Preface	V
Tables of authorities	KİX
PART I	
Section I Introductory rules	
Article 1 Scope of application A. Writing Requirement B. Requirement of a Contractual Relationship between the Parties C. The Applicable Version of the Rules D. Addition of the 2013 UNCITRAL Rules on Transparency	3 5 7 8 10
Article 2 Notice and calculation of periods of time Principal changes	13 15
Articles 3 and 4  Notice of arbitration and response to the notice of arbitration  A. Notice of arbitration: article 3  1. Mandatory items of the notice of arbitration  (i) Demand for arbitration and description of the parties: articles 3(3)  (a) and (b)  (ii) Description of agreements and or relationships: articles 3(3)(c) and (d)  (iii) Description of the claim: articles 3(3)(e) and (f)  (iv) Matters relating to the conduct of the arbitration: article 3(3)(g)  2. Optional items of the notice of arbitration: streamlining the arbitral process  3. Incomplete notice of arbitration	26
<ul> <li>B. Response to the notice of arbitration: article 4</li> <li>1. Timing</li> <li>2. Mandatory content</li> <li>3. Optional items</li> </ul>	30 31 31

	<ul> <li>(i) Jurisdictional objections: article 4(2)(a)</li> <li>(ii) Proposals for the constitution of the tribunal: articles 4(2)(b)-(d)</li> <li>(iii) Raising claims in the response: article 4(2)(e)</li> <li>(iv) Joinder of additional respondents: article 4(2)(f)</li> <li>4. Missing, incomplete, or late response to the notice of arbitration</li> </ul>	31 32 32 33 35
	rticle 5 epresentation and assistance	
		37
	rticle 6 esignating and appointing authorities	41
Α.		41 45
В.	Designation of an appointing authority	46
C.	The state of the s	48
E.	Information provided to the designating and appointing authorities Criteria for selecting arbitrators	49 51
	Section II	
	Composition of the arbitral tribunal	
	rticle 7	
Nı	umber of arbitrators	55
A.	o are application of the delidit full	57
B.	Possibility to request appointment of sole arbitrator	58
	ticles 8 and 9	
	opointment of arbitrators	61
A.	11 and the solic dibitiator	63
	<ol> <li>Appointment of a sole arbitrator where the parties cannot agree</li> <li>Selection of a sole arbitrator by the appointing authority</li> </ol>	63
B.	Appointment of three arbitrators	64 65
	1. Party-appointment of a three-member panel	65
	2. Appointment of a second arbitrator by the appointing authority	66
	3. Appointment of a presiding arbitrator by the appointing authority	67
	ticle 10	
Ap	pointment of arbitrators	69
A.	Principle of joint appointment for three-member tribunals	71
В. С.	Tribunals comprising a number of arbitrators other than one or three	72
C.	Appointing authority's power to complete the constitution of the tribunal  1. Scope of the appointing authority's power	73
	2. Timing	73
	3. Discretion of the appointing authority to select three new arbitrators	73 74
	ticles 11 and 12	
Dis	sclosures by and challenge of arbitrators	77
A.	The 1976 Rules	79
B.	Disclosures by arbitrators: article 11	82

	1. Clarifications and changes pertaining to the timing and addressees of	
	disclosure	82
	2. Model statements of independence	83
	(i) No circumstances to disclose	84
	(ii) Circumstances to disclose	85
C.	Grounds for challenge: article 12	85
	icle 13	0.0
Pro	cedure for challenging arbitrators	89
A.	The regime under the 1976 Rules	90
B.	Significant changes under the 2010 Rules	91
	1. Clarification of the 'notice of challenge': articles 13(1) and (2)	92
	2. Agreeing to or opposing the challenge: article 13(3)	94 95
	3. Clarification of the role of the appointing authority: article 13(4)	96
	4. Progress of arbitration proceedings pending a challenge	70
	cicles 14 and 15	0.5
Rep	placement of an arbitrator and repetition of hearings	97
A.	Replacement of an arbitrator: article 14	98
	1. The replacement mechanism	99
	2. Abuse and disruption: improvements under the 2010 Rules	100
	(i) The 1976 Rules	100 102
	<ul><li>(ii) Solutions adopted in the 2010 Rules to prevent disruption</li><li>(iii) Circumstances in which the Tribunal can proceed in a truncated form</li></ul>	102
В.	Repetition of hearings in the event of the replacement of an arbitrator:	105
D.	article 15	106
Α		
	ticle 16	109
	clusion of liability	
A.	Content and scope of the rule of immunity	110 110
	<ol> <li>Carve-out for intentional wrongdoing</li> <li>Exclusion of liability to the fullest extent possible under applicable law</li> </ol>	112
В.	Persons who enjoy immunity under the Rules	113
D.	reisons who enjoy infinitintly under the Raics	
	Section III	
	Arbitral proceedings	
Λ 1*1	ticle 17	
	neral provisions	119
A.	The broad powers of the tribunal to conduct the arbitration	120
В.	Codification of the powers of the tribunal	122
C.	The duty of the tribunal to ensure equal treatment and a reasonable	
	opportunity to be heard	124
D.	The duty of the tribunal to ensure efficient proceedings	126
	1. The duty to promote efficiency and avoid delay	127
	2. Articles 17(1) and 17(3): right to present one's case, and hearings	129
	(i) Right to present one's case	129
	(ii) Right to hearing	130

E. F. G.	Joi 1. 2.	Article 17(2): setting up a provisional timetable and arbitrators' power to extend and abridge time-periods mmunications with the tribunal nder  Third-party intervention: <i>amici curiae</i> and joinder distinguished Conditions for joinder under article 17(5)  (i) At the request of any party  (ii) Third person to be joined must be a party to the arbitration agreement (iii) Process; no prejudice to any of the parties involved insolidation infidentiality	131 133 135 135 138 138 140 141 142
	ticle		144
		of arbitration	147
A.		ce of arbitration	148
	1. 2.	'Place' as the arbitral seat	148
В.		Determination of the arbitral seat ard deemed to have been made at place of arbitration	150
C.	Ven	ue of arbitration	151 152
		Determination of location	154
	ticle		
	ngua		155
А. В.		cle 19(2)	156
			158
	teme	ant of claim	
A.		munication of the statement of alsima and 1, 20(1)	161
В.	Con	tents of the statement of alain	162 164
C.		ential support	165
Art	icle 2	21	
Sta	teme	ent of defence	.69
A.		nterclaims and set-off claims	170
	1. 2.	Tribunal's jurisdiction over counterclaims and set-off claims	170
	2.	Raising counterclaims and set-off claims in the response and the statement of defence	173
	3.	Delay justified under the circumstances	173
	4.	Kenly to counterclaim or not off all in full in	75
	icle 2		
			77
A. B.	Ame	endments' and 'supplementations' diction of the tribunal	79
		opriateness of the amondment	80
	cle 2	1	82
		to the jurisdiction of the arkitual to the	87
		nótence de la compétence en de sus el 11	88
			00

<ol> <li>Compétence de la compétence under article 23</li> <li>Tribunal's mandatory power to rule on its juri</li> <li>Separability</li> </ol>	sdiction 194 197
B. Time-limits for raising jurisdictional issues	198 201
C. Procedural aspects of objections to jurisdiction	201
<ol> <li>Possibility of bifurcating the proceedings</li> <li>Court control need not lead to suspension of</li> </ol>	
	procedura
Articles 24 and 25	207
Further written statements and periods of time	207
A. Additional pleadings	208 211
B. Periods of time	211
Article 26	
Interim measures	215
A. Conditions for granting interim measures: article	26(3) 218
1. Urgency	219
2. Prima facie jurisdiction	219 220
3. Prima facie case on the merits	220
<ul><li>4. Risk of harm</li><li>5. Proportionality or 'balance of (in)convenience</li></ul>	
<ul><li>5. Proportionality or 'balance of (in)convenience</li><li>6. Connection with the subject-matter of the class</li></ul>	nim 223
B. Types of interim measures	225
C. Order or award	227
D. Third parties; national courts	228 230
E. Termination, suspension, modification	231
F. Liability for costs and damages	232
G. 'Preliminary orders'	
Article 27	235
Evidence	
A. The constitution and assessment of the evidentia	l record 237 241
B. Witnesses of fact and expert witnesses	241
Article 28	
Hearings	245
A. Tribunal's control over the hearing	246
B. Conduct of the hearings 'in camera' and retiring	of witnesses 248
C. Physical presence of witnesses not required	249
Article 29	
Experts appointed by the arbitral tribunal	251
A Major amendments in the 2010 Rules	254
B. Impartiality and independence	257
C. Increased role of the parties	258
1. Consultation with the parties	258
2. Party objections	260 26.
D. Costs of tribunal experts	20.

Artic Defa	cle 30	
		263
	Overview	264
	Failure to submit a pleading: article 30(1)  Claimant's default: article 30(1)(2)	265
	Claimant's default: article 30(1)(a) Respondent's default: article 30(1)(b)	265
	Failure to appear: article 30(2)	267
	Failure to produce documents, exhibits or other evidence: article 30(3)	269
E. S	ufficient cause	270 271
Artic		
	ire of hearings	273
	Hearings'	274
B. C	closure of the hearings	275
C. D	Siscretion to reopen	276
A 1	'Exceptional circumstances'	277
Articl	er of right to object	
	•	279
A. So B. W	cope of application and operation of the waiver rule	280
C. Pi	Vaivable rights and waivable instances of non-compliance rompt objection	281
	nowledge or justification	283
	or justification	284
	Section IV The award	
Articl		
Decisi		
		289
	eliberations and secrecy	290
	ajority rule Juestions of procedure'	292
		295
Article Form	and effect of the award	205
		297
B. 'Se	ne notion and types of 'awards': article 34(1) eparate awards on different issues at different times'	298
	quirements of form and content	302
1.	Writing, date and signature: articles 34(2) and 34(4)	303
2.	Reasons: article 34(3)	303 304
	parate opinions	305
E. Aw	vards are final and binding: article 34(2)	307
1.	Finality	307
2.	Binding force	308
3. F. Co.	Waiver of recourse against the award	309
	nfidentiality or publication: article 34(5)	310
	mmunication of the award: article 34(6)	312
Article		
rhhiic	able law, <i>amiable compositeur</i>	313

A.	Applicable law: article 35(1)	314
	1. Party autonomy	314 314
	2. 'Rules of law' designated by the parties	318
n	3. Applicable law in the absence of a designation Amiable compositeur/ex aequo et bono: article 35(2)	320
В. С.	Terms of the contract and usages of trade: article 35(3)	322
	ticle 36 tlement or other grounds for termination	325
	2 (1)	327
A.	1. Termination order or award on agreed terms	327
	(i) Termination orders	327
	(ii) Advantages of awards on agreed terms	327
	(iii) Requesting an award on agreed terms	328
	2. The tribunal's discretion	329
	3. The arbitrator's role in settlement negotiations	331 333
В.	Continuation of proceedings impossible or unnecessary: article 36(2)	333
	1. Termination of the proceedings	334
C	2. Remaining matters Technical and formal requirements	335
C.		
	ticle 37	337
	terpretation of the award	338
A.	The interpretation process	340
В. С.	Scope of application Interpretation and finality of awards	341
D.	Time-limits	342
Ar	ticle 38	
	prrection of the award	345
Α.	Errors and omissions	346
В.	Time-limits	348
C.	Justifying the request for correction	349
D.	Correction forms part of the award	350
E.	Costs	351
Ar	ticle 39	252
Ac	lditional award	353
A.	Request for an award or an additional award: article 39(1)	354
B.	Rendering of the award or additional award: article 39(2)	355
C.	Time-limits	356
D.	Technical requirements: article 39(3)	357
	ticle 40	359
De	efinition of costs	
A.	Fixing the costs of arbitration: article 40(1)	360 361
B.	Defining costs: article 40(2)	362
	<ol> <li>Fees of the arbitral tribunal: article 40(2)(a)</li> <li>Costs incurred by the arbitrators: article 40(2)(b)-(c)</li> </ol>	363
	2. Costs incurred by the arbitrators: article 40(2)(b)-(c)  3. Witness expenses: article 40(2)(d)	363
	3 Witness expenses: article 40(2)(d)	50.

	<ul> <li>4. Parties' legal and 'other' costs: article 40(2)(e)</li> <li>5. Fees and expenses of the appointing authority and Secretary-General of</li> </ul>	364
(	C. Costs incurred for interpretation, correction or completion of awards:	365
	article 40(3)	366
	Article 41	
	Gees and expenses of arbitrators	369
	A. Fees under the 1976 Rules  3. The revision process	371
	C. The revised Rules	372 373
	1. 'Reasonableness' requirement: articles 41(1) and 41(2)	373
	2. Tribunal's fee proposal and its review: article 41(3)	373
D	article 41(4)	375
٨	article 42	376
	allocation of costs	
	Article 40 of the 1976 Rules	379
В.		380
	1. Circumstances considered when allocating costs: article 42(1)	382 385
	(i) The success of the parties on their claims	385
	<ul><li>(ii) The conduct of the parties during the arbitral proceedings</li><li>(iii) The nature of the parties</li></ul>	387
	(iv) The nature of the dispute resolution mechanism	387 388
	2. Determination of the costs in the final or other award: article 42(2)	388
A	rticle 43	
D	eposit of costs	391
A.	acposite. differe 15(1)	392
B.	Transfer deposits. differe 45(2)	394
C. D.	o by the appointing additiontly. Alticle 45(5)	394
E.	Accounting: article 43(5)	395
		396
	PART II	
	UNCITRAL RULES ON TRANSPARENCY IN TREATY-BASED INVESTOR-STATE ARBITRATION	
Ar	rticle 1(1)-(2)	
Sc	ope of application	399
I.	Article 1(1): treaties concluded on or after 1 April 2014	400
	A. Preconditions for application  B. Opting out	400
	C. 'Treaty'	401
	D. 'Party' or 'State'	401 402
***	E. The right to exclude the application of the Transparency Rules	402
II.	Article 1(2): Treaties concluded before 1 April 2014  A. Opting in	403
	11. Opinig III	403

RI v.	В.	The opt-in versus opt-out approach No dynamic interpretation of existing treaties	403 403
	C.	Agreement to apply the Transparency Rules under existing treaties	405
	υ.	Agreements between disputing parties	405
		2. Agreements between State Parties	406
Art	icle	1(3)	
Sco	pe o	f application	409
	A.	Limits to party autonomy	410
	D	1. Investors	410 413
	В.	Tribunal's discretion under article 1(3)(b)	713
		(4)-(6)	415
	_	f application	415
I.		cle 1(4) cle 1(5)	415
		tle 1(6)	417
		1(7)-(9)	
		f application	419
I.	_	alence of the treaty	420
II.	Arti	cle 1(7) is not a rule of treaty interpretation	421
III.		play between transparency rules and applicable arbitration rules or	422
117		datory norms of domestic law lication not Limited to UNCITRAL Arbitrations	422 423
			1=0
-	icle		425
Pul		tion of information at the commencement of arbitral proceedings	427
	А. В.	Limited scope of disclosure obligations at initiation of proceedings  Disagreement does not suspend obligations	428
	C.	No sanctions to address non-compliance	429
		Disclosure does not require subjective judgement by the repository	429
	E.	Potential exceptions to article 2	430
Art	icle	3	
Pul	olica	tion of documents	431
	Α.	Overarching aims	433
	В. С.	Disclosure of exhibits by decision of the tribunal Mandatory disclosure upon request	434 435
	D.	Disclosure is not limited to specific recipients	436
	E.	Disclosure obligations after the tribunal has ceased to exist	436
	F.	Exceptions to the general rule on costs of transparency	436
Art	icle	4	
Sul	omi	sion by a third person	439
	A.	Overview	440
	B.	Third-person submissions require authorization by the tribunal	444 445
	C. D.	Guidelines for third-person submissions Form of third-person participation limited to written submissions	445
	E.	Funding of third persons	447

F.	Supplement to UNCITRAL Arbitration Rules	448
Article	5	
Submi	ssion by a non-disputing Party to the treaty	449
A.		449
В.	Right of non-disputing Parties to make submissions	452
C.	Scope of submissions not limited to treaty interpretation	454
D. E.	Tribunal's ability to invite submissions Addressing concerns over diplomatic protection	454
		455
Article		
Hearin		457
	Overview	457
В. С.	Public hearing as the default rule	458
D.	The state of the s	459
E.	Media attendance and broadcasting of hearings	460 461
		401
Article		162
	ions to transparency	463
A. B.	Overview Executions are parrowly defined	464
C.	Exceptions are narrowly defined Definition, scope and categorisation of confidential information	466 467
D.	Law applicable to confidentiality of information	469
E.	Arrangements to prevent disclosure of confidential information	470
F.	Withdrawal of documents from the record	471
G.	Self-judging security exception for respondent State	472
Н.	1 by the process cheephon	473
I.	No sanctions for breach of confidentiality obligations	474
Article		
Reposit	tory of published information	475
	Overview	475
	Form of the repository	476
	UN Secretary-General as preferred repository	477
D. Е.	Little or no discretion rests with the repository Limited guidance on the purpose and operation of the repository	478 478
	, ·	
/	I – UNCITRAL Arbitration Rules, UNCITRAL Transparency Rules	481
Annex	II – Revision of the UNCITRAL Arbitration Rules	511
Annex	III – Summary guide to the <i>travaux préparatoires</i>	597
Annex	IV – Table of correspondence between 1976 and 2010 Rules	605
Docum	ents and Reports	609
Bibliogi	raphy	615
Index		623