberating on the case. The agents will be



dismissed and be required to prepare the document before the presentation of the evidence.

3. Should the parties fail to produce stipulations they will not be able to rely on pre-determined facts that cannot be disproven by the opposing party.
4. Stipulations will be in the form of a simple list clearly defining the events and facts that both parties agree upon.
5. Stipulations must be signed by all agents as Applicant and Respondent before it can be delivered to the Tribunal.

Article 14: Presentation of Evidence

1. Evidence is any object decided to be reliable by the Tribunal. It can be newspaper articles, international agreements, multilateral or bilateral treaties, reports, resolutions, images, videos or anything that in essence helps the agents to prove their arguments.
2. The procedure related to the time allocated for the opening speeches shall be applied to the presentation of evidence *mutatis mutandis*.
3. The Arbitrary Board may claim that evidence is unacceptable. This decision must be announced and it can be appealed by one of the arbitrators or the agents.
4. If the decision of the presidents is successfully appealed the evidence will stand as valid. If no appeal takes place or if the decision of the chair stands after the appeal process, that piece of evidence cannot be referred to during the presentation.
5. The Applicant party shall present their evidence and establish its relation to the arbitration first. They will be followed by the respondent. The questioning of the agents by the arbitrators shall follow this phase.
6. The agents have the right to edit their evidences through the evidence portal and add new evidences until the end of the presentation of evidences. The agent teams are responsible to inform the Presidency through a message paper whenever they edit their evidences. The newly submitted evidence will be discussed during the Arbitrators' Deliberation and be voted upon. A simple majority is required for a new evidence to be taken into consideration. The Tribunal should announce their decision upon the new evidence, explaining the grounds of the decision as well. The Tribunal should provide a copy of the new evidence to the counter-party if requested. Agents of the counter-party may raise a motion to make a defense against the foregoing evidence. The defense is not binding for the Tribunal.
7. No alterations in the evidence portal can be made in the evidence portal by the agents after the presentation of evidences phase.
8. The arbitrators have the authority to make separate researches regarding the arbitration. As a result of these searches, an arbitrator may propose to take evidence which is not included in the evidence presentations of the agents into consideration during the deliberations. The proposal shall be voted upon. A simple majority is required for a new evidence to be taken into consideration. This newly adopted evidence should be announced to the agent teams, explaining the content of the



evidence and the legal ground the Tribunal depends on. The Tribunal should provide a copy of the evidence to both teams if requested. Agents may raise a motion to make a defense against the foregoing evidence. However, the defense is not binding for the Tribunal.

Article 15: Questioning of the Agents by the Arbitrators Following the Presentation of Evidence

1. After the completion of the presentation of evidence, the arbitrators and naturally the presidents shall have the floor to question the agents. The arbitrators to ask questions shall be recognized by the presidents.
2. The arbitrators may question any side they prefer; however, they may only ask one question at a time.
3. There shall be no certain time limitation for the questioning of the agents; nevertheless, the presidents may at any time decree to end the questioning. This decision of the President is subject to appeal.
4. The questions of the agents shall not be limited by the scope of the presentation.
5. One agent from each side shall answer the question of a judge. Intervention from the other agent will not be allowed. However, the parties are free to decide which agent will answer any given question. The questions shall be addressed to the agent teams but not to a particular agent.
6. The agents shall answer the questions stand upon the stand seek for the permissions directed by the presidents to take their leave from the stage.
7. The President may at any time rule a question or answer out of order and this decision cannot be appealed.

Article 16: Testimony of the Witnesses

1. Prior to the conference the Applicant and Respondent parties must specify up to two witnesses including their names, positions and relation to the case. The Secretariat afterwards shall inform the agents of the names of the witnesses and their contact information so that the witnesses can be prepared by the agents before the testimonies.
2. These witnesses shall be called upon by the Rapporteur. After they take their oaths the Court may proceed with the testimony of the witnesses.
3. There shall be no certain time limitation for the testimony of witnesses. However, the presidents may warn the agents or arbitrators should the testimony needlessly exceed a reasonable amount of time.
4. The testimony of witnesses shall consist of two main parts as direct examination and cross examination.
5. During the direct examination, the sides shall be questioning their own witnesses. The side that is examining directly shall not be able to ask leading questions. Such



questions are subject to the objection of other party. The Presidents shall also be able to rule the question out of order *ex officio*.

6. Examining the opposition's witness is called a cross examination. Leading questions shall be appropriate for the side that is cross-examining.
7. During the cross examination the side questioning the witness may only ask questions related to what the witness has said during the direct examination. Any other questions shall be ruled out of order by the presidents or objected by the opposing party.
8. Hearsay questions shall not be in order. Such questions are subject to the opposition's objection. The presidents shall also be able to rule the question out of order *ex officio*.
9. Questions to the witnesses shall be related to the witness' own experience only. It must be possible for the source of the information to be examined directly during the cross- examination.
10. Applicant agent team shall be the first to present witnesses. After the direct examination by the Applicant, the Respondent shall have an opportunity to cross-examine the witness. Lastly, the witness shall be questioned by the arbitrators. However, the arbitrators' questions are not limited by the witness' statements during the direct examination. The same procedure will apply to the witnesses of the Respondent.

Article 17: Rebuttal

1. During the rebuttal the introduction of new evidence shall be strictly forbidden.
2. During rebuttal the parties shall try to determine where their argument was lacking and try to compensate.
3. There shall be no specific time limitation for rebuttal. Presidents must make sure that both parties are treated equally.
4. After each party finishes their rebuttal, the arbitrators shall have the opportunity to question the sides. Questioning of a certain side shall immediately start after they have delivered their rebuttal.

Article 18: Arbitrators' Deliberation

1. This phase refers to the period of arbitration when the advocates and press members are asked to leave the court room and arbitrators discuss the case in private. Press may later on seek the Rapporteur to be enlightened on the process of the trial.
2. During the deliberation the methods of open debate, moderated caucus and unmoderated caucus shall be adopted as they are regulated by the MUNTR 2015 Rules of Procedure. However, the arbitrators shall never be required to stand up or go up to the podium while making speeches.
3. Length of the arbitrators' deliberation shall be determined by the presidents and announced. They may allow additional time; however, their final decision shall not be subject to appeal.



4. If the arbitrators have requested for the invitation of an expert, this consultation process should take place during the arbitrators' deliberation.

Article 19: Closing Statements

1. Closing statements shall be given by the parties to the arbitration.
2. During closing statements the parties shall try to present what they have proven through their evidence, legal elements and witnesses and deliver their prayer.
3. The time for speakers shall be determined by the presidency.

D. OBJECTIONS

Article 20: General Provisions Governing Objections

1. Where one of the parties' action or statement is considered as falling under the scope of any objection set forth in this very Section, the opposing party has a right to raise an objection.
2. Exceptionally Arbitrators and the Rapporteur have a right to raise an objection of prejudice in accordance with the rules set forth in this section.
3. The final decision on the objection shall be made by the President and this decision shall not be subject to appeal with the exception of an immaterial objection.
4. The President shall announce the decision on the objection as "granted" or "overruled".
5. Objections may interrupt the speaker.
6. If the objection is granted by the Presidents, the assertion subject to objection shall be removed from any court records and parties shall refrain from referring to that specific assertion.

Article 21: Hearsay

1. Hearsay is traditionally a testimony that is given by a witness who relates not what he or she knows personally, but what others have said, and that is therefore dependent on the creditability of someone other than the witness. Such testimony is generally inadmissible under the rules of evidence. Questions to the witnesses shall be related to the witness' own experience only.
2. If one of the parties to the case asks hearsay questions to a witness, the opposing party has the right to raise an objection.
3. The final decision on the objection shall be made by the presidents and this decision shall not be subject to appeal.

Article 22: Leading Question

1. Leading question is a question that suggests the answer to the person being interrogated; especially a question that may be answered by a mere "yes" or "no".



2. Leading questions may only be asked by the side that is cross-examining. There shall be no leading questions asked during the direct examination of a witness.
3. In case of a leading question during the direct examination the opposing side has the right to object.

Article 23: Speculation

1. Speculation is the act or practice of theorizing about matters over which there is no certain knowledge.
2. This objection shall be raised if a witness tries to predict the result of an answer or possible outcome of an event.
3. In case of speculation the opposing party has the right to object.

Article 24: Irrelevant

1. All assertions by the parties shall be relevant to the case at hand.
2. If the assertion made is irrelevant to the case the opposing party shall have right to object.

Article 25: Badgering

1. During the examination of the witnesses parties have the responsibility to refrain from intimidation and distressing methods.
2. If one of the parties fails to meet this criterion, the opposing party shall have the right to raise an objection.

Article 26: Immaterial

1. Immaterial of evidence tends to prove some fact that is not properly at issue; lacking any logical connection with the consequential facts.
2. The agent teams may not raise an objection regarding immaterial evidence for the evidences which have been included by the arbitrators. They may raise a motion for making defense against the newly submitted evidence.

Article 27: Prejudicial

1. All assertions of law and facts shall respect the personal integrity of the counsels, justices or officers.
2. If an assertion by one of the parties harms the personal integrity of a Court member, an objection may be raised by any Court members.

Article 28: Competence

1. This objection shall be raised when a speaker asserts to a technical detail which cannot be assessed by the mentioned speaker.



2. The objection shall only be raised by the opposing party.

E. Award

Article 29: General Provisions Governing Award

1. The simple majority vote of the arbitrators shall be required for the writing of a verdict.
2. The verdict shall include the following aspects:
 - a. The date of arbitral conclusion
 - b. The names and signatures of the arbitrators authorizing the award
 - c. Names of the parties and agents
 - d. Summary of the arbitration
 - e. Statement of the facts
 - f. Jurisdiction and Applicable Law
 - i. Legal ground for each accepted and rejected evidence
 - g. The Merits of Each Claim
 - i. The Position of the Parties
 - ii. The Tribunal's Assessments
 - h. Decision
 - i. Dissenting and concurring opinions
3. Dissenting opinion can be written and added to the award by arbitrators who oppose the award of the Tribunal.
4. Concurring opinion can be written and added to the final award by arbitrators agreeing with the final award but having different legal basis.
5. If there are no dissenting opinions or concurring opinions included in the award, then the award shall be titled as "unanimous award". If there are any dissenting or concurring opinions included, then the award shall be titled as "partial award".
6. Each arbitrator shall have one vote. Unlike the procedural voting, the arbitrators may abstain from the voting procedure on the final award.