

**RULES OF PROCEDURE
OF
THE JOINT COURT OF JUSTICE AND ARBITRATION**

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The Council of Ministers of the Organization for the Harmonization of Business Law in Africa (OHADA),

Mindful of Articles 8 and 9 of the Treaty on the Harmonization of Business Law in Africa,

Has deliberated and unanimously adopted by the Contracting States present and voting, the Rules of Procedure set out below:

PART I ORGANIZATION OF THE COURT

CHAPTER I MEMBERS OF THE COURT

Article 1

- (1) The term of office of members of the Court shall begin to run on 1 January of the year following their election. However, the term of office of judges elected during the first election shall begin to run 60 days after such election. The term of office of a judge elected to replace another judge pursuant to Article 35 of the Treaty shall begin with effect from the swearing-in as provided for in Article 34 of the Treaty.
- (2) Pursuant to Article 31 of the Treaty, Judges shall be elected for a term of seven years renewable once. The term of office of Judges during the first election shall, in addition, include the period from the date of election to 31 December of the year of election.

Article 2

- (1) Members of the Court shall, in exercising their functions, have equal status irrespective of age, date of election or seniority in their functions as judge.
- (2) Subject to the provisions of paragraphs 4 and 5 of this Article, members of the Court shall rank according to the date on which they assume duty in accordance with Article 1 of the present Rules of Procedure.
- (3) Members of the Court assuming duty on the same date shall rank according to their ages.
- (4) Any member of the Court re-elected for another successive term shall keep his rank.
- (5) During their term of office, the President, the First Vice President and Second Vice-President shall rank before the other members of the Court.

Article 3

- (1) Upon assuming duty, all members of the Court shall in open court take the following oath:
"I solemnly swear to faithfully and truly fulfil my duties as Judge in honour and impartiality and to scrupulously observe the secrecy of proceedings".
- (2) During the first appointment of all members of the Court, the said oath shall be taken in open court before the Chairman of the Council of Ministers of OHADA while commissioning the said Court.

- (3) A member of the Court who is re-elected shall take the oath anew only if his new term of office does not come immediately after the preceding one.

Article 4

- (1) Resignation by a member of the Court shall be notified in writing to the President of the Court who shall inform the Permanent Secretary of OHADA thereof who shall then declare the seat vacant. The Council shall proceed with replacement as provided for in Article 35 of the Treaty.
- (2) Where the member of the Court who resigns is the President, he shall notify the Court of his decision. The First Vice-President shall inform the Permanent Secretary thereof. The procedure provided for in paragraph 1 of this Article shall be applicable.

Article 5

- (1) Where a member of the Court ceases to fulfil his duties for any reason other than temporary absence, or where such member is no longer able to fulfil such duties and where, as a result, the application of Article 35 is envisaged, the member of the Court in question shall be informed thereof by the President in writing stating the reasons by virtue of which the procedure is set in motion and stating all the evidence relating thereto. He shall then be granted the possibility in a closed session of the Court to make his observations. During another closed session held in the absence of the member of the Court concerned the matter shall be examined; each member of the Court shall give his opinion and, where it is so requested, the matter shall be put to vote.
- (2) Where the member of the Court in question as provided for in paragraph 1 above, is the President, the court shall be notified thereof by the First Vice President who shall then apply the procedure laid down in the said paragraph 1.

CHAPTER II THE PRESIDENT

Article 6

- (1) The Court shall elect its President for a period of three and a half years without such period exceeding that of his term of office as member of the Court.
- (2) Where the President ceases to be part of the Court or resigns before expiry of his term of office, he shall be replaced for the remainder of the term.
- (3) The President shall not be eligible for re-election. However, he may be re-elected once after his first term if such term of office was for a period of less than three and a half years.
- (4) The President elected after the initial election of the Court shall assume his functions forthwith. His term of office shall expire three years and six months with effect from 1 January following such election.
- (5) The initial election of the President shall be held as soon as possible after the first election of members of the Court. It shall be supervised by the eldest member of the Court. Ensuing elections shall be supervised by the outgoing President. Where the latter has ceased to be

a member of the Court or is not present, the election shall be held under the supervision of the member of the Court exercising the functions of President in accordance with Article 8 of the Rules of Procedure.

- (6) Voting shall be by secret ballot after the member of the Court performing the duties of President shall have mentioned the number of votes required to be elected. Only members of the Court in attendance shall vote.
- (7) The member of the Court who obtains the votes of the majority of the members of the Court during the election shall be declared elected. A relative majority shall suffice as from the third round of voting.
- (8) The election of the First and Second Vice-Presidents shall be supervised by the newly elected President. Paragraphs 1, 2, 3, 4, 6 and 7 of this Article shall apply to this election. The provisions of paragraph 3 shall not bar the Court from electing one of its Vice-Presidents as President of the Court.

Article 7

The President shall direct the proceedings and services of the Court. He shall preside over court sessions. He shall represent the Court and perform any other duty assigned to him by the said court.

Article 8

In the event of vacancy of the post of President or where the President is unable to assume his functions, the First Vice-President, or failing that, the Second Vice-President, or failing that, one of the Judges shall assume his functions according to the order laid down in Article 2 above.

CHAPTER III BENCHES

Article 9

- (1) The Court shall sit as a full bench. However, it may set up Benches comprising three or five judges.
- (2) Such Benches shall be presided over by the President of the Court or by one of the Vice Presidents. They shall comprise judges elected by the Court through secret ballot and by an absolute majority of the members present and voting. A relative majority shall suffice as from the third round of voting.

CHAPTER IV REGISTRY

Article 10

- (1) The President of the Court shall appoint the Registrar-in-chief of the Court after the court has given its opinion, under the conditions laid down in Article 39 (1) of the Treaty. The Registrar-in-Chief shall be appointed for a period of seven years renewable once.
- (2) In the event of actual or imminent vacancy, the President shall notify the governments of the Contracting Parties either as soon as the post is vacant or, where such vacancy is the result of expiry of the Registrar-in-Chief's term of office, not less than six months before the expiry

of such term.

The President shall fix a deadline for closing the list candidates so that proposals and information concerning such candidates may be received on time.

- (3) Proposals shall be accompanied by all useful information concerning the candidates and shall mention in particular, their age, nationality, the functions they have held in the past, and their present occupation.
- (4) The President shall communicate the list of candidates to the members of the Court and seek their opinion on the candidatures.

Article 11

Before assuming duty, the Registrar-in-Chief shall take the following oath before the Court:

"I solemnly do swear to faithfully perform the duties entrusted to me as Registrar-in-Chief of the Joint Court of Justice and Arbitration with loyalty and discretion and that I shall scrupulously observe the confidentiality attached to my duties".

Article 12

- (1) The Registrar-in-Chief shall perform his duties under the authority of the President.
- (2) He shall act as Secretary to the Court and assist it in the performance of its duties. He shall be responsible for the organization and activities of the Registry.
- (3) He shall serve as intermediary for correspondence, communications and notification of documents served by the Court or addressed to it as concerns matters referred to it or to be brought before it.
- (4) He shall keep the seals, and be responsible for records and publications of the Court.
- (5) He shall be responsible for all administrative duties and in particular, for accounting and financial management.
- (6) He shall attend Court sessions and take down minutes thereof.
- (7) The President may, at any moment, after the opinion of the Court, assign other duties to the Registrar-in-Chief.

Article 13

- (1) A register, initialled and signed by the President shall be kept at the Registry under the responsibility of the Registrar-in-Chief. It shall contain in sequence and in the order in which they are presented all legal proceedings and documents deposited in support thereof.
- (2) Reference of entry in the register shall be done by the Registrar-in-Chief on the originals and, at the request of the Parties, on the accounts they present for this purpose.
- (3) The entries in the register and the references referred to in the preceding paragraph shall constitute legal documents.
- (4) The conditions under which the register is kept shall be determined by the instructions

provided for in Article 15 of these Rules of Procedure.

- (5) Any interested party may consult the register at the Registry and obtain copies or extracts against payment of the rates fixed by the Court upon the recommendation of the Registrar-in-Chief.
- (6) A notice shall be published in the Official Gazette of OHADA stating the date of registration of the application originating the proceedings, the names and place of residence of the Parties and the subject of the dispute.

Any Party to the proceedings may, in addition, obtain against payment, according to the rates of the Registry, copies of documents, as well as copies of Court orders and rulings.

Article 14

The Court may decide that one or more assistant Registrars shall assist the Registrar-in-Chief and replace him within the limits fixed by Article 15 of these Rules of Procedure. The corresponding posts shall be filled by the President upon the recommendation of the Registrar-in-Chief.

Article 15

Instructions for the Registry shall be prepared by the Registrar-in-Chief and approved by the President after the opinion of the Court.

Article 16

- (1) The Registrar-in-Chief may not be relieved of his duties unless he is unable to perform them or is incapable of fulfilling his obligations.
- (2) Prior to reaching a decision pursuant to this Article, the Registrar-in-Chief shall be informed in writing by the President of the measure envisaged which shall state the reasons therefor and mention any evidence relating thereto. He shall then be given the chance to make oral submissions during a closed session of the Court.
- (3) The decision shall be taken by the President after the Court has given its opinion.

Article 17

Where the Registrar-in-Chief ceases to perform his duties prior to the expiry of his term, his successor shall be appointed for a seven year term of office.

Article 18

- (1) The organization plan of Registry services shall be laid down by the President upon the recommendation of the Registrar-in-chief.
- (2) Registry employees shall be subjected to the Staff Rules of OHADA in all matters that are not incompatible with the independence of the Court.

CHAPTER V FUNCTIONING OF THE COURT

Article 19

The seat of the Court shall be in Abidjan. However, the Court may, if it deems necessary, meet

in other places on the territory of any member State with the prior consent of such State which shall under no circumstances be involved financially.

Article 20

The date and venue of Court sessions shall be fixed by an order of the President.

Article 21

The quorum of five members shall suffice to constitute the Court.

Article 22

- (1) The Court shall sit in private. Its proceedings are and shall remain secret.
- (2) Only Judges shall take part in the proceedings. No other person may attend except where so authorized by the Court.
- (3) Minutes shall not be taken during Court proceedings in Judicial matters.
- (4) The Court shall reach decisions by a majority of the judges present. Voting shall be done in the reverse order from that established in Article 2 above. In case of a tie, the President shall have the casting vote.

**PART II
DISPUTES PROCEDURE**

**CHAPTER I
GENERAL**

Article 23

- (1) The services of a Counsel shall be compulsory before the Court. Any person who can act as Counsel before a court of one of the Contracting States shall exercise the functions of Counsel. Any person claiming to have the status of Counsel shall have to provide evidence to the Court. In addition, such person shall produce a special authorization from the Party he is representing.
- (2) Counsel whose behaviour before the Court is deemed incompatible with the dignity of the Court or who uses the rights ensuing from his functions for purposes other than those for which such rights are granted may, after having been heard, be expelled at any time from the proceedings by a Court decision. Such decision shall be executed forthwith.

Where a Counsel is expelled from the proceedings, such proceedings shall be adjourned until expiry of a time fixed by the President to enable the party concerned to appoint another Counsel.

Article 24

The service of court documents provided for in these Rules of Procedure shall be done by registered mail with acknowledgement of receipt, or directly against receipt. Copies shall be made and certified by the Registrar-in-Chief.

Article 25

- (1) Where an act or formality, by virtue of the Treaty or of these Rules of Procedure has to be

done or fulfilled before expiry of a given time limit, such time limit shall begin from the date of the act, event, decision or notification. The day on which the act, event, decision or notification took place shall not be included in calculating the time limit.

- (2) Where a time limit is given in months or years, it shall expire on the day of the last month or of the last year bearing the same date of the act, event, decision or notification which set the time limit in motion. Failing an identical date, the time limit shall expire on the last day of the month.
- (3) Time limit shall include public holidays, Saturdays and Sundays.
- (4) Each time limit shall expire on the last day at midnight. A time limit expiring normally on a Saturday, Sunday or public holiday in the country where the act or formality has to be done shall be postponed to the next working day. The list of such public holidays shall be drawn up by the Court and published in the Official Gazette of OHADA.
- (5) Time limit for proceedings shall, taking account of distance, be fixed by decision of the Court and published in the Official Gazette of OHADA.

Article 26

As soon as a matter is referred to the Court, the President shall appoint a Judge acting as Rapporteur who shall be responsible for preliminary inquiries on the matter and make a report to the Court.

CHAPTER II WRITTEN PROCEDURE

Article 27

- (1) The original of every procedural document must be signed by the Counsel for the party. Such document, accompanied by all the enclosures mentioned therein shall be presented in seven copies for the Court and in as many copies as there are parties to the case. Such copies shall be certified as true by the Party who deposits them.
- (2) Every procedural document shall be dated. Owing to procedural time limits, only the date of deposit at the Registry shall be taken into account.
- (3) A file containing the supporting evidence and documents and accompanied by a list thereof shall be appended to all proceedings.
- (4) Where, by reason of the volume of exhibits or of a document only extracts thereof are included in the file, the complete exhibit or document shall be deposited at the Registry.

Article 28

- (1) Where the Court is seized by one of the Parties at first instance by virtue of the appeal provided for in Article 14 (3) and (4) of the Treaty, the appeal shall be presented to the Registry within two months following notification of the decision challenged by counsel for the applicant under the conditions laid down in Article 23 above. The appeal shall mention:

- a) the name and residence of the applicant;

- b) the name, and residence of the other parties to the proceedings before the national court and of their counsel;
- c) the submissions of the applicant and the grounds invoked in support thereof;

The appeal shall mention the Uniform Acts or Rules of Procedure provided by the Treaty, the application of which justifies referral of the matter to the Court.

- (2) The judgment of the national Court being the subject of appeal shall be appended. Mention shall be made of the date on which the judgment was notified to the applicant.
- (3) For procedural purposes, the appeal shall contain election of domicile at the seat of the Court. It shall mention the name of the person with power of attorney to receive service of documents.
- (4) Where, the applicant is a private corporate body, he shall attach to the application:
 - his Articles of Association or a recent extract of the trade register or any other proof of his legal existence;
 - proof that the mandate given to the Counsel has been regularly established by a representative qualified to do so.

- (2) Where the appeal does not fulfil the conditions laid down in this Article, the Registrar-in-Chief shall set a reasonable deadline for the applicant to regularize it or to produce the documents mentioned above. Failing such regularization or production of documents within the set deadline, the Court shall rule on the admissibility of the appeal.

Article 29

The court shall notify the appeal to all Parties to the proceedings in the national court. In the case provided for in paragraph 5 above, notification shall be made as soon as regularization is made or as soon as the Court has ruled on admissibility under the conditions laid down in the said article.

Article 30

- (1) Each Party to the proceedings in a national court may present a statement of response within 3 (three) months following notice of the appeal.
- (2) The statement of response shall include:
 - a) the name and residence of the Party who produces it;
 - b) the date on which he was notified of the appeal;
 - c) the submissions made and the grounds invoked.

Articles 28 (3), (4) and (5) and 29 above shall be applicable.

Article 31

- (1) The appeal and statement of response may be supplemented by a statement of case and a rejoinder or by any other statement where the President deems it necessary and expressly authorizes it either automatically or following an application filed within a period of 15 (fifteen) days with effect from the date of notification of the statement of case or rejoinder.
- (2) Where the President authorizes the submission of a statement of case or rejoinder or any

other statement, he shall fix the time limit for their production.

Article 32

- (1) Any objection as to the competence of the Court or the admissibility of the appeal shall be presented within the time-limit fixed for the deposit of the first procedural exhibit from the challenging Party. The Court may rule separately on the objection or together with the merits of the case.
- (2) Where the Court is manifestly incompetent to hear the appeal or where such appeal is manifestly inadmissible or unfounded, it may at any moment reject the appeal by a ruling stating the reasons therefor.

Article 33

The Court may at any moment, for reasons of their related nature, order the joint hearing of several matters relating to the written or oral procedure or to the ruling putting an end to the matter at first instance. It may hear them separately anew.

**CHAPTER III
ORAL PROCEEDINGS**

Article 34:

- (1) Proceedings before the court shall be essentially in writing. However, the Court may, at the request of one of the Parties, hold oral proceedings in certain cases.
- (2) In such case, the Registrar-in-Chief shall inform the Parties of the decision and of the date of the hearing as fixed by the President.

Article 35

The hearing shall be public unless otherwise decided by the Court. The decision to hold sessions in camera entails prohibition to publish a record of the proceedings.

Article 36

The President shall direct the proceedings and maintain order therein. He shall fix the order in which Parties are called to speak.

Article 37

The President may, in the course of the proceedings, ask questions to the Parties. Each Judge may equally do so on the authorization of the President.

Article 38

- (1) The Registrar-in-Chief shall take down the minutes of proceedings. The Minutes shall be signed by the President and the Registrar-in-Chief. They shall constitute a legal document.
- (2) The Parties may consult the minutes at the Registry and obtain copies thereof against payment.

CHAPTER IV COURT RULINGS

Article 39

A Court ruling shall contain:

- the mention that it is made by the Court;
- the date on which it is made;
- the names of the Judges who took part and the Registrar;
- the Parties;
- the names of Counsel for the Parties;
- the submissions of the Parties;
- summary of facts;
- the grounds;
- terms of judgment including the decision as to costs.

Article 40

(1) The ruling shall be made in open Court with the Parties duly summoned.

(2) The ruling shall be signed by the President and the Registrar-in-Chief. It shall be sealed and deposited at the Registry. Certified true copies thereof shall be sent to each Party who may obtain a copy of the ruling according to the rates fixed by the Court.

Article 41

The ruling shall be binding with effect from the date it is made.

Article 42

A collection of rulings of the Court shall be published by the Registrar-in-Chief under the supervision of the President or a Judge appointed for this purpose.

CHAPTER V COSTS

Article 43

(1) The Court shall adjudicate on costs in the ruling putting an end to the proceedings.

(2) The following shall be considered as recoverable costs:

- a) Registry fees;
- b) indispensable costs incurred by the Parties as a result of the proceedings, in particular, travel and subsistence expenses, the fees of counsel according to the rate fixed by the court;
- c) expenses incurred by a Party for the purpose of enforcement according to the rates applicable in the State where the enforcement takes place.

(1) The losing Party shall be ordered to pay costs, unless the Court decides otherwise for exceptional reasons.

Where several Parties lose, the Court shall order the sharing of costs.

Where no decision as to costs is made, each Party shall bear his own costs.

CHAPTER VI WITHDRAWAL OF SUIT

Article 44

- (1) Where, before the court makes a ruling the Parties inform the Court of a withdrawal of the suit, the President shall order that the matter be struck off the register. He shall rule on costs. In case of agreement on the costs, he shall rule according to such agreement.
- (2) Where the applicant notifies the Court in writing of his intention to withdraw the suit, the President shall order that the matter be struck off the register.

The withdrawing Party shall be ordered to pay costs where it is so agreed by the other Party. However, at the request of the withdrawing Party, costs may be borne by the other Party where it appears to be justified by the attitude of the latter. Failing an agreement on the payment of costs, each Party shall bear his own costs.

CHAPTER VII INTERVENTION

Article 45

- (1) Contracting States under the Treaty may intervene in the disputes brought before the Court. The same right shall be recognized of any person having an interest in protecting his rights, to back the claims of one of the Parties.
- (2) The intervention application shall be filed within 3 (three) months from the publication provided for in Article 13 (6) of these Rules of Procedure.

The application shall contain:

- a) a mention of the case;
- b) a mention of the main Parties to the dispute;
- c) the name and domicile of the intervenor;
- d) election of domicile by the intervenor at the seat of the Court;
- e) the submissions in support of which the intervenor requests intervention;
- f) in the case of applications for intervention other than those of member States, an explanatory statement justifying intervention.

- (1) The intervention application shall be notified to the Parties. The President shall give the Parties the opportunity to make their written or oral submission before ruling on the intervention application.
- (2) Where the intervention is admissible, the intervenor shall be sent all the legal documents served to the Parties. However the President may, at the request of a Party, not communicate confidential documents to the intervenor.

- (3) The intervenor shall accept the dispute in the stage in which it is during his intervention.
- (4) The President shall fix the time limit within which the intervenor may present a written statement of the case for intervention. He shall also fix the time limit within which the Parties shall reply to the statement.

CHAPTER VIII ENFORCEMENT

Article 46

- (1) The enforcement of Court rulings shall be governed by the rules of civil procedure applicable in the territory of the State in which it takes place. The enforcement order shall be appended without further control other than the verification of the authenticity of the document, by the national authority whom the government of each Contracting State shall designate for this purpose and who shall be made known to the Court.

After fulfilling these formalities at the request of the person concerned, the latter may pursue enforcement by directly contacting the competent organ according to national laws.

- (2) Enforcement may be stayed only by virtue of a Court decision.
- (3) Any application to stay the enforcement of a Court ruling shall be filed as provided for in Articles 23 and 27 of these Rules of Procedure. It shall be notified forthwith to the Parties for whom the President shall fix a short time limit for their written or oral comments.
- (4) The President shall rule on the application by an order stating the reasons therefor. The order shall not be subject to appeal and shall be notified forthwith to the Parties.
- (5) At the request of a Party, the order may be modified or cancelled at any moment.
- (6) Rejection of the application shall not bar the Party who introduced it to file another application based on new facts.

CHAPTER IX EXTRAORDINARY REMEDIES AT LAW

Article 47

- (1) Any natural person or corporate body may file an application as third-party to challenge a ruling of the Court without such person having been summoned, where such a ruling is prejudicial to its rights.
- (2) The provisions of Articles 23 and 27 of these Rules of Procedure shall apply to the application of an opposing third-party. In addition, it shall:
 - a) specify the ruling challenged;
 - b) state in what way such ruling is prejudicial to the rights of the third party;
 - c) state the reasons why the opposing third-party was not able to take part in the main

dispute.

The application shall be filed against all the Parties to the main dispute.

- (2) The ruling challenged shall be modified in so far as it rights the wrongs done to the opposing third-party. The record of the ruling in pursuance of the challenge by the third-party shall be appended to the record of the challenged ruling. Reference of the ruling made as a result of the challenge of the third party shall be made in the margin of the original of the challenged ruling.

Article 48

- (1) Where the meaning or scope of the enacting terms of a ruling is contested, it shall be the duty of the Court to interpret it.
- (2) Any Party may request an interpretation of the enacting terms of a ruling within 3 (three) months following the day it was made.
- (3) The application for interpretation shall be filed in accordance with the provisions of Articles 23 and 27 of these Rules of Procedure. In addition, it shall mention:
 - a) the ruling in question;
 - b) the text for which interpretation is sought.
- (2) The Court shall decide by a ruling after having given the Parties the opportunity to present their observations. The original copy of the interpretation shall be appended to the original of the interpreted ruling. Reference of the interpretation shall be made on the margin of the original of the interpreted ruling.

Article 49

- (1) The Court may not be requested to review a ruling except in case of discovery of fresh evidence that might decisively influence it and which, prior to the Court ruling was unknown to the Court and the Party applying for a review.
- (2) Review proceedings shall be started after a Court ruling expressly recording the existence of fresh evidence necessitating review, and declaring the application admissible.
- (3) The Court may subject the opening of review proceedings to the prior enforcement of the ruling.
- (4) The application for review shall be filed within 3 (three) months with effect from the day on which the applicant had knowledge of the fresh evidence on which the review is based.
- (5) No application for review shall be made after expiry of a period of 10 (ten) years from the date of the ruling.

Article 50

- (1) The provisions of Articles 23 and 27 of these Rules of Procedure shall apply to applications for review. The review application shall, in addition, contain the necessary indications to establish that the conditions laid down in Article 49 above have been fulfilled.
- (2) The application for review shall be filed against all the Parties concerned by the ruling whose

review is sought.

- (3) The Parties shall have the right to make written observations on the admissibility of the application. Such observations shall be notified to the Party who filed the application.
- (4) Before deciding on the admissibility of the application, the Court may again grant the Parties the possibility of giving their opinion on the matter.
- (5) Where the application is admissible, the Court shall fix a time-limit for any subsequent proceedings it deems necessary to rule on the merits of the application.
- (6) The original of the reviewed judgment shall be appended to the original of the reviewed ruling. Reference of the reviewed judgment shall be made in the margin of the original copy of the reviewed ruling.

CHAPTER X REFERRAL BY THE NATIONAL COURT

Article 51

Where a matter is referred to the Court in accordance with Articles 14 and 15 of the Treaty by a national court hearing appeals at the highest instance requesting it to adjudicate on a matter raising questions relating to the application of the Uniform Acts, such court shall immediately lose jurisdiction over the matter. It shall forward the entire case-file to the Court together with a copy of the referral decision. Upon receipt of the file, the Parties shall be informed by the Court of such referral.

The provisions of Articles 23 to 50 of these Rules of Procedure shall apply subject to adaptations imposed by the referral procedure.

CHAPTER XI APPEALS PURSUANT TO ARTICLE 18 OF THE TREATY

Article 52

- (1) Where in accordance with Article 18 of the Treaty, an appeal for annulment of a judgment by which a national Court making a final ruling did not recognize the jurisdiction of the Joint Court of Justice and Arbitration, such appeal shall be notified forthwith to all Parties to the proceedings in the national Court by the Registrar-in-Chief.
- (2) Each Party shall have three months with effect from the date of notification of the appeal to make a statement in writing.
- (3) The statements so received shall be notified to the appellant and the other Parties. The latter may present new statements within a time-limit fixed by the President who shall also decide whether there is need for a hearing.
- (4) Where the Court decides that the national court assumed jurisdiction wrongfully, the judgment passed by such court shall be deemed null and void. Any Party to the case may, within a period of two months following notification of the ruling of the Court, lodge an appeal

with the latter for a final ruling against the decision of the Court under the conditions laid down in Article 14 of the Treaty and Articles 23 to 50 of these Rules of Procedure.

PART III ADVISORY PROCEDURE

Article 53

In the performance of the advisory role assigned to it by virtue of Article 14 (2) of the Treaty, the Court shall apply the following provisions. It shall equally apply the other provisions of these Rules of Procedure if it so deems appropriate.

Article 54

Any request from a Contracting State or from the Council of Ministers for an advisory opinion shall be made in the form of a written application. Such application shall state in precise terms, the matter for which the opinion of the Court is sought. Any other document that might help in elucidating the matter shall be appended thereto.

Article 55

- (1) The Registrar-in-Chief shall notify the other Contracting States forthwith of the application for an advisory opinion lodged by a State.
- (2) During such notification, the Registrar-in-Chief shall inform the other Contracting States that the Court is willing to receive their written observations within the time-limit fixed by the President.
- (3) The written observations so forwarded shall be notified to the applicant and to the others who furnished written observations. The latter shall be called to examine the observations so received in the form, manner and time-limits fixed in each case by the President who shall equally decide if there is need for a hearing.

Article 56

Any decision by which a national court as provided for in Article 14 of the Treaty seeks an advisory opinion shall be notified to the Court by such national court. The decision shall state in precise terms the matter on which the national court deems it necessary to seek the opinion of the Court in order to pass judgment. Any other document that may serve in elucidating the matter shall be appended thereto.

Article 57

- (1) The Registrar-in-Chief shall forthwith notify the other Parties to the case before the national court of any application for advisory opinion filed by such court in accordance with article 14 of the Treaty. He shall also notify the Contracting States of such application.
- (2) While notifying them, the Registrar-in-Chief shall inform his correspondents that the Court is willing to receive their written observations within the time-limit fixed by the President.
- (3) The written observations so received shall be notified to the others who furnished written observations. The latter shall be called to examine the observations so received in the form, manner and time-limits fixed in each case by the President who shall equally decide if there is need for a hearing.

Article 58

The advisory opinion shall contain:

- the indication that it is given by the Court;
- the date on which it was given;
- the names of the Judges who participated as well as that of the Registrar;
- the summary statement of facts;
- the grounds;
- the reply to the question put to the Court.

**PART IV
FINAL PROVISIONS**

Article 59

These Rules of Procedure shall enter into force on the day of signature and published in the Official Gazette of OHADA.

Text adopted in accordance with Article 8 of the OHADA Treaty of 17 October 1993 by the Council of Ministers of Justice and Finance of OHADA at N'DJAMENA on 18 April 1996.