

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
<p>International Center for Settlement of Investment Disputes (ICSID)</p> <p>2022 Rules</p>	<p>Rule 67: Submission of Non-Disputing Parties</p> <p>(1) Any person or entity that is not a party to the dispute ("nondisputing party") may apply for permission to file a written submission in the proceeding. The application shall be made in the procedural language(s) used in the proceeding.</p> <p>(2) In determining whether to permit a non-disputing party submission, the Tribunal shall consider all relevant circumstances, including:</p> <p>(a) whether the submission would address a matter within the scope of the dispute;</p> <p>(b) how the submission would assist the Tribunal to determine a factual or legal issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the parties;</p> <p>(c) whether the non-disputing party has a significant interest in the proceeding;</p> <p>(d) the identity, activities, organisation and ownership of</p>	<p>Rule 14: Notice of Third-Party Funding</p> <p>(1) A party shall file a written notice disclosing the name and address of any non-party from which the party, directly or indirectly, has received funds for the pursuit or defense of the proceeding through a donation or grant, or in return for remuneration dependent on the outcome of the proceeding ("third-party funding"). If the non-party providing funding is a juridical person, the notice shall include the names of the persons and entities that own and control that juridical person.</p> <p>(2) A party shall file the notice referred to in paragraph (1) with the Secretary-General upon registration of the Request for</p>	<p>The ICSID system does not have a mechanism for joining third parties. However, similar to the analysis applied to determine whether consolidation of proceedings may be appropriate, Article 44 of the ICSID Convention may be relied upon to join third parties to the arbitral proceeding, provided there is the necessary consent.. The tribunal cannot extend its jurisdiction over individuals for a joinder request without the consent of all parties involved.</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>the non-disputing party, including any direct or indirect affiliation between the non-disputing party, a party or a non-disputing Treaty Party; and</p> <p>(e) whether any person or entity will provide the non-disputing party with financial or other assistance to file the submission.</p> <p>(3) The parties shall have the right to make observations on whether a non-disputing party should be permitted to file a written submission in the proceeding and on any conditions for filing such a submission.</p> <p>(4) The Tribunal shall ensure that non-disputing party participation does not disrupt the proceeding or unduly burden or unfairly prejudice either party. To this end, the Tribunal may impose conditions on the non-disputing party, including with respect to the format, length, scope or publication of the written submission and the time limit to file the submission.</p> <p>(5) The Tribunal shall issue a reasoned decision on whether to</p>	<p>arbitration, or immediately upon concluding a third-party funding arrangement after registration. The party shall immediately notify the Secretary-General of any changes to the information in the notice.</p> <p>(3) The Secretary-General shall transmit the notice of third-party funding and any notification of changes to the information in such notice to the parties and to any arbitrator proposed for appointment or appointed in a proceeding for purposes of completing the arbitrator declaration required by Rule 19(3)(b).</p> <p>(4) The Tribunal may order disclosure of further information</p>	

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>permit a non-disputing party submission within 30 days after the last written submission on the application.</p> <p>(6) The Tribunal shall provide the non-disputing party with relevant documents filed in the proceeding, unless either party objects.</p> <p>(7) If the Tribunal permits a non-disputing party to file a written submission, the parties shall have the right to make observations on the submission.</p> <p>Rule 68: Participation of Non-Disputing Treaty Party</p> <p>(1) The Tribunal shall permit a Party to a treaty that is not a party to the dispute ("non-disputing Treaty Party") to make a submission on the interpretation of the treaty at issue in the dispute and upon which consent to arbitration is based. The Tribunal may, after consulting with the parties, invite a nondisputing Treaty Party to make such a submission.</p>	<p>regarding the funding agreement and the non-party providing funding pursuant to Rule 36(3).</p> <p>Rule 53(3)-(4): Security of Cost</p> <p>(3) In determining whether to order a party to provide security for costs, the Tribunal shall consider all relevant circumstances, including:</p> <p>(a) that party's ability to comply with an adverse decision on costs;</p> <p>(b) that party's willingness to comply with an adverse decision on costs;</p> <p>(c) the effect that providing security for costs may have on that party's ability to pursue its claim or counterclaim; and</p> <p>(d) the conduct of the parties.</p> <p>(4) The Tribunal shall consider all evidence</p>	

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>(2) The Tribunal shall ensure that non-disputing Treaty Party participation does not disrupt the proceeding or unduly burden or unfairly prejudice either party. To this end, the Tribunal may impose conditions on the making of the submission by the non-disputing Treaty Party, including with respect to the format, length, scope or publication of the submission, and the time limit to file the submission.</p> <p>(3) The Tribunal shall provide the non-disputing Treaty Party with relevant documents filed in the proceeding, unless either party objects.</p> <p>(4) The parties shall have the right to make observations on the submission of the non-disputing Treaty Party.</p>	<p>adduced in relation to the circumstances in paragraph (3), including the existence of third-party funding.</p>	
<p>United Nations Commission on International Trade Law (UNCITRAL)</p> <p>Arbitration Rules 2021</p>			<p>Rule 17(5): General Provisions</p> <p>5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds, after</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.</p>
<p>United Nations Commission on International Trade Law (UNCITRAL)</p> <p>Rules on Transparency in Treaty-Based Investor State Arbitration</p> <p>2021 Rules</p>	<p>Article 4: Submission by a Third Party</p> <p>1. After consultation with the disputing parties, the arbitral tribunal may allow a person that is not a disputing party, and not a non-disputing Party to the treaty (“third person(s)”), to file a written submission with the arbitral tribunal regarding a matter within the scope of the dispute.</p> <p>2. A third person wishing to make a submission shall apply to the arbitral tribunal, and shall, in a concise written statement, which is in a language of the arbitration and complies with any page limits set by the arbitral tribunal:</p> <p>(a) Describe the third person, including, where relevant, its membership and legal status</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>(e.g., trade association or other non-governmental organisation), its general objectives, the nature of its activities and any parent organisation (including any organisation that directly or indirectly controls the third person);</p> <p>(b) Disclose any connection, direct or indirect, which the third person has with any disputing party;</p> <p>(c) Provide information on any government, person or organisation that has provided to the third person (i) any financial or other assistance in preparing the submission; or (ii) substantial assistance in either of the two years preceding the application by the third person under this article (e.g. funding around 20 per cent of its overall operations annually);</p> <p>(d) Describe the nature of the interest that the third person has in the arbitration; and</p> <p>(e) Identify the specific issues of fact or law in the arbitration that the third person wishes to address in its written submission.</p> <p>3. In determining whether to allow such a submission, the arbitral tribunal shall take into consideration, among other</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>factors it determines to be relevant:</p> <p>(a) Whether the third person has a significant interest in the arbitral proceedings; and</p> <p>(b) The extent to which the submission would assist the arbitral tribunal in the determination of a factual or legal issue related to the arbitral proceedings by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties.</p> <p>4. The submission filed by the third person shall:</p> <p>(a) Be dated and signed by the person filing the submission on behalf of the third person;</p> <p>(b) Be concise, and in no case longer than as authorized by the arbitral tribunal;</p> <p>(c) Set out a precise statement of the third person's position on issues; and</p> <p>(d) Address only matters within the scope of the dispute.</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>5. The arbitral tribunal shall ensure that any submission does not disrupt or unduly burden the arbitral proceedings, or unfairly prejudice any disputing party.</p> <p>6. The arbitral tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on any submission by the third person.</p> <p>Article 5: Submissions by a Non-Disputing Party to the Treaty</p> <p>1. The arbitral tribunal shall, subject to paragraph 4, allow, or, after consultation with the disputing parties, may invite, submissions on issues of treaty interpretation from a nondisputing Party to the treaty.</p> <p>2. The arbitral tribunal, after consultation with the disputing parties, may allow submissions on further matters within the scope of the dispute from a non-disputing Party to the treaty. In</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>determining whether to allow such submissions, the arbitral tribunal shall take into consideration, among other factors it determines to be relevant, the factors referred to in article 4, paragraph 3, and, for greater certainty, the need to avoid submissions which would support the claim of the investor in a manner tantamount to diplomatic protection.</p> <p>3. The arbitral tribunal shall not draw any inference from the absence of any submission or response to any invitation pursuant to paragraphs 1 or 2.</p> <p>4. The arbitral tribunal shall ensure that any submission does not disrupt or unduly burden the arbitral proceedings, or unfairly prejudice any disputing party.</p> <p>5. The arbitral tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	on any submission by a non-disputing Party to the treaty.		
<p>International Chamber of Commerce (ICC)</p> <p>2021 Arbitration Rules</p>		<p>Article 11(7): General Provisions</p> <p>7. In order to assist prospective arbitrators and arbitrators in complying with their duties under Articles 11(2) and 11(3), each party must promptly inform the Secretariat, the arbitral tribunal and the other parties, of the existence and identity of any non-party which has entered into an arrangement for the funding of claims or defences and under which it has an economic interest in the outcome of the arbitration.</p>	<p>Article 7: Joinder of Additional Parties</p> <p>1. A party wishing to join an additional party to the arbitration shall submit its request for arbitration against the additional party (the “Request for Joinder”) to the Secretariat. The date on which the Request for Joinder is received by the Secretariat shall, for all purposes, be deemed to be the date of the commencement of arbitration against the additional party. Any such joinder shall be subject to the provisions of Articles 6(3)–6(7) and 9. Unless all parties, including the additional party, otherwise agree, or as provided for in Article 7(5), no additional party may be joined after the confirmation or appointment of any arbitrator. The Secretariat may fix a time limit for the submission of a Request for Joinder.</p> <p>2. The Request for Joinder shall contain the following information:</p> <p>a) the case reference of the existing arbitration;</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>b) the name in full, description, address and other contact details of each of the parties, including the additional party; and</p> <p>c) the information specified in Article 4(3), subparagraphs c), d), e) and f).</p> <p>The party filing the Request for Joinder may submit therewith such other documents or information as it considers appropriate or as may contribute to the efficient resolution of the dispute.</p> <p>3. The provisions of Articles 4(4) and 4(5) shall apply, mutatis mutandis, to the Request for Joinder.</p> <p>4. The additional party shall submit an Answer in accordance, mutatis mutandis, with the provisions of Articles 5(1)–5(4). The additional party may make claims against any other party in accordance with the provisions of Article 8.</p> <p>5. Any Request for Joinder made after the confirmation or appointment of any arbitrator shall be decided by the arbitral tribunal once constituted and shall be</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>subject to the additional party accepting the constitution of the arbitral tribunal and agreeing to the Terms of Reference, where applicable. In deciding on such a Request for Joinder, the arbitral tribunal shall take into account all relevant circumstances, which may include whether the arbitral tribunal has prima facie jurisdiction over the</p> <p>additional party, the timing of the Request for Joinder, possible conflicts of interests and the impact of the joinder on the arbitral procedure. Any decision to join an additional party is without prejudice to the arbitral tribunal's decision as to its</p> <p>jurisdiction with respect to that party.</p>
<p>London Court of International Arbitration (LCIA)</p> <p>Arbitration Rules 2020</p>			<p>Article 22.1(x): Additional Powers</p> <p>22.1 The Arbitral Tribunal shall have the power, upon the application of any party or (save for sub- paragraph (x) below) upon its own initiative, but in either case only after giving the parties a reasonable opportunity to state their views and upon such terms (as to costs and otherwise) as the Arbitral Tribunal may decide:</p> <p>(x) to allow one or more third persons to be joined in the arbitration as a party provided any</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			such third person and the applicant party have consented expressly to such joinder in writing following the Commencement Date or (if earlier) in the Arbitration Agreement; and thereafter to make a single final award, or separate awards, in respect of all parties so implicated in the arbitration.
<p>Singapore International Arbitration Centre (SIAC)</p> <p>Investment Arbitration Rules</p> <p>2017 Rules</p>	<p>Rule 29: Third-Party Submissions</p> <p>29.1. By written notice to the Registrar and the Parties, a Non-disputing Contracting Party may make written submissions to the Tribunal, but only on a question of treaty interpretation that is directly relevant to the dispute. The Tribunal may also, after considering the views of the Parties and having regard to the circumstances of the case, invite written submissions from a Non-disputing Contracting Party under this Rule 29.1.</p> <p>29.2. By written notice to the Registrar and the Parties, a Non-disputing Contracting Party or Non-disputing Party may apply to the Tribunal for the right to make written submissions regarding a matter within the scope of the dispute. The Tribunal may also,</p>	<p>Rule 24(l): Additional Powers of the Tribunal</p> <p>Unless otherwise agreed by the Parties, in addition to the other powers specified in these Rules, and except as prohibited by the mandatory rules of law applicable to the arbitration, the Tribunal shall have the power to:</p> <p>(l) order the disclosure of the existence of a Party's third-party funding arrangement and/or the identity of the third-party funder and, where appropriate, details of the third-party funder's interest in the outcome of the proceedings, and/or whether or not the</p>	<p>*Joinder Rules have been omitted from the draft SIAC Investment Rules on the basis that states, which SIAC wants to encourage to agree to the new rules, may not be comfortable with these innovations or because they may not be appropriate for cases brought under investment treaties</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>after considering the views of the Parties and having regard to the circumstances of the case, invite written submissions from a Non-disputing Contracting Party or Non-disputing Party under this Rule 29.2.</p> <p>29.3. In determining whether to allow an application under Rule 29.2 to proceed, the Tribunal shall consider the views of the Parties and, among other things, the extent to which:</p> <p>a. the Non-disputing Contracting Party's or Non-disputing Party's written submissions would assist the Tribunal in the determination of a factual or legal issue related to the proceedings by bringing a perspective, particular knowledge or insight that is different from that of the Parties;</p> <p>b. the Non-disputing Contracting Party's or Non-disputing Party's written submissions would only address a matter within the scope of the dispute;</p>	<p>third-party funder has committed to undertake adverse costs liability;</p>	

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>c. the Non-disputing Contracting Party or Non-disputing Party has a sufficient interest in the</p> <p>arbitral proceedings and/or any other related proceedings; and</p> <p>d. allowing the written submissions would violate the Parties' right to confidentiality.</p> <p>29.4. Any Non-disputing Contracting Party or Non-disputing Party that files any written submissions under this Rule 29 shall be deemed to have consented to administration by SIAC in accordance with these Rules and submitted to the authority of the Tribunal.</p> <p>29.5. The Tribunal may, where appropriate, determine the form and content of any written submissions under this Rule 29. The Parties shall have the right to respond to such written submissions.</p> <p>29.6. The Tribunal shall decide which further written submissions shall be required from a</p> <p>Non-disputing Contracting Party or Non-disputing Party. The</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>Tribunal shall fix the periods of time for communicating such written submissions.</p> <p>29.7. The Tribunal may, if either Party so requests or the Tribunal so decides, hold a hearing for a Non-disputing Contracting Party or Non-disputing Party to elaborate on or be examined on its written submissions.</p> <p>29.8. The Tribunal may order that a Non-disputing Contracting Party or Non-disputing Party be provided with access to documents related to the proceedings, including submissions, evidence, orders, decisions, Awards and any other documents produced by the Parties or any Non-disputing Contracting Party or Non-disputing Party as may be necessary for its participation in the arbitration. The Tribunal shall take appropriate measures to safeguard the confidentiality of information related to the proceedings as set out in Rule 37.</p> <p>29.9. The Tribunal shall take reasonable steps to ensure, with</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>respect to all submissions under this Rule 29, that the submissions do not unreasonably disrupt the arbitration or unduly burden or</p> <p>unfairly prejudice any of the Parties.</p> <p>29.10. The Tribunal may refer to and rely on a Non-disputing Contracting Party's and/or Non-disputing Party's submissions in its orders, decisions and Awards</p>		
<p>Singapore International Arbitration Centre (SIAC)</p> <p>Arbitration Rules 2025</p>	<p>.</p>	<p>38 Third-party funding</p> <p>38.1 A party shall disclose the existence of any third-party funding agreement and the identity and contact details of the third-party funder in its Notice or Response or as soon as practicable upon concluding a third-party funding agreement.</p> <p>38.2 The funded party shall as soon as practicable notify the Tribunal, the parties, and the Registrar of any changes to the third-party funding agreement in respect of which disclosures had</p>	<p>18 Joinder</p> <p>18.1 At the time of filing the Notice or the Response, or at any time prior to the constitution of the Tribunal, a party or non-party to the arbitration may file an application with the Registrar for the joinder of one or more additional parties to an arbitration pending under these Rules as a claimant or a respondent (each, an "additional party") where:</p> <p>(a) all parties, including the additional party, have agreed to the joinder of the additional party; or</p> <p>(b) the additional party is prima facie bound by the arbitration agreement.</p> <p>18.2</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
		<p>previously been made under Rule 38.1.</p> <p>38.3 After the constitution of the Tribunal, a party shall not enter into a third-party funding agreement which may give rise to a conflict of interest with any member of the Tribunal. In such circumstances, the Tribunal may direct the party to withdraw from the third-party funding agreement.</p> <p>38.4 The Tribunal may order the disclosure of the information referred to in Rule 38.1 and, after considering the views of the parties, may make such orders for disclosure in respect of the third-party funding agreement as it sees fit including in respect of details of the third-party funder's interest in the outcome of the proceedings and whether the third-party funder has committed to undertake adverse costs liability.</p> <p>38.5 The disclosure and existence of a third-party funding</p>	<p>An application for joinder under Rule 18.1 shall include:</p> <p>(a) the date and mode of delivery of the application to all parties, including the additional party;</p> <p>(b) the case reference number of the pending arbitration;</p> <p>(c) the identity and contact details of all parties, including the additional party, and their representatives;</p> <p>(d) submissions on whether the additional party shall be designated as a claimant or a respondent;</p> <p>(e) the information specified in Rule 6.3(d) and Rule 6.3(e);</p> <p>(f) a statement on the existence of a third-party funding agreement in respect of any party including the additional party, and the identity and contact details of the third-party funder;</p> <p>(g) a statement of the facts and legal basis supporting the application; and</p> <p>(h) payment of the Joinder Filing Fee.</p> <p>18.3 The Registrar shall determine whether the application for joinder complies or substantially complies with the requirements under Rule 18.2. The SIAC Secretariat shall notify all parties, including the additional party, when the application for joinder is complete.</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
		<p>agreement on its own shall not be taken as an indication of the financial status of a party.</p> <p>38.6 The Tribunal may take into account any third-party funding agreement in apportioning costs under these Rules.</p> <p>38.7 The Tribunal may take appropriate measures, including issuing an order or award for sanctions, damages, or costs, if a party does not comply with any obligations or orders for disclosure under this Rule 38.</p>	<p>18.4 If the Registrar determines that the application for joinder does not comply or substantially comply with any of the requirements under Rule 18.2, or if the Joinder Filing Fee is not paid upon the filing of the application, the Registrar may set a period of time for the deficiency in the application to be remedied. If the applicant fails to do so within the period of time set by the Registrar, the Registrar may deem the application to be withdrawn on a without prejudice basis.</p> <p>18.5 The SIAC Court shall, after considering the views of all parties, including the additional party, decide whether to grant, in whole or in part, an application for joinder under Rule 18.1. Where an application for joinder is made under Rule 18.1(a) by agreement of all parties (including the additional party), the President shall decide the application and the decision of the President shall be deemed to be a decision of the SIAC Court.</p> <p>18.6 The SIAC Court's decision to grant an application for joinder under Rule 18.5 is without prejudice to the Tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision. The SIAC Court's decision to reject an application for joinder under Rule 18.5 is without prejudice to any party's or non-party's right to apply to the Tribunal</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>for joinder in accordance with Rule 18.10.</p> <p>18.7 Where an application for joinder is granted under Rule 18.5, the date of receipt by the Registrar of the complete joinder application shall be deemed to be the date of commencement of the arbitration in respect of the additional party.</p> <p>18.8 Where an application for joinder is granted under Rule 18.5, the President may revoke the appointment of any arbitrators who were appointed prior to the SIAC Court’s decision on joinder. Unless the Registrar determines otherwise, the appointment provisions under these Rules shall apply as appropriate, and any timelines thereunder shall run from the date of receipt of the SIAC Court’s decision under Rule 18.5.</p> <p>18.9 The President’s decision to revoke the appointment of any arbitrator under Rule 18.8 is without prejudice to the validity of any act done or any decision, ruling, order, or award made by the arbitrator before his or her appointment was revoked.</p> <p>18.10 After the constitution of the Tribunal, a party or non-party to the arbitration may apply to the Tribunal for the joinder of one or more additional parties to an arbitration pending under these Rules as a claimant or a respondent (each, an “additional party”) where: (a) all parties, including the</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>additional party, have agreed to the joinder of the additional party; or (b) the additional party is prima facie bound by the arbitration agreement.</p> <p>18.11 Subject to any specific directions of the Tribunal, the provisions of Rule 18.2 shall apply, mutatis mutandis, to an application for joinder under Rule 18.10. Where appropriate, an application to the Tribunal under Rule 18.10 may be filed with the Registrar who shall deliver the application to the Tribunal.</p> <p>18.12 The Tribunal shall, after giving all parties, including the additional party, the opportunity to be heard, decide whether to grant, in whole or in part, an application for joinder under Rule 18.10.</p> <p>18.13 The Tribunal's decision to grant an application for joinder under Rule 18.12 is without prejudice to the Tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision.</p> <p>18.14 Where an application for joinder is granted under Rule 18.12, the date of receipt by the Registrar or the Tribunal, as the case may be, of the complete joinder application shall be deemed to be the date of commencement of the arbitration in respect of the additional party.</p> <p>18.15 Where an application for joinder is granted, in whole or in</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>part, under Rule 18.5 or Rule 18.12, any party which did not have the opportunity to nominate an arbitrator or otherwise participate in the constitution of the Tribunal shall be deemed to have waived any such right, without prejudice to the right of such party to challenge an arbitrator pursuant to Rule 26.</p> <p>18.16 Where an application for joinder is granted under Rule 18.5 or Rule 18.12, the parties and additional party may make claims, counterclaims, cross-claims, or set-offs against any other party in accordance with the provisions set out in Rule 6 and Rule 7.</p>
<p>Arbitration Institute of the Stockholm Chamber of Commerce (SCC)</p> <p>2017 Rules</p>	<p>Appendix III Investment Treaty Dispute, Article 3: Submission by a Third Person</p> <p>(1) Any person that is neither a disputing party nor a non-disputing treaty party (“Third Person”) may apply to the Arbitral Tribunal for permission to make a written submission in the arbitration.</p> <p>(2) All such applications shall:</p> <p>(i) be made in a language of the arbitration;</p>	<p>*SCC policy: Encourage disclosure of third parties with an interest in the outcome of the dispute, adopted 11 September 2019.</p>	<p>Article 13: Joinder of Additional Parties</p> <p>(1) A party to the arbitration may request that the Board join one or more additional parties to the arbitration.</p> <p>(2) The request for joinder shall be made as early as possible. A request for joinder made after the submission of the answer will not be considered</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>(ii) identify and describe the Third Person, including where relevant its membership and legal status, its general objectives, the nature of its activities and any parent or other affiliated organisation, and any other entity or person that directly or indirectly controls the Third Person;</p> <p>(iii) disclose any direct or indirect affiliation with any party to the arbitration;</p> <p>(iv) identify any government, organisation or person that has directly or indirectly provided any financial or other assistance in preparing the submission;</p> <p>(v) specify the nature of the interest that the Third Person has in the arbitration; and (vi) identify the specific issues of fact or law in the arbitration that the Third Person wishes to address in its submission.</p> <p>(3) In determining whether to allow such a submission, and after consulting the disputing parties, the Arbitral Tribunal shall have regard to:</p> <p>(i) the nature and significance of the interest of the Third Person in the arbitration;</p> <p>(ii) whether the submission would assist the Arbitral Tribunal</p>		<p>unless the Board decides otherwise. Articles 6 and 7 shall apply mutatis mutandis to the request for joinder.</p> <p>(3) Arbitration against the additional party shall be deemed to commence on the date the SCC receives the request for joinder.</p> <p>(4) The Secretariat shall set a time period within which the additional party shall submit an answer to the request for joinder. Article 9 shall apply mutatis mutandis to the answer to the request for joinder.</p> <p>(5) The Board may decide to join one or more additional parties provided that the SCC does not manifestly lack jurisdiction over the dispute between the parties, including any additional party requested to be joined to the arbitration, pursuant to Article 12 (i).</p> <p>(6) In deciding whether to grant the request for joinder where claims are made under more than one arbitration agreement, the Board shall consult with the parties and shall have regard to Article 14 (3) (i)-(iv).</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>in determining a material issue of fact or law in the arbitration</p> <p>by bringing a perspective, particular knowledge or insight that is</p> <p>distinct from or broader than that of the disputing parties; and</p> <p>(iii) any other relevant circumstances.</p> <p>(4) The Arbitral Tribunal may, after consulting the disputing parties, invite a Third Person to make a written submission on a material issue of fact or law in the arbitration. The Arbitral Tribunal shall not draw any inference from the absence of any submission or response to an invitation.</p> <p>(5) If permission is granted or an invitation by the Arbitral Tribunal accepted, the submission filed by the Third Person shall:</p> <p>(i) be made in a language of the arbitration; and</p> <p>(ii) set out a precise statement of the Third Person's position</p> <p>on the identified issue(s), in no case longer than as authorized by the Arbitral Tribunal.</p>		<p>(7) In all cases where the Board decides to grant the request for joinder,</p> <p>any decision as to the Arbitral Tribunal's jurisdiction over any party joined</p> <p>to the arbitration shall be made by the Arbitral Tribunal.</p> <p>(8) Where the Board decides to grant the request for joinder and the</p> <p>additional party does not agree to any arbitrator already appointed, the</p> <p>Board may release the arbitrators and appoint the entire Arbitral Tribunal, unless all parties, including the additional party, agree on a different</p> <p>procedure for the appointment of the Arbitral Tribunal.</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>(6) For the purposes of preparing its written submission, a Third Person</p> <p>may apply to the Arbitral Tribunal for access to submissions and evidence filed in the arbitration. The Arbitral Tribunal shall consult the disputing parties before ruling on the application, and shall take into account, and where appropriate safeguard, any confidentiality of the information in question.</p> <p>(7) The Arbitral Tribunal may, at the request of a disputing party, or on its own motion:</p> <ul style="list-style-type: none"> (i) request further details from the Third Person regarding its submission; and (ii) require that the Third Person attend a hearing to elaborate or be examined on its submission. <p>(8) The Arbitral Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on any submission by any Third Person.</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>(9) The Arbitral Tribunal shall ensure that any Third Person submission</p> <p>does not disrupt or unduly burden the arbitral proceedings or unduly prejudice any disputing party.</p> <p>(10) The Arbitral Tribunal may, as a condition for allowing a Third Person</p> <p>to make a submission, require that the Third Person provide security for</p> <p>reasonable legal or other costs expected to be incurred by the disputing parties as a result of the submission.</p> <p>Article 4: Submission by a Non-Disputing Treaty Party</p> <p>(1) Subject to Article 3 (9) of this Appendix, as applied by Article 4 (4)</p> <p>below, the Arbitral Tribunal shall allow or, after consulting the disputing parties, may invite, submissions from a non-disputing treaty party on issues of treaty interpretation that are</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
	<p>material to the outcome of the case.</p> <p>(2) The Arbitral Tribunal, after consulting the disputing parties, may allow or invite submissions from a non-disputing treaty party on other material issues in the arbitration. In determining whether to allow or invite such submissions, the Arbitral Tribunal shall have regard to:</p> <p>(i) the matters referred to in Article 3 (3) of this Appendix;</p> <p>(ii) the need to avoid submissions appearing to support the investor’s claim in a manner tantamount to diplomatic protection;</p> <p>and</p> <p>(iii) any other relevant circumstances.</p> <p>(3) The Arbitral Tribunal shall not draw any inference from the absence of any submission or response to any invitation pursuant to paragraph (1) or (2) above.</p> <p>(4) Article 3 (5)–(9) of this Appendix shall apply equally to any submission by a non-disputing treaty party</p>		

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
<p>Hong Kong International Arbitration Centre (HKIAC)</p> <p>2024 Administered Arbitration Rules</p>		<p>Article 44: Disclosure of Third-Party Funding</p> <p>44.1. If a funding agreement is made, the funded party shall communicate a written notice to all other parties, the arbitral tribunal, any emergency arbitrator and HKIAC of:</p> <p>(a) the fact that a funding agreement has been made; and</p> <p>(b) the identity of the third party funder.</p> <p>44.2. The notice referred to in Article 44.1 must be communicated:</p> <p>(a) in respect of a funding agreement made on or before the commencement of the arbitration, in the application for the appointment of an emergency arbitrator, the Notice of Arbitration, the Answer to</p>	<p>Article 27: Joinder of Additional Parties</p> <p>27.1 The arbitral tribunal or, where the arbitral tribunal is not yet constituted, HKIAC shall have the power to allow an additional party to be joined to the arbitration provided that:</p> <p>(a) prima facie, the additional party is bound by an arbitration agreement under these Rules giving rise to the arbitration, including any arbitration under Article 28 or 29; or</p> <p>(b) all parties, including the additional party, expressly agree.</p> <p>27.2 Any decision pursuant to Article 27.1 is without prejudice to the arbitral tribunal's power to decide any question as to its jurisdiction arising from such decision.</p> <p>27.3 Any Request for Joinder shall be raised no later than in the Statement of Defence, except in exceptional circumstances.</p> <p>27.4 Before the arbitral tribunal is constituted, a party wishing to join an additional party to the arbitration shall communicate a Request for</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
		<p>the Notice of Arbitration, the Request for Joinder or the Answer to the Request for Joinder (as applicable); or</p> <p>(b) in respect of a funding agreement made after the commencement of the arbitration, as soon as practicable after the funding agreement is made.</p> <p>44.3 Any funded party shall disclose any changes to the information referred to in Article 44.1 that occur after the initial disclosure.</p>	<p>Joinder to HKIAC, all other parties and any confirmed or appointed arbitrators.</p> <p>27.5 After the arbitral tribunal is constituted, a party wishing to join an additional party to the arbitration shall communicate a Request for Joinder to the arbitral tribunal, HKIAC and all other parties.</p> <p>27.6 The Request for Joinder shall include the following:</p> <p>(a) the case reference of the existing arbitration;</p> <p>(b) the names and addresses, telephone and facsimile numbers and/or email addresses, if known, of each of the parties, including the additional party, their representatives and any arbitrators who have been confirmed or appointed in the arbitration;</p> <p>(c) a request that the additional party be joined to the arbitration;</p> <p>(d) a copy of the contract(s) or other legal instrument(s) out of or in relation to</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>which the request arises, or reference thereto;</p> <p>(e) a statement of the facts supporting the request;</p> <p>(f) the points at issue;</p> <p>(g) the legal arguments supporting the request;</p> <p>(h) any relief or remedy sought;</p> <p>(i) the existence of any funding agreement and the identity of any third party funder pursuant to Article 44; and</p> <p>(j) confirmation that copies of the Request for Joinder and any supporting materials included with it have been or are being communicated simultaneously to all other parties and any confirmed or appointed arbitrators, by one or more means of service to be identified in such confirmation.</p> <p>27.7 Within 15 days of receiving the Request for Joinder, the additional party shall communicate an Answer to the Request for Joinder to HKIAC, all other parties and any confirmed or appointed arbitrators. The Answer to the Request for Joinder shall include the following:</p> <p>(a) the name, address, telephone and</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>facsimile numbers and/or email address of the additional party and its</p> <p>representatives (if different from the</p> <p>description contained in the Request for Joinder);</p> <p>(b) any plea that the arbitral tribunal has been improperly constituted and/or lacks jurisdiction over the additional party;</p> <p>(c) the additional party's comments on the particulars set forth in the Request for Joinder pursuant to Article 27.6(a) to (g);</p> <p>(d) the additional party's answer to any</p> <p>relief or remedy sought in the Request for Joinder, pursuant to Article 27.6(h);</p> <p>(e) details of any claims by the additional party against any other party to the arbitration;</p> <p>(f) the existence of any funding agreement entered into by the additional party and the identity of any third party funder pursuant to Article 44; and</p> <p>(g) confirmation that copies of the Answer to the Request for Joinder and any supporting materials included with it have been or are being communicated simultaneously to all other parties and any confirmed or appointed arbitrators, by one or more means</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>of service to be identified in such confirmation.</p> <p>27.8 HKIAC or the arbitral tribunal may vary any of the requirements in Article 27.6 and 27.7 as it deems appropriate.</p> <p>27.9 An additional party wishing to be joined to the arbitration shall communicate a Request for Joinder to HKIAC, all other parties and any confirmed or appointed arbitrators. The provisions of Article 27.6 shall apply to such Request for Joinder.</p> <p>27.10 Within 15 days of receiving a Request for Joinder, the parties shall communicate their comments on the Request for Joinder to HKIAC, all other parties and any confirmed or appointed arbitrators. Such comments may include (without limitation):</p> <p>(a) any plea that the arbitral tribunal lacks jurisdiction over the additional party;</p> <p>(b) comments on the particulars set forth in the Request for Joinder, pursuant to Article 27.6(a) to (g);</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>(c) answer to any relief or remedy sought in the Request for Joinder pursuant to Article 27.6(h);</p> <p>(d) details of any claims against the additional party; and</p> <p>(e) confirmation that copies of the comments have been or are being communicated simultaneously to all other parties and any confirmed or appointed arbitrators, by one or more means of service to be identified in such confirmation.</p> <p>27.11 Where an additional party is joined to the arbitration, the arbitration against that additional party shall be deemed to commence on the date on which HKIAC or the arbitral tribunal once constituted, received the Request for Joinder.</p> <p>27.12 Where an additional party is joined to the arbitration, all parties to the arbitration shall be deemed to have waived their right to designate an arbitrator.</p> <p>27.13 Where an additional party is joined to the arbitration, HKIAC may revoke any confirmation or appointment of an arbitrator, and if so, shall appoint</p>

IBA Investment Arbitration Subcommittee: Report and recommendations on third-party participation in investment arbitration

Annex 2 - Rules

Rules	Third-Party Amicus Brief Rules	Third-Party Funding Rules	Third-Party Joinder Rules
			<p>the arbitral tribunal with or without regard to any party’s designation.</p> <p>27.14 The revocation of the confirmation or appointment of an arbitrator pursuant to Article 27.13 is without prejudice to:</p> <p>(a) the validity of any act done or order made by that arbitrator before his or her confirmation or appointment was revoked;</p> <p>(b) his or her entitlement to be paid his or her fees and expenses subject to Schedule 2 or 3 as applicable; and</p> <p>(c) the date when any claim or defence was raised for the purpose of applying any limitation bar or any similar rule or provision.</p> <p>27.15 HKIAC may adjust its Administrative Fees and the arbitral tribunal's fees (where appropriate) after a Request for Joinder has been submitted.</p>