Introduction
These Supplementary Rules are the product of a working party of Committee D (Procedures for Settling Disputes) of the Section on Business Law of the International Bar Association (IBA).
They are solely concerned with the presentation and reception of evidence in arbitrations and are recommended by the International Bar Association for incorporation in, or adoption together with, institutional and other general rules or procedures governing international commercial arbitrations.

Even if not specifically adopted by agreement between the parties, they can serve as a guide to arbitrators conducting such arbitrations when the parties in contention come from law areas having rules of procedures derived from different systems.

They may be referred to as The I.B.A. Rules of Evidence. It is recommended that when the parties desire to adopt the I.B.A. Rules of Evidence as supplementary to the general rules applicable to a particular arbitration, the following additional clause be adopted: "The I.B.A. Rules of Evidence shall apply together with the General Rules governing any submission to arbitration incorporated in this Contract. Where they are inconsistent with the aforesaid General Rules, these I.B.A. Rules of Evidence shall prevail but solely as regards the presentation and reception of evidence."

Supplementary rules of evidence for use in International Commercial Arbitration

Article 1. - Scope of Application

1. These are procedural Rules governing the presentation of evidence ("the Rules of Evidence") intended to supplement any other rules applicable to the arbitration ("the General Rules"). If the parties have so agreed in writing the Rules of Evidence shall govern the arbitration if and so far as they are not in conflict with mandatory applicable provisions of law. The parties may at any time agree in writing to amend, add to or delete any provision contained in the Rules of Evidence.

2. In so far as the Rules of Evidence and the General Rules applicable to the arbitration are silent, the Arbitrator may in his discretion conduct the taking of evidence as he thinks fit.

Article 2. - Definitions
"Arbitrator" means a single arbitrator, or the panel of arbitrators or a majority of them as the case may be and shall include an umpire; "Claimant" means the party or parties who commenced the arbitration or made the first claim therein; "Defendant" means the party or parties against whom the Claimant made his claim and includes a party making a counter-claim; "General Rules" means the specific rules of Arbitration agreed upon by the parties except in so far as evidence is concerned; "Introductory Submissions" means any Request for Arbitration or Statement of Claim or similar document produced by the Claimant, any Answer or Statement of Defence or similar document produced by the Defendant and any other or further documents in the nature of pleadings or submissions, however they may be denominated, produced by the parties in accordance with the General Rules, as well as any further submissions which the General Rules may require to be made before the hearings; "Production of Documents" means the listing of documents relevant to the subject matter of the claims and defences in issue in the possession, custody, or control of a party and the delivery of the List and of copies of such documents to the other parties to the arbitration and to the Arbitrator in accordance with the provisions of these Rules; "Witness Statement" means a written statement complying with the provisions of Article 5 (2) below.

Article 3. - Introductory Submissions
The Introductory Submissions made by any party shall contain (inter alia) the means by which the facts relevant to the dispute are intended to be proved by that party, including, for each of such facts, the names of witnesses and reference to documents.

Article 4. - Production of Documents

1. Each party shall make Production of Documents in respect of all documentation on which such party desires to rely.

2. No later than 60 days after delivery of the last Introductory Submission made by the Defendant or by the date agreed between the parties or determined by the Arbitrator, each party shall exchange his List with every other party and deliver his List to the Arbitrator. Unless a document has been so listed it shall not be produced at the hearing without the consent of the Arbitrator. All documents in the List shall be numbered consecutively, and shall be produced in their entirety unless otherwise agreed or ordered. Each party shall provide the Arbitrator with a copy of each document in his List.

3. A party shall at any time be entitled to a copy of any document listed by another party upon offer of payment of the reasonable copying charge. Such document shall be supplied within 15 days of the request.

4. A party may by Notice to Produce a Document request any other party to provide him with any document relevant to the dispute between the parties and not listed, provided such document is identified with reasonable particularity and provided further that it passed to or from such other party from or to a third party who is not a party to the arbitration. If a party refuses to comply with a Notice to Produce a Document he may be ordered to do so by the Arbitrator.
5. The Arbitrator shall have the power, upon application by one of the parties or of his own volition, to order a party to produce any relevant document within such party's possession, custody or control.

6. If a party fails to comply with the Arbitrator's order to produce any relevant document within such party's possession, custody or control, the Arbitrator shall draw his conclusions from such failure.

**Article 5. - Witnesses**

1. Within 60 days of the delivery of the last Introductory Submission made by the Defendant or by the date agreed between the parties or determined by the Arbitrator, all parties shall deliver their Witness Statements to the Arbitrator only.

2. Each Witness Statement shall:
   (a) contain the full names and address of the Witness, his relationship to or connection with any of the parties, and a description of his background, qualifications, training and experience if these are relevant to the dispute or to the contents of his Statement;
   (b) contain a full statement of the evidence it is desired by that party to present through the testimony of that witness;
   (c) reflect whether the witness is a witness of fact or an expert, and whether the witness is testifying from his own knowledge, observation or experience, or from information and belief, and if the latter, the source of his knowledge; and
   (d) be signed by the witness, and give the date and place of signature.

3. When the Arbitrator has received the Witness Statement(s) of each party he shall simultaneously deliver copies of all the Witness Statement(s) to all the other parties to the arbitration.

4. Within 40 days of the receipt of any Witness Statement from another party a party may submit further or supplementary Witness Statements or Oral Evidence Notices in response to evidence submitted by such other party.

5. Within 20 days of the receipt of any Witness Statement any party may by notice to the Arbitrator and all other parties (an "Oral Evidence Notice") request the right himself to give oral evidence at the hearing, or for any of his own witnesses or the witnesses of any other party to give oral evidence at the hearing. An Oral Evidence Notice shall stipulate the issues to which that evidence is to relate.

6. Within 20 days of the receipt of any Oral Evidence Notice all parties shall reply thereto. If a party fails to reply he shall be deemed to have agreed to the request contained in that Oral Evidence Notice. If all parties agree, or are deemed to have agreed, to a particular Oral Evidence Notice, the witness named therein shall give oral evidence at the hearing in accordance with the Oral Evidence Notice. The Arbitrator may himself order that any witness gives oral evidence.

7. If a party objects to an Oral Evidence Notice he shall state his reasons, and the question whether the witness shall give oral evidence and, if so, the issues upon which the evidence shall be given, shall be determined by the Arbitrator in his discretion. The Arbitrator may give his decision on this question on the basis of the documents submitted or after hearing the parties, as he may decide.
8. A party may be heard in support of his own case. It shall be proper for a party or his legal advisers to interview witnesses or potential witnesses.

9. Any witness who gives oral evidence shall in the first place be questioned by the Arbitrator, and thereafter submit to examination by the party calling him, cross-examination by all other parties and re-examination by the party calling him.

10. The Arbitrator shall at all times have complete control over the procedure in relation to a witness giving oral evidence, including the right to limit or deny the right of a party to examine, cross-examine or re-examine a witness when it appears to the Arbitrator that such evidence or examination is unlikely to serve any further relevant purpose.

11. The testimony of any witness not giving oral evidence or of a witness in respect of any portion of his evidence not subject to oral testimony, shall be taken by means of his Witness Statement only.

12. A party shall be entitled to stipulate the name of a witness in his Oral Evidence Notice even if no Witness Statement has been produced for that witness, provided that the party states in writing that he has requested the witness to give a Witness Statement but that the witness has refused to do so and that the party has no power to compel him to provide such Statement. If the witness has given the party an informal or partial statement or other document (whether signed or not) the party shall deliver a copy thereof to the Arbitrator and to the other parties at the time he delivers the Oral Evidence Notice relating to that witness.

13. The Arbitrator shall decide what weight to attach to the evidence or Statements of any witness or party.

14. Nothing herein shall preclude the Arbitrator in his discretion from permitting any witness to give oral or written evidence.

**Article 6. - Scope of proceedings**

1. Whenever Terms of Reference or the like are provided for in the General Rules or the parties so agree or the Arbitrator so directs, a list of those witnesses shall be included who will be called to give oral evidence at the hearing and the issues upon which each witness will testify.

2. The Arbitrator may provide for such other matters concerning evidence as he considers advisable with a view to facilitating the conduct of the arbitration.

**Article 7. - Arbitrator's Powers**

In addition to the powers available to him under the applicable procedural law and the General Rules under which the arbitration is conducted, the Arbitrator shall have the following powers:

a. to vary, extend or limit any time-periods provided in the Rules of Evidence, or previously ordered by him;

b. to order that a witness whose Witness Statement has been delivered be available to be called by any party;
c. to call witnesses to testify orally or in writing, whether the parties agree thereto or not;
d. to rule that a witness' evidence be ignored if the witness fails to appear without good cause;
e. to rely on his own expert knowledge;
f. to appoint experts to assist him or to give expert evidence or reports in the arbitration;
g. to regulate the right of the parties to call expert witnesses and to make provisions with regard to their activities and the presentation of their evidence; and
h. to exercise all the powers he deems necessary to make the arbitration effective and its conduct efficient as regards the taking of evidence.