

## Appendix A: Emergency arbitration proceedings

Emergency arbitration proceedings, when initiated by one of the parties, shall entail the ordering of conservatory measures by an arbitrator at the commencement of proceedings, prior to setting up an Arbitral Tribunal to rule on the merits of the dispute. Any party that has agreed to OHADAC arbitration or to arbitration administered by the CARO Centre may apply to the CARO Centre to have an emergency arbitrator appointed, under the terms laid down in this appendix.

The adoption of such measures shall not in any way predetermine the solution to be provided on the merits of the dispute between the parties, and the order handed down shall not be binding on the Arbitral Tribunal constituted thereafter. The parties are free to apply to the competent judicial authorities for any appropriate emergency measure.

### Article 1: Applying to have an emergency arbitrator appointed

**1.1.** An emergency arbitrator may, in compelling and exceptional circumstances, be appointed by the CARO Centre at the request of one of the parties making an application in this regard for the purpose of adopting conservatory measures where the Arbitral Tribunal has not yet been constituted.

**1.2.** The conditions for requesting an emergency arbitrator shall be the same as those for requesting arbitration defined in Articles 5 to 7 of the OHADAC Institutional Arbitration Rules, stating the reasons for the urgency, along with payment of the fees set out in Appendix C.

### Article 2: Appointing an emergency arbitrator

An emergency arbitrator shall be appointed by the Secretary-General within 48 hours of the request, provided that such appointment is considered necessary after assessment of the arguments adduced to that effect. The provisions on independence and impartiality in Articles 16 *et seq.* of the OHADAC Institutional Arbitration Rules shall apply to emergency proceedings.

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## Article 3: Conducting emergency proceedings

3.1. Once appointed by the Centre, the Emergency Arbitrator shall seek observations from the parties and more generally shall decide on the arrangements for conducting the emergency proceedings. In this regard also, the Arbitral Tribunal may make use of any technological means that could reduce the costs of the proceedings and improve their efficiency.

3.2. If the parties have agreed on the seat of the arbitration proceedings, this shall be considered the seat of the emergency proceedings. If this is not the case, the Emergency Arbitrator shall determine the seat of the emergency proceedings, without prejudice to the seat that shall be subsequently determined by the Arbitral Tribunal, once constituted, in the Procedural Organization Act and/or the Procedural Organization Order (Articles 26 and 27 of the OHADAC Institutional Arbitration Rules).

## Article 4: Replacing an emergency arbitrator

The Emergency Arbitrator may, in accordance with the provisions of Articles 20 and 21 of the OHADAC Institutional Arbitration Rules, be challenged or replaced during proceedings. This decision shall be made by the Secretary-General within three (3) days of the request, after consulting the Committee.

## Article 5: Ordering emergency measures

5.1. The Emergency Arbitrator shall confine himself or herself exclusively to the adoption of the conservatory measures applied for and to assessing their admissibility. S/he may also adopt, ex officio, other measures s/he considers appropriate.

5.2. The Emergency Arbitrator shall decide by means of reasoned orders within fourteen (14) days of the referral. This time limit may in exceptional circumstances be extended by the Emergency Arbitrator, which s/he must justify in writing or with the agreement of the parties. If there is a delay in ordering emergency measures, the Emergency Arbitrator shall be liable for financial penalties.

5.3. No finding made by the Emergency Arbitrator shall be binding on the Arbitral Tribunal once constituted, which remains free to lift any emergency measures ordered by the Emergency Arbitrator.

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## Article 6: Emergency arbitration costs

**6.1.** The emergency arbitrator's fees shall be fixed by the CARO Centre in accordance with the rates set out in Appendix C. These fees and any disbursements relating to his or duties form an integral part of the Arbitration Fees, as defined in Article 44 of the OHADAC Institutional Arbitration Rules.

**6.2.** The Emergency Arbitrator may make any decision requested by the parties relating to the costs of emergency arbitration in the order(s) issued.

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