

国际海事卫星组织 (INMARSAT) 公约(附英文) (二)

(c) To the extent that a Signatory decides not to offer its excess investment share to other Signatories, the corresponding voting participation of that Signatory in excess of 25 per cent shall be distributed equally to all other representatives on the Council.

(4) A quorum for any meeting of the Council shall consist of a majority of the representatives on the Council, representing at least two-thirds of the total voting participation of all Signatories and groups of Signatories represented on the Council.

ARTICLE 15 Council-Functions

The Council shall have the responsibility, having due regard for the views and recommendations of the Assembly, to make provision for the space segment necessary for carrying out the purposes of the Organization in the most economic, effective and efficient manner consistent with this Convention and the Operating Agreement. To discharge this responsibility, the Council shall have the power to perform all appropriate functions, including:

(a) Determination of maritime satellite telecommunications requirements and adoption of policies, plans, programmes, procedures and measures for the design, development, construction, establishment, acquisition by purchase or lease, operation, maintenance and utilization of the INMARSAT space segment, including the procurement of any necessary launch services to meet such requirements.

(b) Adoption and implementation of management arrangements which shall require the Director General to contract for technical and operational functions whenever this is more advantageous to the Organization.

(c) Adoption of criteria and procedures for approval of earth stations on land, on ships and on structures in the marine environment for access to the INMARSAT space segment and for verification and monitoring of performance of earth stations having access to and utilization of the INMARSAT space segment. For earth stations on ships, the criteria should be in sufficient detail for use by national licensing authorities, at their discretion, for type-approval purposes.

(d) Submission of recommendations to the Assembly in accordance with Article 12 (1) (c).

(e) Submission to the Assembly of periodic reports on the activities of the Organization, including financial matters.

(f) Adoption of procurement procedures, regulations and contract terms and approval of procurement contracts consistent with this Convention and the Operating Agreement.

(g) Adoption of financial policies, approval of the financial regulations, annual budget and annual financial statements, periodic determination of charges for use of the INMARSAT space segment, and decisions with respect to all other financial matters, including

(h) Determination of arrangements for consultation on a continuing basis with bodies recognized by the Council as representing shipowners, maritime personnel and other users of maritime telecommunications.

(i) Designation of an arbitrator where the Organization is a party to an arbitration.

(j) Exercise of any other functions conferred upon it in any other Article of this Convention or the Operating Agreement or any other function appropriate for the achievement of the purposes of the Organization.

ARTICLE 16 Directorate

(1) The Director General shall be appointed, from among candidates proposed by Parties or Signatories through Parties, by the Council, subject to confirmation by the Parties. The Depositary shall immediately notify the Parties of the appointment. The appointment is confirmed unless within sixty days of the notification more than one-third of the Parties have informed the Depositary in writing of their objection to the appointment. The Director General may assume his functions after appointment and pending confirmation.

(2) The term of office of the Director General shall be six years. However, the Council may remove the Director General earlier on its own authority. The Council shall report the reasons for the removal to the Assembly.

(3) The Director General shall be the chief executive and legal representative of the Organization and shall be responsible to and under the direction of the Council.

(4) The structure, staff levels and standard terms of employment of officials and employees and of consultants and other advisers to the Directorate shall be approved by the Council.

(5) The Director General shall appoint the members of the Directorate. The appointment of senior officials reporting directly to the Director General shall be approved by the Council.

(6) The paramount consideration in the appointment of the Director General and other personnel of the Directorate shall be the necessity of ensuring the highest standards of integrity, competency and efficiency.

ARTICLE 17 Representation at Meetings

All Parties and Signatories which, under this Convention or the Operating Agreement, are entitled to attend and/or participate at meetings of the Organization shall be allowed to attend and/or participate at such meetings as well as any other meeting held under the auspices of the Organization, regardless of where the meeting may take place. The arrangements made with any host country shall be consistent with these obligations.

ARTICLE 18 Costs of Meetings

(1) Each Party and Signatory shall meet its own costs of representation at meetings of the Organization.

Organization shall be held outside its headquarters, unless the prospective host agrees to defray the additional expenditure involved.

ARTICLE 19 Establishment of Utilization Charges

(1) The Council shall specify the units of measurement for the various types of utilization of the INMARSAT space segment and shall establish charges for such utilization. These charges shall have the objective of earning sufficient revenues for the Organization to cover its operating, maintenance and administrative costs, the provision of such operating funds as the Council may determine to be necessary, the amortization of investment made by Signatories, and compensation for use of capital in accordance with the Operating Agreement.

(2) The rates of utilization charge for each type of utilization shall be the same for all Signatories for that type of utilization.

(3) For entities, other than Signatories, which are authorized in accordance with Article 7 to utilize the INMARSAT space segment, the Council may establish rates of utilization charge different from those established for Signatories. The rates for each type of utilization shall be the same for all such entities for that type of utilization.

ARTICLE 20 Procurement

(1) The procurement policy of the Council shall be such as to encourage, in the interests of the Organization, world-wide competition in the supply of goods and services. To this end:

(a) Procurement of goods and services required by the Organization, whether by purchase or lease, shall be effected by the award of contracts, based on responses to open international invitations to tender.

(b) Contracts shall be awarded to bidders offering the best combination of quality, price and the most favourable delivery time.

(c) If there are bids offering comparable combinations of quality, price and the most favourable delivery time, the Council shall award the contract so as to give effect to the procurement policy set out above.

(2) In the following cases the requirement of open international tender may be dispensed with under procedures adopted by the Council, provided that in so doing the Council shall encourage in the interests of the Organization world-wide competition in the supply of goods and services:

(a) The estimated value of the contract does not exceed 50,000 US dollars and the award of the contract would not by reason of the application of the dispensation place a contractor in such a position as to prejudice at some later date the effective exercise by the Council of the procurement policy set out above. To the extent justified by changes in world prices, as reflected by relevant price indices, the Council may revise the financial limit.

(b) Procurement is required urgently to meet an emergency situation.

(c) There is only one source of supply to a specification which is necessary to meet the requirements of the Organization or the sources of

expenditure and time involved in open international tender, provided that where there is more than one source they will have an opportunity to bid on an equal basis.

(d) The requirement is of an administrative nature for which it would be neither practicable nor feasible to undertake open international tender.

(e) The procurement is for personal services.

ARTICLE 21 Inventions and Technical Information

(1) The Organization, in connexion with any work performed by it or on its behalf at its expense, shall acquire in inventions and technical information those rights, but no more than those rights, which are necessary in the common interests of the Organization and of the Signatories in their capacity as such. In the case of work done under contract, any such rights obtained shall be on a non-exclusive basis.

(2) For the purpose of paragraph (1) the Organization, taking into account its principles and objectives and generally accepted industrial practices, shall, in connexion with such work involving a significant element of study, research or development ensure for itself:

(a) The right to have disclosed to it without payment all inventions and technical information generated by such work.

(b) The right to disclose and to have disclosed to Parties and Signatories and others within the jurisdiction of any Party such inventions and technical information, and to use and to authorize and to have authorized Parties and Signatories and such others to use such inventions and technical information without payment in connexion with the INMARSAT space segment and any earth station on land or ship station operating in conjunction therewith.

(3) In the case of work done under contract, ownership of the rights in inventions and technical information generated under the contract shall be retained by the contractor.

(4) The Organization shall also ensure for itself the right, on fair and reasonable terms and conditions, to use and to have used inventions and technical information directly utilized in the execution of work performed on its behalf but not included in paragraph (2), to the extent that such use is necessary for the reconstruction or modification of any product actually delivered under a contract financed by the Organization, and to the extent that the person who has performed such work is entitled to grant such right.

(5) The Council may in individual cases approve a deviation from the policies prescribed in paragraphs (2) (b) and (4), where in the course of negotiation it is demonstrated to the Council that failure to deviate would be detrimental to the interests of the Organization.

(6) The Council may also, in individual cases where exceptional circumstances warrant, approve a deviation from the policy prescribed in paragraph (3) where all the following conditions are met:

(a) It is demonstrated to the Council that failure to deviate would be detrimental to the interests of the Organization.

(b) The Council determines that the Organization should be able to ensure patent protection in any country.

(7) With respect to inventions and technical information in which rights are acquired by the Organization otherwise than pursuant to paragraph (2), the Organization, to the extent that it has the right to do so, shall upon request:

(a) Disclose or have disclosed such inventions and technical information to any Party or Signatory subject to reimbursement of any payment made by or required of the Organization in respect of the exercise to this right of disclosure.

(b) Make available to any Party or Signatory the right to disclose or have disclosed to others within the jurisdiction of any Party and to use and to authorize and to have authorized such others to use such inventions and technical information:

(i) Without payment in connexion with the INMARSAT space segment or any earth station on land or ship operating in conjunction therewith.

(ii) For any other purpose, on fair and reasonable terms and conditions to be settled between Signatories or others within the jurisdiction of any Party and the Organization or the owner of the inventions and technical information or any other authorized entity or person having a property interest therein, and subject to reimbursement of any payment made by or required of the Organization in respect of the exercise of these rights.

(8) The disclosure and use, and the terms and conditions of disclosure and use, of all inventions and technical information in which the Organization has acquired any rights shall be on a non-discriminatory basis with respect to all Signatories and others within the jurisdiction of Parties.

(9) Nothing in this Article shall preclude the Organization, if desirable, from entering into contracts with persons subject to domestic laws and regulations relating to the disclosure of technical information.

ARTICLE 22 Liability

Parties are not, in their capacity as such, liable for the acts and obligations of the Organization, except in relation to non-Parties or natural or juridical persons they might represent in so far as such liability may follow from treaties in force between the Party and the non-Party concerned. However, the foregoing does not preclude a Party which has been required to pay compensation under such a treaty to a non-Party or to a natural or juridical person it might represent from invoking any rights it may have under that treaty against any other Party.

ARTICLE 23 Excluded Costs

Taxes on income derived from the Organization by any of the Signatories shall not form part of the costs of the Organization.

ARTICLE 24 Audit

The accounts of the Organization shall be audited annually by an

ARTICLE 25 Legal Personality

The Organization shall have legal personality and shall be responsible for its acts and obligations. For the purpose of its proper functioning, it shall, in particular, have the capacity to contract, to acquire, lease, hold and dispose of movable and immovable property, to be a party to legal proceedings and to conclude agreements with States or international organizations.

ARTICLE 26 Privileges and Immunities

(1) Within the scope of activities authorized by this Convention, the Organization and its property shall be exempt in all States Parties to this Convention from all national income and direct national property taxation and from customs duties on communication satellites and components and parts for such satellites to be launched for use in the INMARSAT space segment. Each Party undertakes to use its best endeavours to bring about, in accordance with the applicable domestic procedure, such further exemption from income and direct property taxation and customs duties as is desirable, bearing in mind the particular nature of the Organization.

(2) All Signatories acting in their capacity as such, except the Signatory designated by the Party in whose territory the headquarters is located, shall be exempt from national taxation on income earned from the Organization in the territory of that Party.

(3) (a) As soon as possible after the entry into force of this Convention, the Organization shall conclude, with any Party in whose territory the Organization establishes its headquarters, other offices or installations, an agreement to be negotiated by the Council and approved by the Assembly, relating to the privileges and immunities of the Organization, its Director General, its staff, of experts performing missions for the Organization and of representatives of Parties and Signatories whilst in the territory of the host Government for the purpose of exercising their functions.

(b) The agreement shall be independent of this Convention and shall terminate by agreement between the host Government and the Organization or if the headquarters of the Organization are moved from the territory of the host Government.

(4) All Parties other than a Party which has concluded an agreement referred to in paragraph (3) shall as soon as possible after the entry into force of this Convention conclude a Protocol on the privileges and immunities of the Organization, its Director General, its staff, of experts performing missions for the Organization and of representatives of Parties and Signatories whilst in the territory of Parties for the purposes of exercising their functions. The Protocol shall be independent of this Convention and shall prescribe the conditions for its termination.

ARTICLE 27 Relationship with other International Organizations

The Organization shall co-operate with the United Nations and its

matters of common interest. In Particular the Organization shall take into account the relevant Resolutions and Recommendations of the Inter-Governmental Maritime Consultative Organization. The Organization shall observe the relevant provisions of the International Telecommunication Convention and regulations made thereunder, and shall in the design, development, construction and establishment of the INMARSAT space segment and in the procedures established for regulating the operation of the INMARSAT space segment and of earth stations give due consideration to the relevant Resolutions, Recommendations and procedures of the organs of the International Telecommunication Union.

ARTICLE 28 Notification to the International Telecommunication Union

Upon request from the Organization, the Party in whose territory the Headquarters of the Organization is located shall co-ordinate the frequencies to be used for the space segment and shall, on behalf of each Party that consents, notify the International Telecommunication Union of the frequencies to be so used and other information, as provided for in the Radio Regulations annexed to the International Telecommunication Convention.

ARTICLE 29 Withdrawal

(1) Any Party or Signatory may by written notification to the Depositary withdraw voluntarily from the Organization at any time. Once a decision has been made under applicable domestic law that a Signatory may withdraw, notice of the withdrawal shall be given in writing to the Depositary by the Party which has designated the Signatory, and the notification shall signify the acceptance by the Party of the withdrawal. Withdrawal of a Party, in its capacity as such, shall entail the simultaneous withdrawal of any Signatory designated by the Party or of the Party in its capacity as Signatory, as the case may be.

(2) Upon receipt by the Depositary of a notice to withdraw, the Party giving notice and any Signatory which it has designated, or the Signatory in respect of which notice has been given, as the case may be, shall cease to have any rights of representation and any voting rights in any organ of the Organization and shall incur no obligation after the date of such receipt. However, a withdrawing Signatory shall remain responsible, unless otherwise decided by the Council pursuant to Article XIII of the Operating Agreement, for contributing its share of the capital contributions necessary to meet contractual commitments specifically authorized by the Organization before the receipt and liabilities arising from acts or omissions before the receipt. Except with respect to such capital contributions and except with respect to Article 31 of this Convention and Article XVI of the Operating Agreement, withdrawal shall become effective and this Convention and/or the Operating Agreement shall cease to be in force for the Party and/or Signatory three months after the date of receipt by the Depositary of the written notification referred to in paragraph (1).

(3) If a Signatory withdraws, the Party which designated it shall, before the effective date of withdrawal and with effect from that date,

the effective date, it shall be considered to have withdrawn as from that date. Any new Signatory shall be responsible for all the outstanding capital contributions of the previous signatory and for the proportionate share of any capital contributions necessary to meet contractual commitments specifically authorized by the Organization, and liabilities arising from acts or omissions, after the date of receipt of the notice.

(4) If for any reason a Party desires to substitute itself for its designated Signatory or to designate a new Signatory, it shall give written notice to the Depositary. Upon assumption by the new Signatory of all the outstanding obligations, as specified in the last sentence of paragraph (3), of the previously designated Signatory and upon signature of the Operating Agreement, that Agreement shall enter into force for the new Signatory and shall cease to be in force for the previous Signatory.

ARTICLE 30 Suspension and Termination

(1) Not less than one year after the Directorate has received written notice that a Party appears to have failed to comply with any obligation under this Convention, the Assembly, after considering any representations made by the Party, may decide, if it finds that the failure to comply has in fact occurred and that such failure impairs the effective operation of the Organization, that the membership of the Party is terminated. This Convention shall cease to be in force for the Party as from the date of the decision or at such later date as the Assembly may determine. An extraordinary session of the Assembly may be convened for this purpose. The termination shall entail the simultaneous withdrawal of any Signatory designated by the Party or of the Party in its capacity as Signatory, as the case may be. The Operating Agreement shall cease to be in force for the Signatory on the date on which this Convention ceases to be in force for the Party concerned, except with respect to capital contributions necessary to meet contractual commitments specifically authorized by the Organization before the termination and liabilities arising from acts or omissions before the termination, and except with respect to Article 31 of this Convention and Article XVI of the Operating Agreement.

(2) If any Signatory, in its capacity as such, fails to comply with any obligation under this Convention or the Operating Agreement, other than obligations under Article III (1) of the Operating Agreement and the failure has not been remedied within three months after the Signatory has been notified in writing of a resolution of the Council taking note of the failure to comply, the Council, after considering any representations made by the Signatory and, if applicable, the Party concerned may suspend the rights of the Signatory. If, after an additional three months and after consideration of any representations made by the Signatory and, if applicable, the Party, the Council finds that the failure to comply has not been remedied, the Assembly may decide on the recommendation of the Council that the membership of the Signatory is terminated. Upon the date of such decision, the termination shall become effective and the Operating Agreement shall cease to be in force for that Signatory.

(3) If any Signatory fails to pay any amount due from it pursuant to Article III (1) of the Operating Agreement within four months after the payment has become due, the rights of the Signatory under this Convention

or the Party which has designated it has not made a substitution pursuant to Article 29 (4), the Council after considering any representations made by the Signatory or by the Party which has designated it, may decide that the membership of the Signatory is terminated. From the date of such decision, the Operating Agreement shall cease to be in force for the Signatory.

(4) During the period of suspension of the rights of a Signatory pursuant to paragraphs (2) or (3), the Signatory shall continue to have all the obligations of a Signatory under this Convention and the Operating Agreement.

(5) A Signatory shall incur no obligation after termination, except that it shall be responsible for contributing its share of the capital contributions necessary to meet contractual commitments specifically authorized before the termination and liabilities arising from acts or omissions before the termination, and except with respect to Article 31 of this Convention and Article XVI of the Operating Agreement.

(6) If the membership of a Signatory is terminated, the Party which designated it shall, within three months from the date of the termination and with effect from that date, designate a new Signatory, assume the capacity of a Signatory in accordance with Article 29 (4), or withdraw. If the Party has not acted by the end of that period, it shall be considered to have withdrawn as from the date of termination, and this Convention shall cease to be in force for the Party as from that date.

(7) Whenever this Convention has ceased to be in force for a Party, settlement between the Organization and any Signatory designated by that Party or that Party in its capacity as Signatory, shall be accomplished as provided in Article XIII of the Operating Agreement.

ARTICLE 31 Settlement of Disputes

(1) Disputes arising between Parties, or between Parties and the Organization, relating to rights and obligations under this Convention should be settled by negotiation between the parties concerned. If within one year of the time any party has requested settlement, a settlement has not been reached and if the parties to the dispute have not agreed to submit it to the International Court of Justice or to some other procedure for settling disputes, the dispute may, if the parties to the dispute consent, be submitted to arbitration in accordance with the Annex to this Convention. Any decision of an arbitral tribunal in a dispute between Parties, or between Parties and the Organization, shall not prevent or affect a decision of the Assembly pursuant to Article 30 (1), that the Convention shall cease to be in force for a Party.

(2) Unless otherwise mutually agreed, disputes arising between the Organization and one or more Parties under agreements concluded between them, if not settled by negotiation within one year of the time any party has requested settlement, shall, at the request of any party to the dispute, be submitted to arbitration in accordance with the Annex to this Convention.

(3) Disputes arising between one or more Parties and one or more Signatories in their capacity as such, relating to rights and obligations

or Parties and the Signatory or Signatories involved agree to such arbitration.

(4) This Article shall continue to apply to a Party or Signatory which ceases to be a Party or Signatory, in respect of disputes relating to rights and obligations arising from its having been a Party or Signatory.

ARTICLE 32 Signature and Ratification

(1) This Convention shall remain open for signature in London until entry into force and shall thereafter remain open for accession. All States may become Parties to the Convention by:

- (a) Signature not subject to ratification, acceptance or approval, or
- (b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval, or
- (c) Accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of the appropriate instrument with the Depositary.

(3) On becoming a Party to this Convention, or at any time thereafter, a State may declare, by written notification to the Depositary, to which Registers of ships operating under its authority, and to which land earth stations under its jurisdiction, the Convention shall apply.

(4) No State shall become a Party to this Convention until it has signed, or the entity it has designated, has signed the Operating Agreement.

(5) Reservations cannot be made to this Convention or the Operating Agreement.

ARTICLE 33 Entry into Force

(1) This Convention shall enter into force sixty days after the date on which States representing 95 per cent of the initial investment shares have become Parties to the Convention.

(2) Notwithstanding paragraph (1), if the Convention has not entered into force within thirty-six months after the date it was opened for signature, it shall not enter into force.

(3) For a State which deposits an instrument of ratification, acceptance, approval or accession after the date on which the Convention has entered into force, the ratification, acceptance, approval or accession shall take effect on the date of deposit.

ARTICLE 34 Amendments

(1) Amendments to this Convention may be proposed by any Party. Proposed amendments shall be submitted to the Directorate, which shall inform the other Parties and Signatories. Three months' notice is required before consideration of an amendment by the Council, which shall submit its views to the Assembly within a period of six months from the date of circulation of the amendment. The Assembly shall consider the amendment not earlier than six months thereafter, taking into account any views expressed by the Council. This period may, in any particular case, be

one hundred and twenty days after the Depositary has received notices of acceptance from two-thirds of those States which at the time of adoption by the Assembly were Parties and represented at least two-thirds of the total investment shares. Upon entry into force, the amendment shall become binding upon all Parties and Signatories, including those which have not accepted it.

ARTICLE 35 Depositary

(1) The Depositary of this Convention shall be the Secretary-general of the Inter-Governmental Maritime Consultative Organization.

(2) The Depositary shall promptly inform all signatory and acceding States and all Signatories of:

(a) Any signature of the Convention.

(b) The deposit of any instrument of ratification, acceptance, approval or accession.

(c) The entry into force of the Convention.

(d) The adoption of any amendment to the Convention and its entry into force.

(e) Any notification of withdrawal.

(f) Any suspension or termination.

(g) Other notifications and communications relating to the Convention.

(3) Upon entry into force of the Convention the Depositary shall transmit a certified copy to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Convention. *

[* Signatures omitted.]

DONE AT LONDON this third day of September one thousand nine hundred and seventy-six in the English, French, Russian and Spanish languages, all the texts being equally authentic, in a single original which shall be deposited with the Depositary, who shall send a certified copy to the Government of each of the States which were invited to attend the International Conference on the Establishment of an International Maritime Satellite System and to the Government of any other State which signs or accedes to this Convention.

ANNEX: Procedures for the Settlement of Disputes Referred to in Article 31 of the Convention and Article XVI of the Operating Agreement

ARTICLE 1

Disputes cognizable pursuant to Article 31 of the Convention or Article XVI of the Operating Agreement shall be dealt with by an arbitral tribunal of three members.

ARTICLE 2

Any petitioner or group of petitioners wishing to submit a dispute to arbitration shall provide each respondent and the Directorate with a

respondent is required to participate in the arbitration, and the measures being requested.

(b) The reasons why the subject matter of the dispute comes within the competence of a tribunal and why the measures requested can be granted if the tribunal finds in favour of the petitioner.

(c) An explanation why the petitioner has been unable to achieve a settlement of the dispute by negotiation or other means short of arbitration.

(d) Evidence of the agreement or consent of the disputants when this is a condition for arbitration.

(e) The name of the person designated by the petitioner to serve as a member of the tribunal.

The Directorate shall promptly distribute a copy of the document to each Party and Signatory.

ARTICLE 3

(1) Within sixty days from the date copies of the document described in Article 2 have been received by all the respondents, they shall collectively designate an individual to serve as a member of the tribunal. Within that period, the respondents may jointly or individually provide each disputant and the Directorate with a document stating their individual or collective responses to the document referred to in Article 2 and including any counterclaims arising out of the subject matter of the dispute.

(2) Within thirty days after the designation of the two members of the tribunal, they shall agree on a third arbitrator. He shall not be of the same nationality as, or resident in the territory of, any disputant, or in its service.

(3) If either side fails to nominate an arbitrator within the period specified or if the third arbitrator is not appointed within the period specified, the President of the International Court of Justice, or if he is prevented from acting or is of the same nationality as a disputant, the Vice-President, or if he is prevented from acting or is of the same nationality as a disputant, the senior judge who is not of the same nationality as any disputant, may at the request of either disputant, appoint an arbitrator or arbitrators as the case requires.

(4) The third arbitrator shall act as president of the tribunal.

(5) The tribunal is constituted as soon as the president is selected.

ARTICLE 4

(1) If a vacancy occurs in the tribunal for any reason which the president or the remaining members of the tribunal decide is beyond the control of the disputants, or is compatible with the proper conduct of the arbitration proceedings, the vacancy shall be filled in accordance with the following provisions:

(a) If the vacancy occurs as a result of the withdrawal of a member appointed by a side to the dispute, then that side shall select a replacement within ten days after the vacancy occurs.

(b) If the vacancy occurs as a result of the withdrawal of the

respectively, of Article 3.

(2) If a vacancy occurs for any other reason, or if a vacancy occurring pursuant to paragraph (1) is not filled, the remainder of the tribunal shall have the power, notwithstanding Article 1, upon request of one side, to continue the proceedings and give the final decision of the tribunal.

ARTICLE 5

(1) The tribunal shall decide the date and place of its meetings.

(2) The proceedings shall be held in private and all material presented to the tribunal shall be confidential. However, the Organization and any Party which has designated a Signatory which is a disputant in the proceedings shall have the right to be present and shall have access to the material presented. When the Organization is a disputant in the proceedings, all Parties and all Signatories shall have the right to be present and shall have access to the material presented.

(3) In the event of a dispute over the competence of the tribunal, the tribunal shall deal with that question first.

(4) The proceedings shall be conducted in writing, and each side shall have the right to submit written evidence in support of its allegations of fact and law. However, oral arguments and testimony may be given if the tribunal considers it appropriate.

(5) The proceedings shall commence with the presentation of the case of the petitioner containing its arguments, related facts supported by evidence and the principles of law relied upon. The case of the petitioner shall be followed by the counter-case of the respondent. The petitioner may submit a reply to the counter-case of the respondent and the respondent may submit a rejoinder. Additional pleadings shall be submitted only if the tribunal determines they are necessary.

(6) The tribunal shall hear and determine counter-claims arising directly out of the subject matter of the dispute, if the counter-claims are within its competence as defined in Article 31 of the Convention and Article XVI of the Operating Agreement.

(7) If the disputants reach an agreement during the proceedings, the agreement shall be recorded in the form of a decision of the tribunal given by consent of the disputants.

(8) At any time during the proceedings, the tribunal may terminate the proceedings if it decides the dispute is beyond its competence as defined in Article 31 of the Convention or Article XVI of the Operating Agreement.

(9) The deliberations of the tribunal shall be secret.

(10) The decisions of the tribunal shall be presented in writing and shall be supported by a written opinion. Its rulings and decisions must be supported by at least two members. A member dissenting from the decision may submit a separate written opinion.

(11) The tribunal shall forward its decision to the Directorate, which shall distribute it to all Parties and Signatories.

(12) The tribunal may adopt additional rules of procedure, consistent with those established by this Annex, which are appropriate for the proceedings.

If one side fails to present its case, the other side may call upon the tribunal to give a decision on the basis of its presentation. Before giving its decision, the tribunal shall satisfy itself that it has competence and that the case is well-founded in fact and in law.

ARTICLE 7

(1) Any Party whose Signatory is a disputant shall have the right to intervene and become an additional disputant. Intervention shall be made by written notification to the tribunal and to the other disputants.

(2) Any other Party, any Signatory or the Organization may apply to the tribunal for permission to intervene and become an additional disputant. The tribunal shall grant permission if it determines that the applicant has a substantial interest in the case.

ARTICLE 8

The tribunal may appoint experts to assist it at the request of a disputant or on its own initiative.

ARTICLE 9

Each Party, each Signatory and the Organization shall provide all information which the tribunal, at the request of a disputant or on its own initiative, determines to be required for the handling and determination of the dispute.

ARTICLE 10

Pending the final decision, the tribunal may indicate any provisional measures which it considers ought to be taken to preserve the respective rights of the disputants.

ARTICLE 11

(1) The decision of the tribunal shall be in accordance with international law and be based on:

- (a) The Convention and the Operating Agreement.
- (b) Generally accepted principles of law.

(2) The decision of the tribunal, including any reached by agreement of the disputant pursuant to Article 5(7), shall be binding on all the disputants, and shall be carried out by them in good faith. If the Organization is a disputant, and the tribunal decides that a decision of any organ of the Organization is null and void as not being authorized by or in compliance with the Convention and the Operating Agreement, the decision of the tribunal shall be binding on all Parties and Signatories.

(3) If a dispute arises as to the meaning or scope of its decision, the tribunal shall construe it at the request of any disputant.

ARTICLE 12

remuneration of the members of the tribunal, shall be borne in equal shares by each side. Where a side consists of more than one disputant, the tribunal shall apportion the share of that side among the disputants on that side. Where the Organization is a disputant, its expenses associated with the arbitration shall be regarded as an administrative cost of the Organization.

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