

## SUBCHAPTER U—INTERNATIONAL COMMERCIAL ARBITRATION

### PART 194—INTER-AMERICAN COMMERCIAL ARBITRATION COMMISSION RULES OF PROCEDURE

Sec.

194.1 Authority and scope of application.

APPENDIX A TO PART 194—INTER-AMERICAN COMMERCIAL ARBITRATION COMMISSION RULES OF PROCEDURE (AS AMENDED APRIL 1, 2002)

AUTHORITY: 9 U.S.C. 306.

SOURCE: 67 FR 8862, Feb. 27, 2002, unless otherwise noted.

#### § 194.1 Authority and scope of application.

In accordance with the authority in chapter III of the Federal Arbitration Act (9 U.S.C. 306), the Department of State has determined that the amended Rules of Procedures of the Inter-American Commercial Arbitration Commission (IACAC) should become effective in the United States and will come into force on April 1, 2002, at the same time as for all states party to the Inter-American Convention on International Commercial Arbitration. The IACAC's amended Rules of Procedure set forth the procedures for the initiation and conduct of arbitration of certain international commercial disputes to which the Inter-American Convention on International Commercial Arbitration applies. The amended Rules of Procedure are set out in full in appendix A to this part.

APPENDIX A TO PART 194—INTER-AMERICAN COMMERCIAL ARBITRATION COMMISSION RULES OF PROCEDURE (AS AMENDED APRIL 1, 2002)

#### TABLE OF CONTENTS

Art. 1	Scope of Application
Art. 2	Notice, Calculation of Periods of Time
Art. 3	Notice of Arbitration
Art. 4	Representation and Assistance
Art. 5	Appointment of Arbitrators
Art. 6	Challenge of Arbitrators
Art. 7	Challenge of Arbitrators
Art. 8	Challenge of Arbitrators
Art. 9	Challenge of Arbitrators

Art. 10	Replacement of an Arbitrator
Art. 11	Repetition of Hearings in the Event of the Replacement of an Arbitrator
Art. 12	General Provisions
Art. 13	Place of Arbitration
Art. 14	Language
Art. 15	Statement of Claim
Art. 16	Statement of Defense
Art. 17	Amendments to the Claim or Defense
Art. 18	Plea as to the Jurisdiction of the Arbitral Tribunal
Art. 19	Further Written Statements
Art. 20	Periods of Time
Art. 21	Evidence and Hearings
Art. 22	Evidence and Hearings
Art. 23	Interim Measures of Protection
Art. 24	Experts
Art. 25	Default
Art. 26	Closure of Hearings
Art. 27	Waiver of Rules
Art. 28	Decisions
Art. 29	Form and Effect of the Award
Art. 30	Applicable law, Amiable Compositeur
Art. 31	Settlement or Other Grounds for Termination
Art. 32	Interpretation of the Award
Art. 33	Correction of the Award
Art. 34	Additional Award
Art. 35	Costs
Art. 36	Costs
Art. 37	Costs
Art. 38	Costs: Deposit of Costs
Art. 39	Transitory Article

RULES OF PROCEDURE (AS AMENDED APRIL 1, 2002)

#### Section I. Introductory Rules

##### Scope of Application

##### Article 1

1. Where the parties to a contract have agreed in writing that disputes in relation to that contract shall be referred to arbitration under the IACAC Rules of Procedure, then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree in writing and the IACAC may approve.

2. These Rules shall govern the arbitration, except that where any such rule is in conflict with any provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

## Department of State

## Pt. 194, App. A

### Notice, Calculation of Periods of Time

#### Article 2

1. For the purposes of these rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee in person or via fax, telex or any other means agreed to by the parties, or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last known habitual residence or at his last known place of business. Notice shall be deemed to have been received on the day it is so delivered by any of the means stated in these rules.

2. For the purposes of calculating a period of time under these rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

### Notice of Arbitration

#### Article 3

1. The party initiating recourse to arbitration (hereinafter referred to as the "claimant") shall give to the other party (hereinafter referred to as the "respondent") a notice requesting arbitration and shall provide a copy to the Director General of the IACAC, either directly or through the IACAC National Section if one exists in his country of domicile.

2. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the respondent.

3. The request for arbitration shall at least include the following:

- (a) A request that the dispute be submitted to arbitration;
- (b) The names and addresses of the parties;
- (c) A copy of the arbitration clause or the separate arbitration agreement;
- (d) A reference to the contract out of which, or in relation to which, the dispute has arisen, and a copy thereof if the claimant deems it necessary;
- (e) The general nature of the claim and an indication of the amount involved, if any;
- (f) The relief or remedy sought;
- (g) If three arbitrators are to be appointed, designation of one arbitrator, as referred to in Article 5, paragraph 3.

4. The request for arbitration may also include the statement of claim referred to in Article 15.

5. Upon receipt of the notice of arbitration, the Director General of the IACAC or the

IACAC National Section shall communicate with all parties with respect to the arbitration and shall acknowledge the commencement of the arbitration.

### Representation and Assistance

#### Article 4

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons must be communicated in writing to the other party; such communication must specify whether the appointment is being made for purposes of representation or assistance.

### Section II. Composition of the Arbitral Tribunal

#### Appointment of Arbitrators

#### Article 5

1. If the parties have not otherwise agreed, three arbitrators shall be appointed.

2. When the parties have agreed that the dispute will be resolved by a single arbitrator, he may be appointed by the mutual agreement of the parties. If the parties have not done so within thirty (30) days from the date on which the notice of arbitration is received by the respondent, the arbitrator will be designated by the IACAC.

3. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator, who will act as the presiding arbitrator of the tribunal.

4. If within thirty (30) days after receipt of the claimant's notification of the appointment of an arbitrator, the other party has not notified the first party with a copy to the Director General of the IACAC either directly or through the IACAC National Section if one exists in his country of domicile, of the arbitrator he has appointed, the arbitrator will be designated by the IACAC.

5. If within thirty (30) days after the appointment of the second arbitrator, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator will be appointed by the IACAC.

6. In making appointments, the IACAC shall have regard to such considerations as are likely to secure the appointment of independent and impartial arbitrators, and shall also take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

7. The IACAC may request from either party any information it deems necessary in order to discharge its functions.

### Challenge of Arbitrators

#### Article 6

A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstances

likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed or chosen, shall disclose such circumstances to the parties and to the IACAC, if appointed by the IACAC, unless they have already been informed by him of these circumstances.

#### Article 7

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.

2. A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.

#### Article 8

1. A party who intends to challenge an arbitrator shall send notice of his challenge within fifteen days after the appointment of the challenged arbitrator has been notified to the challenging party or within fifteen days after the circumstances mentioned in Articles 6 and 7 became known to that party.

2. The challenge shall be notified to the other party, to the arbitrator who is challenged and to the other members of the arbitral tribunal and to the Director General of the IACAC. The notification shall be in writing and shall state the reasons for the challenge.

3. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases the procedure provided in article 5 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.

#### Article 9

1. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the IACAC.

2. If the IACAC sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in these rules.

#### Replacement of an Arbitrator

#### Article 10

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the

procedure applicable to the appointment or choice of the arbitrator being replaced.

2. In the event that an arbitrator fails to fulfill his functions or in the event of the *de jure* or *de facto* impossibility of performing his function, or if the IACAC determines that there are sufficient reasons to accept the resignation of an arbitrator, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply.

3. If an arbitrator on a three-person tribunal does not participate in the arbitration, the two other arbitrators shall have the power in their sole discretion to continue the arbitration and make any decision, ruling or award, notwithstanding the refusal of the third arbitrator to participate. In deciding whether to continue the arbitration or to render any decision, ruling or award, the two other arbitrators shall take into account the stage of the arbitration proceedings, the reasons, if any, stated by the third arbitrator for not participating, as well as such other matters they consider appropriate in the circumstances of the case. If the two arbitrators decide not to continue the arbitration without the participation of the third arbitrator, the IACAC on proof satisfactory to it shall declare the office vacant, and the party that initially appointed him shall proceed to appoint a substitute arbitrator within thirty (30) days following the vacancy declaration. If the designation is not made within the stated term, then the substitute arbitrator will be appointed by the IACAC.

#### Repetition of Hearings in the Event of the Replacement of an Arbitrator

#### Article 11

If under Articles 8 to 10 the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the arbitral tribunal.

#### Section III. Arbitral Proceedings

#### General Provisions

#### Article 12

1. Subject to these rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case.

2. If either party so requests at any stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or

## Department of State

## Pt. 194, App. A

whether the proceedings shall be conducted on the basis of documents and other evidence.

3. All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party.

### Place of Arbitration

#### Article 13

1. If the parties have not reached an agreement regarding the place of arbitration, the place of arbitration may initially be determined by the IACAC, subject to the power of the tribunal to determine finally the place of arbitration within sixty (60) days following the appointment of the last arbitrator. All such determinations shall be made having regard for the contentions of the parties and the circumstances of the case.

2. Notwithstanding the foregoing, the tribunal may meet in any place it may deem appropriate to hold hearings, hold meetings for consultation, hear witnesses, or inspect property or documents. The parties shall be given sufficient written notice to enable them to be present at any such proceeding.

### Language

#### Article 14

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defense, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.

2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defense, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

### Statement of Claim

#### Article 15

1. Unless the statement of claim was contained in the request for arbitration, within a period of time to be determined by the arbitral tribunal, the claimant shall communicate his statement of claim in writing to the respondent and to each of the arbitrators, with a copy to the IACAC. A copy of the contract, and of the arbitration agreement if not contained in the contract, shall be annexed thereto.

2. The statement of claim shall include the following particulars:

(a) The names and addresses of the parties;

(b) A statement of the facts supporting the claim;

(c) The points at issue;

(d) The relief or remedy sought.

The claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

### Statement of Defense

#### Article 16

1. Within a period of time to be determined by the arbitral tribunal, the respondent shall communicate his statement of defense in writing to the claimant and to each of the arbitrators, with a copy to the IACAC.

2. The statement of defense shall reply to the particulars (b), (c) and (d) of the statement of claim (Article 15, paragraph 2). The respondent may annex to his statement the documents on which he relies for his defense or may add a reference to the documents or other evidence he will submit.

3. In his statement of defense, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim arising out of the same contract, or rely on a claim arising out of the same contract for the purpose of a set-off.

4. The requirements provided in Article 15, paragraph 2, of these Rules shall apply to both any counterclaim or to any claim presented for the purposes of a set-off.

### Amendments to the Claim or Defense

#### Article 17

During the course of arbitral proceedings either party may amend or supplement his claim or defense unless the arbitral tribunal considers it inappropriate to allow such amendment, having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate arbitration agreement.

### Plea as to the Jurisdiction of the Arbitral Tribunal

#### Article 18

1. The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objection with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.

2. The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause or an arbitration agreement forms a part.

For the purposes of this Article, an arbitration clause that forms part of a contract and that provides for arbitration under these rules shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause or the arbitration agreement.

3. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defense or, with respect to a counterclaim, in the reply to the counterclaim.

4. In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as a preliminary question. However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in its final award.

#### Further Written Statements

##### Article 19

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defense, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

#### Periods of Time

##### Article 20

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defense) should not exceed forty-five days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

#### Evidence and Hearings (Articles 21 & 22)

##### Article 21

1. Each party shall have the burden of proving the facts relied on to support his claim or defense.

2. The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence that that party intends to present in support of the facts in issue set out in his statement of claim or statement of defense.

3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine.

##### Article 22

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate

advance notice of the date, time and place thereof.

2. If witnesses are to be heard, at least fifteen days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses he intends to present, and the subject upon and the languages in which such witnesses will give their testimony.

3. The arbitral tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal at least fifteen days before the hearing.

4. Hearings shall be held *in camera* unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.

5. Evidence of witnesses may also be presented in the form of written statements signed by them.

6. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

#### Interim Measures of Protection

##### Article 23

1. At the request of either party, the arbitral tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.

2. Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require security for the costs of such measures.

3. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

#### Experts

##### Article 24

1. The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The parties shall give the expert any relevant information or produce for his inspection any relevant document or goods that he may require of them. Any dispute between a party and such expert as to the relevance of

## Department of State

## Pt. 194, App. A

the required information or production shall be referred to the arbitral tribunal for decision.

3. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.

4. At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Article 22 shall be applicable to such proceedings.

### Default

#### Article 25

1. If, within the period of time fixed by the arbitral tribunal, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings.

2. If one of the parties, duly notified under these rules, fails to appear at a hearing without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

### Closure of Hearings

#### Article 26

1. The arbitral tribunal may inquire of the parties if they have any further proofs to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

### Waiver of Rules

#### Article 27

A party who knows that any provision of, or requirement under, these rules has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance shall be deemed to have waived his right to object.

### Section IV. The Award

#### Decisions

##### Article 28

The arbitral tribunal shall adopt its decisions by a majority vote. When there is no majority, the decision shall be made by the president of the tribunal.

#### Form and Effect of the Award

##### Article 29

1. In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards.

2. The award shall be made in writing and shall be final and binding on the parties and subject to no appeal. The parties undertake to carry out the award without delay.

3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.

4. An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made, which shall be the place designated in Article 13. Where there are three arbitrators and one of them fails to sign, the award shall state the reasons for the absence of the signature.

5. The award may be made public only with the consent of both parties.

6. Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.

7. If the arbitration law of the country where the award is made requires that the award be filed or registered by the arbitral tribunal, the tribunal shall comply with this requirement within the period of time required by law.

#### Applicable law, Amiable Compositeur

##### Article 30

1. The arbitral tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules that it considers applicable.

2. The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorized the arbitral tribunal to do so and if the law applicable to the arbitral procedure permits such arbitration.

3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

**Pt. 194, App. A**

**22 CFR Ch. I (4-1-11 Edition)**

Settlement or Other Grounds for  
Termination

Additional Award

Article 31

Article 34

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

1. Within thirty days after the receipt of the award, either party may request the arbitral tribunal, which shall notify the other party, to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

2. If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties. Where an arbitral award on agreed terms is made, the provisions of Article 29, paragraphs 2 and 4, shall apply.

3. When an additional award is made, the provisions of Article 29, paragraphs 2 to 7, shall apply.

Costs (Articles 35 to 38)

Article 35

The arbitral tribunal shall fix the costs of arbitration in its award. The term "costs" includes only:

INTERPRETATION OF THE AWARD

Article 32

1. Within thirty days after the receipt of the award, either party may request that the arbitral tribunal give an interpretation of the award. The tribunal shall notify the other party or parties to the proceedings of such request.

(a) The fees of the arbitral tribunal, to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with Article 36;

(b) The travel and other expenses incurred by the arbitrators;

(c) The costs of expert advice and of other assistance required by the arbitral tribunal;

(d) The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

2. The interpretation shall be given in writing within forty-five days after the receipt of the request. The interpretation shall form part of the award and the provisions of Article 29, paragraphs 2 to 7, shall apply.

(e) The costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;

(f) The administrative fee and other service charges of the IACAC; which shall be set by the Arbitrator Nominating Committee of the IACAC in accordance with the schedule in effect at the time of the commencement of the arbitration. The committee may set a provisional fee when the proceedings are instituted and the final amount before the award is rendered, so that such amount may be taken into account by the tribunal when rendering its award.

Correction of the Award

Article 33

1. Within thirty days after the receipt of the award, either party may request the arbitral tribunal, which shall notify the other party, to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.

Article 36

1. The fees of the arbitral tribunal and the administrative fees for the IACAC shall be set in accordance with the schedule in effect at the time of commencement of the arbitration. The fees shall be calculated on the basis of the amount involved in the arbitration; if that amount cannot be determined, the fees shall be set discretionally.

2. Such corrections shall be in writing, and the provisions of Article 29, paragraphs 2 to 7, shall apply.

2. The amount between the maximum and minimum range in the schedule shall be set in accordance with the nature of the dispute,

## Department of State

## § 196.2

the complexity of the subject matter and any other relevant circumstances of the case.

### Article 37

1. The costs of arbitration shall be borne by the unsuccessful party. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.

2. When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred to in Article 35 in the text of that order or award.

3. No additional fees may be charged by an arbitral tribunal for interpretation or correction or completion of its award under Articles 32 to 34.

### Article 38

#### Deposit of Costs

1. The arbitral tribunal, on its establishment, or the Arbitrator Nominating Committee of the IACAC within its purview, may request each party to deposit an equal amount as an advance for the costs referred to in Article 35, paragraphs (a), (b), (c) and (f).

2. During the course of the arbitral proceedings the arbitral tribunal may request supplementary deposits from the parties.

3. When a party so requests, the arbitral tribunal shall fix the amounts of any deposits or supplementary deposits only after consultation with the IACAC, which may make any comments to the arbitral tribunal which it deems appropriate concerning the amounts of such deposits and supplementary deposits.

4. If the required deposits are not paid in full within thirty days after the receipt of the request, the arbitral tribunal shall so inform the parties in order that one or another of them may make the required payment. Should one of the parties fail to pay its deposits in full, the other party may do so in its stead. If payment in full is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.

5. After the award has been made, the arbitral tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

### Transitory Article

#### Article 39

Any disputes arising under contracts that stipulate resolution of such disputes pursuant to the IACAC Rules of Procedure and that have not been submitted to an arbitral tribunal as of the date on which these rules

enter into effect shall be subject to these rules in their entirety.

## PART 196—THOMAS R. PICKERING FOREIGN AFFAIRS/GRADUATE FOREIGN AFFAIRS FELLOWSHIP PROGRAM

Sec.

196.1 What is the Fellowship Program?

196.2 How is the Fellowship Program administered?

196.3 Grants to post-secondary education institutions.

196.4 Administering office.

AUTHORITY: 22 U.S.C. 2719.

SOURCE: 67 FR 50803, Aug. 6, 2002, unless otherwise noted.

### § 196.1 What is the Fellowship Program?

The Thomas R. Pickering Foreign Affairs/Graduate Foreign Affairs Fellowship Program is designed to attract outstanding men and women at the undergraduate and graduate educational levels for the purpose of increasing the level of knowledge and awareness of and employment with the Foreign Service, consistent with 22 U.S.C. 3905. The Program develops a source of trained men and women, from academic disciplines representing the skill needs of the Department, who are dedicated to representing the United States' interests abroad.

### § 196.2 How is the Fellowship Program administered?

(a) *Eligibility.* Eligibility will be determined annually by the Department of State and publicized nationwide. Fellows must be United States citizens.

(b) *Provisions.* The grant awarded to each individual student shall not exceed \$250,000 for the total amount of time the student is in the program. Fellows are prohibited from receiving grants from one or more Federal programs, which in the aggregate would exceed the cost of his or her educational expenses. Continued eligibility for participation is contingent upon the Fellow's ability to meet the educational requirements set forth in paragraph (c) of this section.

(c) *Program requirements.* Eligibility for participation in the program is conditional upon successful completion of