VIAC Award Checklist

FOR AWARDS UNDER THE VIENNA (INVESTMENT) RULES 2021

When drafting an award pursuant to the Vienna Rules on Arbitration and Mediation 2021 (Vienna Rules) and the Vienna Investment Rules on Arbitration and Mediation 2021 (Vienna Investment Rules), arbitrators may find this checklist useful. It is non-binding and non-exhaustive and merely intended to serve as a practical tool. The VIAC Secretariat will also use this checklist as a guideline when conducting its informal scrutiny process but may also raise additional issues with the arbitrators depending on the specific case.

Please check whether the award contains the following information as relevant:

1. FRONT PAGE

- ☐ VIAC case number, e.g. “ARB-....”
- ☐ Type of award (i.e. final, partial or interim awards; award on jurisdiction; award on costs; award on cost reimbursement pursuant to Art. 42 para. 10 Vienna Rules / Vienna Investment Rules; award on agreed terms pursuant to Art. 37 Vienna Rules / Vienna Investment Rules)
- ☐ Full name(s) of Sole Arbitrator or Arbitral Tribunal
- ☐ Full name(s) of the parties and countries of origin (in brackets)

2. GENERAL STRUCTURE

- ☐ Pages and paragraphs numbered
- ☐ Table of contents
- ☐ List of abbreviations (if necessary)

3. PARTIES IN THE PROCEEDING

- ☐ Full name(s), addresses including e-mail addresses of the parties and any information on the parties’ nationalities
- ☐ Full name(s), addresses including e-mail address(es) of the party representative(s)
- ☐ If applicable: Full name(s), addresses including e-mail address(es) of third-party funder(s)

4. SOLE ARBITRATOR / ARBITRAL TRIBUNAL

- ☐ Full name(s), address(es) including e-mail address(es) of the respective arbitrator(s)
- ☐ If applicable: Full name(s), address(es) including e-mail address(es) of the tribunal secretary
- ☐ Manner of appointment of the respective arbitrator(s) including confirmation or other specific decisions of the VIAC Board

5. APPLICABLE LAW, RULES AND ARBITRATION AGREEMENT

- ☐ Particulars regarding the arbitration agreement (or applicable contract, treaty, statute or other instrument as per Art. 1 Vienna Investment Rules) and its content
- ☐ Applicable version of the Vienna Rules
- ☐ Applicability of expedited proceedings pursuant to Art. 45 Vienna Rules / Vienna Investment Rules
- ☐ Place of arbitration
- ☐ If applicable: Determination of the language of the proceedings; translation of quotations in languages other than the main language of the award
- ☐ If the language of the proceeding is a language other than English or German: Provide the VIAC Secretariat with a translation of the formalities of the award (see items 5 and 9 of this checklist), the costs (see item 10 of the checklist), the dispositive section (section 11 of this checklist) and a brief summary of the main reasons for the decision (one page)
- ☐ Relevant choice-of-law clause or decision by the arbitral tribunal on the applicable law

6. PROCEDURAL HISTORY

- ☐ Summary of the relevant procedural history of the dispute including the relevant submissions, Case Management Conferences, procedural orders, hearings and other procedural steps that are relevant for the decision making of the case
- ☐ Date of closing of the proceedings
- ☐ Time limit for rendering the award as communicated to the parties and any relevant amendments to said deadline
- ☐ If awards were already rendered in the arbitration: restate the essential procedural steps or, if possible, refer to previous awards and elaborate on the subsequent procedural history

7. JURISDICTION

- ☐ If jurisdiction has been contested or there is a non-participating party: a decision on the sole arbitrator's / arbitral tribunal's jurisdiction

8. MERITS OF THE CASE

- ☐ Summary of the facts of the case and both parties' submissions
- ☐ The amount in dispute indicated by the parties / Claimant and any changes thereto during the proceedings
- ☐ Reasoned decisions on all claims raised by the parties – outlining the respective parties' positions and the relevant tribunal's decision
- ☐ In case of a majority decision: indicate in the body of the award which decisions are rendered by the majority. If desired by the dissenting arbitrator, any dissenting reasoning should be included in the body of the award.

9. PRAYERS FOR RELIEF

- ☐ The requests for relief at the time of submission of the respective claim as well as all subsequent amendments until closing of the proceedings

10. COSTS PURSUANT TO ART. 44 VIENNA (INVESTMENT) RULES

- ☐ Advance on Costs as paid by the parties
- ☐ The administrative fees of VIAC
- ☐ The arbitrators' fees including any potential increase or decrease of the arbitrators' fees as determined by the Secretary General pursuant to Art. 44 para. 1.1., para. 2 and para. 8 Vienna Rules / Vienna Investment Rules
- ☐ Any applicable value-added tax on the arbitrators' fees
- ☐ Expenses (including arbitrators' or tribunal secretary's travel and subsistence costs, costs for sending communications, rent, court reporter fees)
- ☐ Expenses of the parties for their legal representation and other expenses related to the arbitration (such as appointment of experts, interpreters or translators, a verbatim transcript of the proceedings, a site visit, relocation of the hearing) as determined by the Arbitral Tribunal pursuant to Art. 44 paras 1.2., 1.3. and 2 Vienna Rules / Vienna Investment Rules
- ☐ If reimbursement was requested by the Claimant: decision on reimbursement of the registration fee
- ☐ Decision on the allocation of costs, with reference to Art. 38 para. 2 Vienna Rules / Vienna Investment Rules, taking into account a refund of the advance on costs to the parties (if any)

11. DISPOSITIVE SECTION

- [ ] List of all orders including if applicable decision on jurisdiction but not any further reasoning
- [ ] Dispositive section which mirrors / reflects the actual wording of the prayers for relief unless there are justifiable grounds to change the wording (the latter should be reasoned)
- [ ] Addresses all requests for relief raised by the parties (i.e. without addressing requests that have not been raised)
- [ ] If applicable: A statement that all other requests for relief are rejected
- [ ] If applicable: A statement that certain requests for relief are not dealt with in the award and rather reserved for one or more future awards
- [ ] Uniform spelling / punctuation of numbers, in the manner of the award language, in order to avoid misunderstandings – throughout the award and in particular in the dispositive section

12. FINAL PAGE

- [ ] Date of the award
- [ ] Place of arbitration
- [ ] Names of the arbitrator(s) indicating their role in the arbitral tribunal
- [ ] Signature of the Sole Arbitrator or all three members of the Arbitral Tribunal