

DRAFT

**REGULATIONS ON DISPUTE SETTLEMENT UNDER THE YAMOOUSSOUKRO
DECISION**

Annexure 3 To The Yamoussoukro Decision

WE, the Ministers responsible for Transport, Infrastructure and Energy;

CONSIDERING the Constitutive Act of the African Union adopted in Lomé on 11th July 2000, namely its Article 3, 5, 6, 9, 13, 14, 15, 16 and 20;

CONSIDERING The Treaty Establishing the African Economic Community signed in Abuja on 3rd June 1991, namely its Articles 8, 10, 11, 13, 25 to 27;

HAVING REGARD to the Decision Relating to the Implementation of the Yamoussoukro Declaration Concerning the Liberalisation of Access to Air transport Markets [AHG/OUA/AEC/Dec.1 (IV)], Article 8 of which provides that if any dispute arises between States Parties relating to the interpretation or application of the Decision, the States Parties concerned shall in the first place endeavour to settle the dispute by negotiation and if these State Parties fail to reach a settlement of the dispute, either party may submit the dispute for arbitration ;

NOTING that the absence of an appropriate dispute settlement as legislated in the Yamoussoukro Decision has been of concern to State Parties, Air Transport undertakings and other stakeholders of African aviation;

HAVING REGARD to the aspirations of Agenda 2063 for a continental market with the free movement of persons, capital, goods and services, which are crucial for deepening economic integration, and promoting agricultural development, food security, industrialisation and structural economic transformation;

RECOGNISING the Declaration on the Establishment of a Single African Air Transport Market (hereinafter, SAATM) of the Assembly of Heads of State and Government at the 24th Ordinary Session held in January 2015 in Addis Ababa, Ethiopia adopted [Assembly/AU/Commitment(XXIV)] and designated the SAATM as a flagship project of the African Union Agenda 2063 [Assembly/AU/Dec 565 (XXIV)] thus placing the implementation of the 1999 Yamoussoukro Decision on the Liberalisation of Air Transport Market in Africa within the context of African Union Agenda 2063;

REITERATING in the Solemn Commitment By African Union Member States To The Implementation Of The Yamoussoukro Decision Towards The Establishment Of A Single African Air Transport Market By 2017 [Assembly/AU/Commitment (XXIV)] the need to develop regulatory frameworks to expedite the implementation of the single air transport market and engage all specialized institutions in the Aviation Sector to support Member States in this process;

CONSIDERING the launching of the Single African Air Transport Market on 28 January 2018, during the 30th Ordinary Session of the Assembly of the Union held in Addis Ababa, by the

Assembly Decision establishing the Single African Air Transport Market [Assembly/AU/Dec.665 (XXX)] and providing for the single market to be operationalized through full implementation of the 1999 Yamoussoukro Decision;

CONSIDERING the need for international cooperation for economic development, and the role of private international trade therein;

BEARING IN MIND the possibility that from time to time disputes may arise in connection with such legal instruments that we have concluded amongst ourselves, our nationals and other Parties;

RECOGNIZING that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

ATTACHING importance to the availability of facilities for arbitration to which States Parties and their nationals or organisations may submit such disputes if they so desire;

DESIRING to utilise such facilities under the auspices of the African Union;

RECOGNIZING that mutual consent by the parties to submit disputes under agreed Articles of procedure irrespective of the forum, constitutes a binding agreement which requires in particular that any arbitral award be complied with;

INTERESTED to develop a corpus of law using a well-established system of adjudication in Africa and in the effort to secure a consistent interpretation of the Yamoussoukro Decision, its Annexures and relevant legal instruments on the Single African Air Transport Market;

ACKNOWLEDGING that no State Party shall by the mere fact of the existence of this Regulation be deemed to be under any obligation to submit any particular dispute to arbitration;

HAVE AGREED AS FOLLOWS:

PART I – INTRODUCTORY PROVISIONS

Article 1 – Administrative Council and Secretariat

1. The Administrative Council is the independent body responsible for administering these Regulations.
2. The composition, functioning and powers of the Administrative Council are set forth in Part IV of these Regulations.
3. The Chairperson of the Administrative Council shall serve as appointing authority for arbitrators, conciliators and mediators.
4. The Administrative Council is assisted in its functions by the Secretariat.

Article 2 – Definitions

In this Regulation, unless the context otherwise requires:

“**ADR Panel**” means an Alternative Dispute Resolution list of arbitrators, conciliators or mediators;

“Executing Agency” means the Executing Agency provided for in Article 9(4) of the Yamoussoukro Decision;

“African air transport legal instruments” means the Yamoussoukro Decision, Annexures to the said Decision, decisions of the African Union, the Regional Economic Communities and the Executing Agency of the Yamoussoukro Decision relating to the application of the Yamoussoukro Decision and its Annexures;

"Air transport undertaking" includes an airline and other air transport service provider;

"Air Transport Service Provider" include an airport, air navigation service provider, airport ground passenger and cargo handling company, travel agent, supplier of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports;

“Assembly” means the Assembly of Heads of State and Government of the Union;

“Claimant” means a Disputing Party wishing to have recourse to dispute resolution under these Regulations;

"Consumer" in relation to passengers means a person who takes or agrees to purchase an airline ticket or take a tour package (i.e., a combination of air transportation and ground or cruise accommodations) or tour component (e.g., a hotel stay) (‘hereinafter, the principal contractor’), or any person on whose behalf the principal contractor agrees to purchase the ticket, package or component (‘the other beneficiaries’) or any person to whom the principal contractor or any of the other beneficiaries transfers the ticket, package or component (‘the transferee’);

“Monitoring Body” means the body established under Article 9 of the Yamoussoukro Decision;

“Disputing Party”: means any State Party, State-controlled entity, Regional Economic Community, African intergovernmental organization charged with the enforcement or management of the Yamoussoukro Decision, legal or private person including an air transport undertaking, association of air transport undertakings, consumer and consumer association, whether acting in the capacity as claimant or defendant in any dispute relating to the interpretation or application of the relevant African air transport legal instruments;

“Executive Council” means the Executive Council of Ministers of the Union;

“Party” means a party to the dispute;

“Respondent” means a Disputing Party against whom a recourse is sought under these Regulations;

“State Party” means a member State of the African Union which is a State Party to the Yamoussoukro Decision.

Article 3 - Scope of Application of the Regulations

1. These Regulations shall apply to disputes resulting from the application or interpretation of the African air transport legal instruments between two (2) or more Disputing Parties that have given their written consent to submit the dispute for resolution under these Regulations, this consent resulting either from an agreement between the parties (in the form of a compromise or a mediation, conciliation and/or arbitration clause).
2. Under the conditions provided for in paragraph 1, these Regulations shall apply to disputes:
 - (a) between two (2) or more State Parties;
 - (b) between, on the one hand, a State Party or an entity controlled by a State Party or a Regional Economic Community and, on the other hand, one or more air transport undertakings and/or association of air transport undertakings directly or indirectly affected by an administrative decision of a State or of an entity controlled by a State or of a Regional Economic Community considered as discriminatory within the meaning of the Regulations on competition in air transport services within Africa (Annexure 5 to the Yamoussoukro Decision);
 - (c) between airlines resulting from contracts or agreements they have concluded;
 - (d) between, on the one hand, one or more air transport undertakings and, on the other hand, one or more consumers of air transport services and/or consumer protection associations resulting from the application of the Regulations on the protection of consumers of air transport services (Annexure 6 to the Yamoussoukro Decision).
3. The disputes referred to in paragraph 2 shall be settled in accordance with these Regulations subject to such modification as the Disputing Parties may agree, provided, however, that the Administrative Council may decide not to administer the Proceedings if, in its discretion, it considers that any such modification is not in the spirit of the Regulations.
4. Agreement by a State, State-controlled entity, or Regional Economic Community to arbitrate under these Regulations with a party that is not a State, State-controlled entity, or Regional Economic Community constitutes a waiver of any right of immunity from jurisdiction in respect of the proceedings relating to the dispute in question to which such Disputing Party might otherwise be entitled.
5. These Regulations do not apply to internal decisions of a State Party solely affecting nationals of that State Party concerned.
6. A dispute settlement proceeding shall be considered to have been initiated in accordance with these Regulations when a Disputing Party requests negotiations, conciliation or mediation pursuant to these Regulations or submits a request for arbitration pursuant to Article 8 hereof.

Article 4 - General Principles on Alternative Dispute Resolution

1. Any dispute arising between two (2) or more State Parties on the application or interpretation of the African air transport legal instruments shall in the first instance be settled through negotiations.
2. Without prejudice to Article 23(2) of the African Civil Aviation Commission Constitution, for any dispute arising between two (2) or more Disputing Parties on the interpretation or application of the African air transport legal instruments, Disputing Parties may have recourse to conciliation or mediation under these Regulations. Where the dispute is not settled through conciliation or mediation, any Disputing Party may, after notifying the other Disputing Party or Parties, refer the matter to arbitration under these Regulations.

3. Except for disputes between State Parties, where the Disputing Parties consider it expedient to have recourse to arbitration as the first dispute settlement avenue, these Disputing Parties may proceed with arbitration as provided for under this Regulation.

PART II – NEGOTIATIONS, CONCILIATION AND MEDIATION

Article 5 – Negotiations between State Parties

1. For the application of Article 4(1), a Disputing Party requesting negotiations shall inform the Secretariat in writing of the holding and the outcome of such negotiations.
2. Without prejudice to Article 23(2)(3)(5) of the African Civil Aviation Commission Constitution, if a dispute between two (2) or more State Parties on the application or interpretation of the African air transport legal instruments remains unresolved through negotiations within twenty one (21) days or such other period agreed to by the Disputing Parties, either Disputing Party may submit such dispute to arbitration under these Regulations.

Article 6 - Conciliation and Mediation

1. This Article shall apply to disputes referred to in Article 4(2), subject, for disputes between State Parties, that these States have previously complied with the procedure provided for in article 4(1).
2. For the settlement of their disputes with air transport undertakings, consumers may only resort to mediation under these Regulations.
3. The request for conciliation or mediation is filed with the Secretariat.
4. It shall be the duty of the conciliator or the conciliators to clarify the issues in dispute between the Disputing Parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the conciliator or the conciliators may at any stage of the proceedings and from time to time recommend terms of settlement to the Disputing Parties.
5. It shall be the duty of the Mediator to help the Disputing Parties to reach an agreement on their own in the dispute between them. This agreement does not reflect a conciliator's point of view or interpretation but results from the sole will of the Disputing Parties.
6. Remote conciliation and mediation proceedings may be implemented when appropriate.
7. Proceedings that involve conciliation or mediation shall be confidential.
8. Conciliation or mediation may be suspended or terminated at any time by any of the Disputing Parties.
9. Proceedings that involve conciliation or mediation shall terminate upon written confirmation of termination to the Disputing Parties by the Secretariat, notably:
 - a) after the signing of a settlement agreement by the Disputing Parties;
 - b) when the conciliator(s) or the mediator, at any stage of the proceedings, consider that there is no possibility of agreement between the Disputing Parties.
10. Once conciliation or mediation proceedings are terminated without settlement of the dispute, a Claimant may then proceed with a request for arbitration under these Regulations.

11. Notwithstanding the ongoing conciliation or mediation proceedings, the Disputing Parties may agree to commence with arbitration proceedings in respect of the dispute in accordance with these Regulations.
12. Where the Disputing Parties have considered it expedient to have recourse to arbitration as the first dispute settlement avenue in accordance with Article 4(3), these Disputing Parties may agree to also submit the dispute to the conciliation or mediation proceedings notwithstanding the ongoing arbitration.

PART III – ARBITRATION

Article 7 – Arbitration between State Parties in relation to the regulatory annexes to the Yamoussoukro Decision

1. This Article shall apply to any dispute arising between two (2) or more State Parties on the application or interpretation of the regulatory annexes to the Yamoussoukro Decision that any State Party wish to submit to arbitration under these Regulations.
2. Three (3) arbitrators shall be appointed in accordance with Article 11(5) to form the Arbitral Tribunal.
3. The Arbitral Tribunal shall adopt its own Rules of Procedure and make an award within six (6) Months.
4. The decision of the Arbitral Tribunal shall be final and binding on the Disputing Parties.

I) COMMENCING THE ARBITRATION

Article 8 – Request for Arbitration

1. A claimant shall submit a request for arbitration to the Secretariat and send a copy of the request to the respondent.
2. A request for arbitration shall include the following:
 - (a) a demand that the dispute be referred to arbitration;
 - (b) the names and contact details of the Disputing Parties and of any person representing each claimant in the arbitration;
 - (c) identification and copy of the arbitration agreement that is invoked or, as the case may be, the indication of any legal instrument upon which the request is based;
 - (d) a statement of the facts supporting the claim;
 - (e) the points at issue;
 - (f) a brief description of the claim and an indication of the amount involved, if any;
 - (g) the legal grounds or arguments supporting the claim; and
 - (h) a proposal as to the number of arbitrators, language and rules of law applicable to the substance of the dispute, if the Disputing Parties have not previously agreed thereon.
3. The request for arbitration should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.
4. The request for arbitration may also include the following:

- (a) a proposal for the appointment of a sole arbitrator referred to in Article 11(3); and
 - (b) notification of the appointment of an arbitrator referred to in Article 11(5)(6)(7).
5. The Secretariat shall register the request for arbitration and notify the Disputing Parties accordingly.
6. If the Secretariat finds, on the basis of the information contained in the request, that the dispute is manifestly outside the scope of these Regulations, the Secretariat shall immediately notify the Disputing Parties of that fact.

Article 9 - Response to the request for arbitration

1. Within 30 days of the receipt of the request for arbitration, or such other period as may be set by the Secretariat, the respondent shall submit a response to the Secretariat and send a copy to the claimant.
2. The response to the request dispute for arbitration shall contain the following:
 - (a) the name and contact details of the respondent and of any person representing the respondent in the arbitration;
 - (b) a response to the information set forth in the dispute referred for arbitration;
 - (c) copies or reference to all documents and other evidence relied upon by the respondent.
3. The response to the request for arbitration may also include:
 - (a) an objection that the dispute is not within the scope of the Regulations or, for other reasons, is not within the competence of the Arbitral Tribunal;
 - (b) a proposal for the appointment of a sole arbitrator referred to in Article 11(3);
 - (c) notification of the appointment of an arbitrator referred to in Article 11(5)(6)(7);
 - (d) a description of any counterclaim, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
 - (e) a request for arbitration in accordance with article 8 in case the respondent formulates a claim against another Dispute Party other than the claimant.
4. The Secretariat shall communicate the response to the request for arbitration and the documents annexed thereto to every other Disputing Party.
5. Where the respondent has filed a counterclaim, the claimant may file a reply to the counterclaim by way of an additional submission within 30 days from the date of receipt of the counterclaim.

II- THE ARBITRAL TRIBUNAL

Article 10 – Number of arbitrators

1. The Disputing Parties are free to agree on any uneven number of arbitrators to form the Arbitral Tribunal.
2. If the Disputing Parties have not previously agreed on the number of arbitrators, and if within 30 days after the receipt by the respondent of the request for arbitration the parties have not agreed on the number of arbitrators, three arbitrators shall be appointed, unless the

Administrative Council considers that the dispute is such as to justify the appointment of a sole arbitrator.

Article 11 – Appointment of arbitrators

1. Arbitrators are appointed from the Panel of Arbitrators referred to in Article 60. Nevertheless, the parties are free to appoint arbitrators from outside the Panel, provided that these arbitrators comply with the requirements provided for in Article 60(4)(5).
2. Arbitrators shall be of a nationality other than those of the Disputing Parties.
3. Where the Disputing Parties have agreed that a sole arbitrator is to be appointed:
 - (a) they may, by agreement, appoint the sole arbitrator ;
 - (b) if within 30 days of receipt by all other Disputing Parties of a proposal of an individual who would serve as a sole arbitrator the Disputing Parties have not reached agreement thereon, a sole arbitrator shall, at the request of a Disputing Party, be appointed by the Chairperson of the Administrative Council according to the procedure provided for in Article 60(7).
4. Where a sole arbitrator is appointed pursuant to Article 10(2), the Disputing Parties shall, by agreement, appoint such arbitrator within a period of fifteen (15) days. If the Disputing Parties fail to agree on such appointment, a Disputing Party may request the Chairperson of the Administrative Council to appoint the sole arbitrator.
5. Where three arbitrators are to be appointed:
 - (a) each Disputing Party shall appoint one arbitrator and the two arbitrators thus appointed shall choose the third arbitrator who shall be the Chairperson of the Arbitral Tribunal ;
 - (b) if within 30 days after the receipt of a Disputing Party’s notification of the appointment of an arbitrator the other Disputing Party has not notified the first Disputing Party of the arbitrator it has appointed, the first Disputing Party may request the Chairperson of the Administrative Council to appoint the second arbitrator;
 - (c) if within 30 days after the appointment of the second arbitrator, or such other period as may be set by the Secretariat, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the Chairperson of the Administrative Council according to the procedure provided for in Article 60(7).
6. Where three arbitrators are to be appointed and there are multiple Disputing Parties as claimant or as respondent, unless the Disputing Parties have agreed to another method of appointment of arbitrators, the multiple claimants, jointly, and the multiple respondents, jointly, shall appoint an arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who shall be the Chairperson of the Arbitral Tribunal.
7. If the Disputing Parties have agreed that the Arbitral Tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the Disputing Parties.
8. The Disputing Parties may agree on what will happen in the event of a failure of the procedure for the appointment of the Arbitral Tribunal. Where the Disputing Parties have failed to agree, any Disputing Party may, by giving notice to the others, request the Chair of the Administrative Council to appoint the tribunal.

Article 12 - Grounds for challenging an arbitrator

1. When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose in writing any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence.
2. An arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence.
3. A Disputing Party may challenge an arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.
4. If an arbitrator on a tribunal of three or more persons fails to participate in the arbitration, the other arbitrators shall, unless the Disputing Parties agree otherwise, have the power to continue the arbitration and to make any decision, ruling or award. If the other arbitrators determine not to continue the arbitration without the non-participating arbitrator, the Arbitral Tribunal shall declare the office vacant, and a substitute arbitrator shall be appointed according with to the provisions of Articles 11 and 12(1), unless the Disputing Parties agree on a different method of appointment.

Article 13 - Procedure for challenging an arbitrator

1. A Disputing Party that intends to challenge an arbitrator shall send notice of its challenge to all other Disputing Parties, to the arbitrator who is challenged, to the other arbitrators, and to the Secretariat. The notice of challenge shall state the reasons for the challenge.
2. To be admissible, the notice must be sent by a Disputing Party either within 20 days from receipt by that party of the notification of the appointment of the challenged arbitrator, or within 20 days from the date the circumstances mentioned in Article 12 became known to that Disputing Party.
3. Unless the arbitrator who is being challenged withdraws from his or her office or all Disputing Parties agree to the challenge within 15 days from the date of the notice of challenge, the matter shall be decided by the Chair of the Administrative Council within 30 days from the date of the notice of challenge.

Article 14 - Replacement of an arbitrator

1. An arbitrator shall be replaced upon death, upon resignation, upon acceptance of a challenge, or upon acceptance of a request of all the Disputing Parties.
2. An arbitrator shall also be replaced at the request of all Disputing Parties or on the Chair of the Administrative Council's initiative when the arbitrator is prevented *de jure* or *de facto* from fulfilling the arbitrator's functions, or the arbitrator is not fulfilling those functions in accordance with these Regulations.
3. Where an arbitrator has to be replaced, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in Articles 11 and 12(1) that was applicable to the appointment or choice of the arbitrator being replaced.

Article 15 - Consequence of the replacement of an arbitrator on the proceedings

If an arbitrator is replaced, the Arbitral Tribunal, upon being reconstituted, shall determine whether and if so to what extent the previous proceedings should stand.

Article 16 - Exclusion of liability

The arbitrators, any person appointed by the Arbitral Tribunal, the emergency arbitrator referred to in Article 34, the Administrative Council and its members, the Secretariat and its employees shall not be liable to any person for any act or omission in connection with the arbitration, except to the extent such limitation of liability is prohibited by applicable law.

III - ARBITRAL PROCEEDINGS

Article 17 - General rules

1. The Arbitral Tribunal shall act fairly and impartially and ensure that each party has a reasonable opportunity to present its case.
2. The Arbitral Tribunal, after consulting the parties, may adopt such procedural measures as it considers appropriate, provided that they are not contrary to any agreement of the parties.
3. Arbitral proceedings shall be confidential.
4. The Arbitral Tribunal may, at the request of any Disputing Party, allow one or more additional Disputing Parties to be joined in the arbitration provided such additional Party has given its written consent to the concerned arbitration within the meaning of Article 3(1). The Arbitral Tribunal may not allow the joinder if it finds, after giving the Disputing Parties and the additional Disputing Party or Parties to be joined, the opportunity to be heard, that it could cause prejudice to any of those Disputing Parties.
5. The Administrative Council may, at the request of a Disputing Party, consolidate two or more arbitrations pending under this Part into a single arbitration, where:
 - (a) the Disputing Parties have agreed to consolidation; or
 - (b) all of the claims in the arbitrations are made under the same arbitration agreement; or
 - (c) the claims in the arbitrations are made under the same written consent given by a State Party, State-controlled entity, Regional Economic Community, African intergovernmental organization charged with the enforcement or management of the Yamoussoukro Decision and its Annexes, air transport undertaking within the meaning of Article 3(1) and the disputes in the arbitrations arise in connection with the same decision or legal relationship.

Article 18 - Transmission of the File to the Arbitral Tribunal

The Secretariat shall transmit the file to the Arbitral Tribunal as soon as it has been constituted.

Article 19 – Interim and Conservatory measures

1. Unless the Disputing Parties have otherwise agreed, as soon as the file has been transmitted to it, the Arbitral Tribunal may, at the request of a Disputing Party, order any interim or conservatory measure it deems appropriate.

2. Any such measure shall take the form of an order, giving reasons, or of an award, as the Arbitral Tribunal considers appropriate.
3. The Arbitral Tribunal may require a Disputing Party requesting an interim or conservatory measure to provide appropriate security in connection with the measure.
4. The Arbitral Tribunal may modify, suspend or terminate an interim or conservatory measure it has granted, upon application of any Disputing Party or, in exceptional circumstances and upon prior notice to the Disputing Parties, on the Arbitral Tribunal's own initiative.
5. A request for interim or conservatory measures addressed by any Disputing Party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Article 20 – Scoping meeting

1. After it has received the file, the Arbitral Tribunal shall summon the Disputing Parties or their duly appointed representatives, to a scoping meeting which shall be held as soon as possible and not later than forty five (45) days from the date of receipt of the file. With the consent of the Disputing Parties, the Arbitral Tribunal may hold this meeting in the form of a telephone conference or video conference.
2. The purpose of the scoping meeting shall be to establish or confirm:
 - (a) a summary of the Disputing Parties' respective claims and of the reasons for these claims and the grounds raised in support thereof, together with the amounts of any quantified claims;
 - (b) unless the Arbitral Tribunal considers it inappropriate, a list of issues to be determined;
 - (c) the place of arbitration proceedings;
 - (d) the agreement of the Disputing Parties regarding the language of the arbitral proceedings or to enable the Arbitral Tribunal to decide this issue during the meeting, pursuant to Article 23;
 - (e) the law applicable to the merits of the dispute;
 - (f) confirmation of the existence of an arbitration agreement or any other instrument that refers to arbitration pursuant to these Regulations;
 - (g) measures for the conduct of the arbitral proceedings which the Arbitral Tribunal intends to apply;
 - (h) the procedural timetable that the Arbitral Tribunal intends to follow for the conduct of the arbitration.
3. The Arbitral Tribunal shall compile minutes of the scoping meeting. These minutes shall be signed by the Arbitration Tribunal and all Disputing Parties or their representatives upon approval. Where one of the Disputing Parties refuses to sign these minutes or expresses reservations about these minutes, it shall be submitted to the Administrative Council for a decision.
4. The procedural timetable for the arbitration referred to in the minutes of the scoping meeting shall be amended by the Arbitral Tribunal, if necessary, on its own initiative after comments from the Disputing Parties or at their request.

Article 21 - New claims

After the minutes of the scoping meeting have been signed or approved by the Administrative Council in accordance with Article 20(3), no Disputing Party shall make new claims which fall outside the scope of these minutes unless authorised to do so by the Arbitral Tribunal which shall consider the nature of these new claims, the state of progress of the proceedings and any other relevant circumstances.

Article 22 - Place of Arbitration

1. The arbitration proceedings shall be held at the seat of the African Court on Human and Peoples' Rights.
2. Notwithstanding the provisions of paragraph (1), the arbitration proceedings may be held at any other appropriate institution agreed upon by the Disputing Parties, whether private or public. The Secretariat shall make necessary arrangements for that purpose.

Article 23 – Language

1. The Disputing Parties are free to agree, among the official languages of the African Union, on the language or languages to which arbitral proceedings will be conducted.
2. If the Disputing Parties fail to agree under paragraph (1), the Arbitral Tribunal shall determine, among the official languages of the African Union, the language or languages to be used in the arbitral proceedings.
3. An agreement or determination under Article (1) or (2) shall, unless specified, apply to any written statement by a Disputing Party, any hearing and any arbitral award, decision or other communication by the Arbitral Tribunal.
4. The Arbitral Tribunal may order that any documentary evidence delivered in their original language be accompanied by a translation into the language or languages agreed upon by the Disputing Parties or determined by the Arbitral Tribunal.

Article 24 - Rules governing the proceedings

The proceedings before the Arbitral Tribunal shall be governed by the provisions of this Part and in accordance with the Arbitration Rules issued by the Administrative Council pursuant to Article 49(1)(b). If any question of procedure arises which is not covered by this Part or the Arbitration Rules or any rules agreed by the Disputing Parties, the Arbitral Tribunal shall make appropriate determination.

Article 25 - Powers and Functions of the Arbitral Tribunal

1. The Arbitral Tribunal shall have the power to rule on its own competence.
2. Any objection by a Disputing Party that the dispute is not within the scope of these Regulations or, for other reasons, is not within the competence of the Arbitral Tribunal shall be raised in the response to the request of arbitration or, with respect to a counterclaim, not later than during the scoping meeting referred to in Article 20. An objection that the Arbitral Tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.
3. An objection referred to in paragraph (2) shall be considered by the Arbitral Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 26 - Evidence

1. The Arbitral Tribunal may, if it deems it necessary at any stage of the proceedings:
 - (a) call upon the Disputing Parties to produce documents or other evidence within such a period of time as the Arbitral Tribunal shall determine;
 - (b) collect testimonies from witnesses, including expert witnesses, who are presented by any Disputing Party to testify on any issue of fact or expertise ; and
 - (c) visit the scene connected with the dispute and conduct such inquiries there as it may deem appropriate.
2. The Arbitral Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Article 27 - Hearing and written submissions

1. The Arbitral Tribunal shall decide whether to hold oral hearing for the presentation of evidence or have oral argument or written submissions.
2. In the event of an oral hearing, the Arbitral Tribunal shall give the Disputing Parties adequate advance notice of the date, time and place thereof.
3. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the Arbitral Tribunal. The Arbitral Tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing.
4. All statements, documents or other information furnished to, or applications made, to the Arbitral Tribunal by one Disputing Party shall be communicated to any other Disputing Party, and any expert report or evidential document on which the Arbitral Tribunal may rely on in making its decisions shall be communicated to the Disputing Parties.

Article 28 - Experts

1. After consultation with the Disputing Parties, the Arbitral Tribunal may:
 - (a) appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the Arbitral Tribunal; and
 - (b) require a Disputing Party to give the expert any relevant information or to produce or provide access to any relevant documents, goods or other property for his or her inspection.
2. The Arbitral Tribunal shall communicate a copy of the expert's report to the Disputing Parties for written opinion.
3. The expert shall, upon the request of a Disputing Party, make available to that Disputing Party, for examination, all documents, goods or other property in the expert's possession which was provided to him or her in order to prepare his or her report.
4. If a Disputing Party so requests or if the Arbitral Tribunal considers it necessary, the expert shall, after delivery of his or her report, participate in a hearing where the Disputing Parties shall have the opportunity to put questions to him or her and to present expert witnesses in order to testify on the points at issue.

Article 29 – Failure of a Disputing Party to appear at a hearing or to present its case

1. Failure of a Disputing Party to appear at a hearing or to present its case as provided for in Articles 26 and 27 shall not be deemed an admission of the other Disputing Party's assertions.
2. If a Disputing Party fails to appear at a hearing, without showing sufficient cause, the Arbitral Tribunal may proceed with the arbitration.
3. If a Disputing Party fails to produce documents or other evidence requested by the Arbitral Tribunal within the established period of time, without showing sufficient cause, the Arbitral Tribunal may make the award on the evidence before it.

Article 30 - Default of the respondent

Where, without showing sufficient cause, a Disputing Party fails to respond to the request for arbitration in accordance with Article 9, the Arbitral Tribunal shall continue the proceedings without treating such failure as an admission of the claimant's allegations.

Article 31 - Closure of proceedings

1. When it is satisfied that the Disputing Parties have had a reasonable opportunity to present their cases, the Arbitral Tribunal shall declare the proceedings closed.
2. In the event of exceptional circumstances, the Arbitral Tribunal may decide, on its own initiative or upon application of a Disputing Party, to reopen the proceedings at any time before the award is made.

Article 32 – Grounds for termination

1. If, after the file has been transmitted to the Arbitral Tribunal and before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason other than a settlement reached by the Disputing Parties on the dispute, the Arbitral Tribunal shall inform the Disputing Parties of its intention to issue an order for the termination of the proceedings.
2. The Arbitral Tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the Arbitral Tribunal considers it appropriate to do so.
3. Copies of the order for termination of the arbitral proceedings, signed by the arbitrators, shall be communicated by the Arbitral Tribunal to the Disputing Parties.

Article 33 – Waiver of right to object

A failure by any Disputing Party to object promptly to any non-compliance with any provision of this Part, any direction given by the Arbitral Tribunal, or any requirement agreed upon by the Disputing Parties relating to the constitution of the Arbitral Tribunal or the conduct of the proceedings, shall be deemed to have waived its right to object, unless such Disputing Party can show that, under the circumstances, its failure to object was justified.

IV – SPECIAL PROCEDURES

Article 34 – Emergency measures

1. The Chairman of the Administrative Council shall have the power to decide, at the Chairman's discretion, all matters relating to the administration of the emergency arbitration proceedings not expressly provided for in this Article and in the rules issued by the Administrative Council.
2. A Disputing Party that needs urgent interim or conservatory measures that cannot await the constitution of an Arbitral Tribunal shall submit an application for such measures to the Secretariat prior to the transmission of the file to the Arbitral Tribunal pursuant to Article 18.
3. The application shall contain the following information:
 - (a) the names and contact details of the Disputing Parties and of any person(s) representing the applicant ;
 - (b) any rule, decision, agreement, contract, convention, treaty, law, constituent instrument of an organization or agency, or relationship out of, or in relation to which, the dispute arises;
 - (c) a statement of the facts giving rise to the application and of the underlying dispute referred or to be referred to arbitration;
 - (d) the emergency measures sought ;
 - (e) the reasons why the applicant needs urgent interim or conservatory measures that cannot await the constitution of an Arbitral Tribunal ;
 - (f) any agreement as to the applicable rules of law or the language of the arbitration;
 - (g) proof of payment of the amount fixed by the Secretariat;
 - (h) any request for arbitration and any other submissions related to the underlying dispute, which have been filed with the Secretariat by any of the Disputing Parties under this Article prior to the making of the application; and
 - (i) any other document or information as the applicant considers appropriate.
4. If the Secretariat finds, on the basis of the information contained in the application, that the Disputing Parties have agreed to exclude recourse to the provisions of this Article or have agreed to another pre-arbitral procedure that provides for the granting of conservatory, interim or similar measures, it shall inform the Disputing Parties that the proceedings under

this Article shall not take place. If the Secretariat finds otherwise, it shall transmit a copy of the application to the respondent.

5. The Chairman of the Administrative Council shall terminate the emergency arbitration proceedings if a request for arbitration has not been received by the Secretariat from the applicant within 10 days of the Secretariat's receipt of the application.
6. The Chairman of the Administrative Council shall appoint an emergency arbitrator within two days from the Secretariat's receipt of the application. No emergency arbitrator shall be appointed after the file has been transmitted to the Arbitral Tribunal pursuant to Article 18.
7. Once the emergency arbitrator has been appointed, the Secretariat shall so notify the Disputing Parties and shall transmit the file to the emergency arbitrator.
8. An emergency arbitrator shall not act as an arbitrator in any arbitration relating to the dispute that gave rise to the application.
9. A challenge against the emergency arbitrator:
 - (a) must be made within three (3) days from receipt by the Disputing Party making the challenge of the notification of the appointment or from the date when that Disputing Party was informed of the facts and circumstances on which the challenge is based if such date is subsequent to the receipt of such notification;
 - (b) shall be decided by the Chair of the Administrative Council after the Secretariat has afforded an opportunity for the emergency arbitrator and any other Disputing Party to provide comments in writing within a suitable period of time.
10. Regarding the proceedings:
 - (a) the emergency arbitrator shall establish a procedural timetable for the emergency arbitration proceedings within two days from the transmission of the file to him or her ;
 - (b) the emergency arbitrator shall conduct the proceedings in the manner which he or her considers to be appropriate.
11. The emergency arbitrator's decision shall take the form of an order:
 - (a) to which the parties undertake to comply;
 - (b) in which the emergency arbitrator shall determine whether the application is admissible pursuant to paragraph 2 and whether he or she has competence to order emergency measures;
 - (c) which shall be made in writing and shall state the reasons upon which it is based;
 - (d) which shall be made no later than 15 days from the date on which the file was transmitted to the emergency arbitrator and shall be sent by the emergency arbitrator to the Disputing Parties, with a copy to the Secretariat;
 - (e) which may be modified, terminated or annulled by the emergency arbitrator upon a reasoned request by a Disputing Party made prior to the transmission of the file to the Arbitral Tribunal pursuant to Article 18;
 - (f) which shall not bind the Arbitral Tribunal with respect to any question, issue or dispute determined in the order.
12. The Arbitral Tribunal shall decide upon any Disputing Party's request or claim related to the emergency arbitration proceedings, including any claim arising out of or in connection with the compliance or non-compliance with the order.

13. Without prejudice to paragraph 5 of this Article, the order shall cease to be binding on the Disputing Parties upon:
 - (a) the acceptance by the Chairman of the Administrative Council of a challenge against the emergency arbitrator pursuant to paragraph 9 of this Article;
 - (b) the Arbitral Tribunal's final award, unless the Arbitral Tribunal expressly decides otherwise;
 - (c) the withdrawal of all claims or the termination of the arbitration before the rendering of a final award.

Article 35 - Expedited procedure

1. Insofar as provisions of this Article do not provide otherwise, these Regulations shall apply to an arbitration under the expedited procedure.
2. The expedited procedure rules set forth in this Article:
 - (a) shall apply if the Disputing Parties so agree;
 - (b) shall not apply if the Administrative Council, upon the request of a Disputing Party before the constitution of the Arbitral Tribunal or on its own motion, determines that it is inappropriate in the circumstances to apply it.
3. Without prejudice to paragraph 2(b), upon receipt of the response to the request for arbitration pursuant to Article 9 of these Regulations, or upon expiry of the time limit for the response, the Secretariat will inform the Disputing Parties that the expedited procedure rules shall apply in the case.
4. The Administrative Council may, at any time during the arbitral proceedings, on its own motion or upon the request of a Disputing Party, and after consultation with the Arbitral Tribunal and the Disputing Parties, decide that the expedited procedure Rules shall no longer apply to the case.
5. Regarding the constitution of the Arbitral Tribunal:
 - (a) the Chairperson of the Administrative Council may, notwithstanding any contrary agreement of the Disputing Parties, appoint a sole arbitrator;
 - (b) the Disputing Parties may nominate the sole arbitrator within a time limit to be fixed by the Secretariat. In the absence of such nomination, the sole arbitrator shall be appointed by the Chairperson of the Administrative Council.
5. Article 20 of these Regulations shall apply to an arbitration under the expedited procedure rules as follows:
 - (a) the Article shall not apply, except points (e) and (f) of paragraph 2 ;
 - (b) the scoping meeting shall take place no later than 15 days after the date on which the file was transmitted to the Arbitral Tribunal. The Administrative Council may extend this time limit pursuant to a reasoned request from the Arbitral Tribunal.
6. After the Arbitral Tribunal has been constituted, no Disputing Party shall make a new claim, unless it has been authorized to do so by the Arbitral Tribunal.
7. The Arbitral Tribunal shall have discretion to adopt such procedural measures as it considers appropriate. In particular, it may, after consultation with the Disputing Parties:
 - (a) decide not to allow requests for document production or to limit the number, length and scope of written submissions and written witness evidence;

- (b) decide the dispute solely on the basis of the documents submitted by the Disputing Parties, with no hearing and no examination of witnesses or experts.
8. The fees of the Arbitral Tribunal shall be fixed according to the scales of administrative expenses and arbitrator's fees for the expedited procedure.

V- THE AWARD

Article 36 - Applicable rules of law

1. The Disputing Parties shall be free to agree upon the rules of law to be applied by the Arbitral Tribunal to the merits of the dispute.
2. In the absence of any such agreement, the Arbitral Tribunal:
 - (a) for contractual disputes, shall take into account the terms of the contract and international trade practices;
 - (b) for any other dispute, shall apply or may take into account, inter alia, the nature of the Disputing Parties, the provisions of the African air transport legal instruments applicable to the agreement or relationship between the Disputing Parties, the international law, international custom or relevant arbitral awards.

Article 37 – Decision

When the Arbitral Tribunal is composed of more than one arbitrator, an award or other decision is made by a majority decision. If there is no majority, the chairperson of the Arbitral Tribunal shall decide alone.

Article 38 – Form of the Award

1. All awards shall be made in writing.
2. The award shall state the reasons upon which it is based, unless the Disputing Parties have agreed that no reasons are to be given.
3. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.

Article 39 – Award by consent

1. If, after the file has been transmitted to the Arbitral Tribunal and before the award is made, the Disputing Parties reach a settlement on the dispute, the Arbitral Tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the Disputing Parties, record the settlement in the form of an arbitral award on agreed terms.
2. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the Arbitral Tribunal to the Disputing Parties.
3. Where an arbitral award on agreed terms is made, the provisions of Articles 38(2)(4), 40(3) and 41(1) shall apply.

Article 40 - Notification of award

1. Once an award has been made, copies of the award signed by the arbitrators shall be communicated to the Disputing Parties by the Secretariat, provided that the costs of the arbitration have been fully paid.
2. Additional copies certified true by the Secretary shall be made available on request and at any time to the Disputing Parties.
3. The award shall not be published without the consent of the Disputing Parties.
4. A copy of the award shall be deposited with the Executing Agency of the Yamoussoukro Decision, charged with reporting on the application of these Regulations.

Article 41 - Enforceability of the Award

1. Every award shall be final and binding on the Disputing Parties.
2. By submitting the dispute to arbitration under these Regulations, the Disputing Parties undertake to carry out any award without delay and shall be deemed to have waived their right to any form of recourse insofar as such waiver can validly be made.

Article 42 - Correction of award

1. On its own initiative or at the request of a Disputing Party, the Arbitral Tribunal may correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature.
2. Any request of a Disputing Party for the correction of an error of the kind referred to in paragraph (1) must be made to the Arbitral Tribunal, with notice to any other Disputing Party and the Secretariat, within 30 days of the receipt of the award by such Disputing Party. If the Arbitral Tribunal considers that the request is justified, it shall make the correction within 30 days of receipt of the request.
3. The Arbitral Tribunal may make such corrections on its own initiative within 30 days after the communication of the award.
4. Such corrections of an award shall be in writing and shall form part of the award. The provisions of Articles 38(2)(3)(4), 40(1)(3) and 41(1), shall apply.

Article 43 - Interpretation of the Award

1. Within 30 days after the receipt of the award, a Disputing Party, with notice to any other Disputing Party and the Secretariat, may request the Arbitral Tribunal to give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request.
3. The interpretation shall form part of the award and the provisions of Articles 38(2)(3)(4), 40(1)(3) and 41(1), shall apply.

Article 44 - Additional award

1. On its own initiative or at the request of a Disputing Party, the Arbitral Tribunal may make an additional award in respect of any claim presented in the arbitral proceedings but not decided by the Arbitral Tribunal.
2. Any request of a Disputing Party for an additional award must be made to the Arbitral Tribunal, with notice to any other Disputing Party and the Secretariat, within 30 days after the receipt by the Disputing Party of the termination order or the award. If the Arbitral

Tribunal considers the request to be justified, it shall render its additional award within 50 days after the receipt of the request or such longer period that it considers necessary.

3. The Arbitral Tribunal may make an additional award on its own initiative within 50 days of the date of the original award or such longer period that it considers necessary.
4. When such an additional award is made, the provisions of Articles 38(2)(3)(4), 40(1)(3) and 41(1), shall apply.

VI - COSTS OF ARBITRATION

Article 45 – Advance on costs for arbitration

1. Upon receipt of the request for arbitration or the response pursuant to the provisions of Articles 8 and 9, or upon expiry of the time limit within which to file them, the Secretariat may request the Disputing Parties to deposit an equal amount as an advance to cover the costs referred to in article 46, paragraph 1 (a), (b), (c), and (f).
2. The amount of the advance fixed by the Secretariat shall normally not exceed the amount obtained by adding together the administrative expenses of the Administrative Council and the Secretariat and the minimum of the fees as set out in the scales referred to in Article 46(2).
3. If the requested deposits are not paid in full to the Secretariat before the file is sent to the Arbitral Tribunal, the Secretariat shall so inform the Disputing Parties in order that one or more of them may make the required payment. If such payment is not made, the Arbitral Tribunal may order the suspension or termination of the arbitral proceedings.
4. The amount of any advance on costs fixed pursuant to this Article may be subject to readjustment at any time during the arbitration.
5. After a termination order or final award has been made, the Secretariat shall render an accounting to the Disputing Parties of the deposits received and return any unexpended balance to the Disputing Parties commensurate with their contributions.

Article 46 - Definition of costs of the arbitration

1. The arbitration costs shall include:
 - (a) the fees of each arbitrator;
 - (b) the expenses, including travel expenses, incurred by the arbitrators;
 - (c) the fees and expenses of any experts appointed by the Arbitral Tribunal;
 - (d) the expenses, including travel expenses, of witnesses to the extent such expenses are approved by the Arbitral Tribunal;
 - (e) the legal and other costs incurred by the Disputing Parties in relation to the arbitration to the extent that the Arbitral Tribunal determines that the amount of such costs is reasonable;
 - (f) the expenses of the Administrative Council, including the compensation of its Chairman, in particular as the appointing authority, and of the Secretariat.

2. The arbitrators' fees and the Administrative Council and Secretariat expenses shall be fixed pursuant to a scale defined by the Administrative Council.
3. In relation to interpretation, correction or completion of any award under Articles 42, 43 and 44, the Arbitral Tribunal may charge the costs referred to in paragraph 1 (b) to (f), but no additional fees.

Article 47 - Decision as to the costs of arbitration

1. At any time during the arbitral proceedings, the Arbitral Tribunal may make decisions on costs.
2. In the final award, the Arbitral Tribunal shall fix the costs of the arbitration and decide which of the Disputing Parties shall bear them or in what proportion they shall be borne by the Disputing Parties.
3. When deciding on the costs, the Arbitral Tribunal shall take into account any relevant circumstances, including the extent to which each Disputing Party has conducted the arbitration in an expeditious and cost-effective manner.
4. The Administrative Council may fix the fees of the arbitrators at a figure higher or lower than that which would result from the application of the relevant scale should this be deemed necessary due to the exceptional circumstances of the case.
5. If a claim is withdrawn, or if the arbitration is terminated before a final award has been rendered, the Administrative Council shall fix the fees and expenses of the arbitrators and the expenses of the Administrative Council and the Secretariat. If the Disputing Parties have not agreed upon the allocation of the costs of the arbitration or other relevant issues with respect to costs, the Administrative Council shall decide these issues.

PART IV – MANAGEMENT OF THE REGULATION

Article 48 – The Administrative Council

1. These Regulations shall be managed by an Administrative Council composed of one representative of each of the five regions of the African Union.
2. The five (5) members of the Administrative Council shall be International legal experts, particularly in the field of air transport, nominated by the Monitoring Body of the Yamoussoukro Decision and approved by the Ministers in Charge of Transport.
3. The Administrative Council shall be an independent body and shall be assisted by a Secretariat. The Administrative Council and the Secretariat are hosted at the headquarters of the African Civil Aviation Commission.
4. A member may have an alternate on the Administrative Council to act as a representative in the absence of the principal from a meeting or inability to act. The alternate shall be from the same region.

5. The Chairperson of the Administrative Council shall be elected by the members of the Council amongst themselves.
6. The Administrative Council shall establish such Articles of procedure as it deems necessary for the fulfilment of its responsibilities.

Article 49 - Functions of the Administrative Council

1. The Administrative Council shall perform the following functions:
 - (a) adopt the Rules of procedure as it shall determine to be necessary for the implementation of the provisions of these Regulations;
 - (b) adopt the Rules of procedure for arbitration proceedings (hereinafter called the Arbitration Rules) as it shall determine to be necessary for the implementation of the rules of these Regulations;
 - (c) adopt Rules of procedure for other forms of Alternative Dispute Resolution, namely mediation and conciliation;
 - (d) perform the tasks assigned to it by these Regulations;
 - (e) adopt the indicative list of individuals who are willing and able to serve as members of the ADR Panels on proposal of the Secretariat;
 - (f) adopt scales for the arbitrators', conciliators' and mediators' fees and the expenses of the Administrative Council and the Secretariat on proposal of the Secretariat;
 - (g) adopt the annual budget of revenues and expenditures and submit it to the Monitoring Body for Ministerial approval.
2. Without prejudice to Article 51, the Chairperson of the Administrative Council:
 - (a) shall serve as appointing authority of arbitrators, conciliators and mediators. For that purpose, the Chairperson may require from any Disputing Party and the arbitrators, conciliators and mediators the information it deems necessary and it shall give the Disputing Parties and, where appropriate, the arbitrators, conciliators and mediators, an opportunity to present their views in any manner it considers appropriate;
 - (b) shall have the power to take any urgent decision on behalf of the Council, provided that any such decision is reported to the Council at its next session.

Article 50 - Decision of the Administrative Council

Any decision of the Administrative Council shall be made by consensus or where consensus cannot be reached, by a majority of its members.

Article 51 - Committees of the Administrative Council

The Administrative Council may appoint such committees as it considers necessary to discharge its functions.

Article 52 – Other powers of the Administrative Council

The Administrative Council shall also exercise such other powers as it shall determine to be necessary for the implementation of the provisions of these Regulations.

Article 53 - Meetings of the Administrative Council

1. The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairperson, or convened by the Secretary at the request of not less than four members of the Administrative Council.
2. Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Administrative Council shall be decided by a majority of the votes cast.
3. A quorum for any meeting of the Administrative Council shall be a **two third majority** of its members.

Article 54 - Term of Office of the Council

The term of office of all members of the Administrative Council is for (4) years renewable once.

Article 55 - Remuneration of members of the Council

1. Members of the Administrative Council and the Chairman shall serve without remuneration but shall earn such allowances for their accommodation and travel expenses as approved from time to time by the Monitoring Body.
2. Notwithstanding paragraph (1), the Chairperson of the Administrative Council shall be compensated for the exercise of his or her function of appointing authority and such other functions provided for in these Regulations. The Administrative Council shall determine the terms of compensation.

Article 56 - Supervision by the Ministers of Transport and the YD Monitoring Body

1. In relation with the management of these Regulations, the Ministers of Transport shall be charged with the following functions:
 - (a) approve the members of the Administrative Council;
 - (b) approve the scales for the arbitrators', conciliators' and mediators' fees and the expenses of the Administrative Council and the Secretariat adopted by the Administrative Council;
 - (c) approve the reports of the Administrative Council.
2. In relation with the management of the Regulations, the Monitoring Body shall be charged with the following functions:
 - (a) nominate members of the Administrative Council and ensure that the principle of regional distribution is strictly adhered to;
 - (b) secure funding for the first triennium of the Administrative Council;
 - (c) present the annual reports of the Administrative Council to the Ministers Responsible for Air Transport;
 - (d) determine the conditions of service of the Secretary and the senior officer of the Secretariat;
 - (e) approve appointments of the staff of the Secretariat;
 - (f) approve accommodation and travel expenses of the Administrative Council.

Article 57 - The Secretariat

1. The Secretariat is headed by a Secretary assisted by a senior officer.

2. The Secretary and the senior officer shall be appointed by the Administrative Council by a majority of its members.
3. The Secretary and the senior officer shall serve for a term of service not exceeding six years and non-renewable.
4. The offices of Secretary and the senior officer shall be incompatible with the exercise of any political function. Neither the Secretary nor the senior official may hold any other employment or engage in any other occupation except with the approval of the Monitoring Body.
5. During the Secretary absence or inability to act or vacancy of the office of Secretary, the senior officer shall be empowered to act as Secretary.
6. The Secretary shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to these Regulations, and to certify copies thereof.

Article 58 - Functions of the Secretariat

1. The function of the Secretariat is to ensure the application of appropriate Rules of procedures and facilitate the process of Alternative Dispute Resolution under these Regulations, and it has all the necessary powers for that purpose.
2. Without prejudice to paragraph (1), the Secretariat shall have the following functions:
 - (a) to enforce appropriate Rules and administrative procedure for effective performance of the dispute settlement mechanism;
 - (b) to establish ADR Panels of arbitrators, conciliators and mediators in accordance with the *minimum* qualification criteria defined in Article 60(4) and any additional qualification criteria defined by the Secretariat and approved by the Administrative Council;
 - (c) to establish and enforce a code of ethics for arbitrators, conciliators and experts; the code shall be submitted to the Administrative Council for adoption;
 - (d) to provide administrative services and other technical services in support of dispute settlement procedures;
 - (e) to facilitate certification, registration and authentication of arbitration awards and conciliation and mediation agreements;
 - (f) to establish for adoption by the Administrative Council and administer scales for the arbitrators', conciliators' and mediators' fees and the expenses of the Administrative Council and the Secretariat;
 - (g) promote the use of alternative dispute resolution methods for stakeholders;
 - (h) to establish reports of its proceedings and to submit an annual report to the Administrative Council; and
 - (i) to do all other acts as are required, necessary or conducive to the proper implementation of the objectives of these Regulations.

Article 59 - Staff of the Secretariat

1. The Secretariat shall have such other staff as are necessary for the smooth application of the Regulations.
2. The staff shall be appointed by the Secretary with the approval of the Administrative Council.

PART V - PANELS OF ARBITRATORS, CONCILIATORS AND MEDIATORS

Article 60 – Establishment of Panels and appointment

1. The Secretariat shall establish and maintain ADR Panels of arbitrators, conciliators and mediators.
2. Each State Party may nominate three (3) individuals to the Secretariat for inclusion in the ADR Panels, indicating their area(s) of expertise.
3. The indicative list of individuals shall be submitted by the Secretariat for consideration and approval by the Administrative Council.
4. The following *minimum* qualification criteria shall be met in order to be considered for acceptance to the ADR Panels:
 - (a) have ten (10) years senior-level expertise or professional experience or legal practice directly related to international air transport and particularly in matters of competition, air services, air transport agreements, commercial agreements, air passenger rights, air law, international law;
 - (b) training in dispute resolution and experience in arbitration and/or conciliation and/or mediation;
 - (c) educational degree(s) and/or professional license(s) appropriate to the area(s) of expertise.
5. Members of the ADR Panels shall be selected for appointment with a view to ensuring their independence and integrity and shall have a sufficiently diverse background and a wide spectrum of experience in the subject matter of the dispute.
6. When proposing a list of names to the parties for appointment or when appointing arbitrators, conciliators or mediators from the Panels, the Chairperson of the Administrative Council shall:
 - (a) ensure that each prospective arbitrator, conciliator or mediator is not affiliated to or take instructions from any Disputing Party;
 - (b) consider, in particular, the residence of the Disputing Parties, the residence of their counsel, the residence of the arbitrators, conciliators or mediators, the seat of the arbitration, conciliation or mediation, the language of the Disputing Parties and the nature of the issues in dispute;
 - (c) as far as possible, pay due regard to the importance of assuring representation of the legal systems of the Disputing Parties and of the speedy addressing of aviation disputes.
7. For the application of Article 11 (3)(b) and (5)(c), the appointing authority shall use the following procedure for the appointment of the arbitrator, unless the Disputing Parties agree that the procedure should not be used or unless the appointing authority determines in its discretion that the use of the procedure is not appropriate for the case:
 - (a) the appointing authority shall communicate to each of the Disputing Parties an identical list containing at least three names from the Panel;
 - (b) within 15 days after the receipt of this list, or such other period as may be set by the Secretariat, each Disputing Party may return the list to the appointing authority after having deleted the name or names to which it objects and numbered the remaining names on the list in the order of its preference;

- (c) after the expiration of the above period of time the appointing authority shall appoint the arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the Disputing Parties;
- (d) if for any reason the appointment cannot be made according to this procedure, the appointing authority may exercise its discretion in appointing the arbitrator.

Article 61 - Term of office

1. Members of the ADR Panels shall serve for a non-renewable period of six years.
2. In case of death or resignation of a member of a Panel, the State Party which designated the member shall have the right to designate another person to serve for the remainder of that member's term.
3. Panel members shall continue in office until their successors have been designated.
4. A person may serve on one or more Panels.

PART VI - FINAL PROVISIONS

Article 62 - Finance

1. The funds for managing these Regulations shall come from payments for the use of dispute settlement facilities by the Disputing Parties.
2. Where the expenditure of the Administrative Council cannot be met out of charges for the use of its facilities, the excess shall be borne through sponsorships, grants, donations gifts, etc.,

3. Article 63 – Reporting and Review

Within 3 years of entry into force of these Regulations, the Executing Agency shall report to the concerned Specialized Technical Committee of the African Union on the operation and the results of these Regulations. The report shall be accompanied where necessary by proposals to modify these Regulations.

Article 64 - Amendments

1. Each State Party may propose amendments to these Regulations.
2. Any proposal for amendment to these Regulations shall be submitted to the [YD Monitoring Body](#) in writing, which shall within thirty (30) days of its receipt communicate it to the State Parties.
3. Amendments to these Regulations shall enter into force after the approval by the Heads of State and Government of the African Union.

Article 65 - Entry into Force

These Regulations shall enter into immediate force following endorsement by the Assembly of Heads of State and Government of the African Union.

Adopted by ...