

## **Quantification Guide for Arbitration proceedings**

Approved at the Plenary Committee meeting of 20 May 2020

### **I. Introduction**

1. Under Article 10.1 of the Rules:

*“The Court will fix the amount of the advance of funds for the costs of the arbitration, including any indirect taxes that may apply to them.”*

2. The exercise of this function of fixing the amount of the advance of funds for costs of the arbitration, presupposes the prior determination of the amount of the proceeding. In order to carry out this determination, the Court will follow the guidelines set forth below.

### **II. Jurisdiction to determine the quantum of the proceedings**

3. The Court encourages the parties to agree on a quantum. However, it lies with the Court to determine such quantum, as indicated above.

4. The General Secretariat shall be responsible for determining the quantum of the proceedings. If deemed appropriate, when performing this duty, the General Secretariat may consult with the Plenary Committee of the Court.

### **III. Procedural stage to determine the quantum**

5. As a general rule, the final quantum of the proceedings shall be determined after the response to the statement of claim or the response to the counterclaim have been filed.

6. Notwithstanding the foregoing, the quantum may be updated thereafter based on the development of the proceedings. For example, the quantum shall be updated where the claim for damages continues to increase during the course of the proceedings.

### **IV. Main criterion: claims and relief sought**

#### **A. Introduction**

7. As a general rule, the quantum of the proceedings shall be the total amount of relief sought in the statement of claim.

8. However, where the statement of claim includes a main claim and alternative claims, the quantum of the proceedings will be the highest claim, whether the main claim or alternative claims.

9. In case of declaratory claims where the claimant seeks that the arbitral tribunal declare its right to receive compensation or any other right, the amount of this claim shall be the same as if there was a claim for payment of that amount or fulfilment of the said right.

### **B. Counterclaim and consolidation**

10. For quantum purposes, any counterclaims shall be dealt with as separate proceedings. Consequently, the Court shall determine a specific quantum for this counterclaim.

11. This specific quantum shall not be added to the amount of the claim. Therefore, the total quantum of the proceedings will not be calculated as the addition of both. Accordingly, the amount of the claim will allow the Court to calculate and request the relevant advances of funds, in accordance with the Court fees. The amount of the counterclaim shall allow for the calculation and separate request for the relevant advances of funds, also subject to the said Court fees.

12. The quantification rule laid down in paragraphs 10 and 11 above applies in case of consolidation of proceedings. In other words, the claims for each consolidated proceedings shall be quantified separately, and this amount will allow the Court to calculate and request the relevant advances of funds.

### **C. Interest**

13. As a general rule, the Court will not take into account the interest claimed in the proceedings in order to determine the quantum thereof. However, where the claim for interest is particularly relevant for the proceedings as a whole, the Court may take them into account to determine the quantum of the proceedings.

14. Interest will be considered of particular relevance for the proceedings if they amount to more than 25% of the overall amount of the statement of claim (or counterclaim) where the claimant or counterclaimant claim a higher rate than the legal interest rate or if the interest-related matters are particularly complex from a legal standpoint.

15. As for assessing the previous circumstances, the Court may request the parties to specify the date from which interest starts to accrue. In this regard, parties shall keep in mind Article 28.6 y 56.2 of the Rules.

**V. Additional criteria: estimated monetary value of the dispute and complexity of the proceedings**

16. In the absence of clear compensation claims, or as the Court sees fit having regard to the circumstances of the case, the Court may apply the estimated monetary value criterion to determine the quantum of the proceedings.

17. In this case, the Court may require the parties to provide any necessary information to determine the estimated monetary value of the arbitration.

In this regard, parties shall keep in mind Article 28.6 and 56.2 of the Rules.

18. The Court may take into account the complexity of the proceedings where, in its view, neither the main criterion (determining the quantum as the addition of the claims for payment) nor the additional criterion tied to the arbitration's estimated monetary value (or economic interest) lead to a reasonable quantification having regard to the complexity of the case for the arbitrators.

19. When assessing the complexity of arbitration proceedings, the Court may take into account, among others, the following aspects: (i) the number of parties to the arbitration; (ii) the number of claims; (iii) the number of submissions filed by the parties; (iv) the number and volume of documents in the case file; (v) the number of procedural orders and awards issued; and (vi) the time spent or expected to be spent by the arbitrators until the end of the proceedings.

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