

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS.

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * *

Paragraph 5000. Class D Airspace.

* * * *

AWP NV D Indian Springs, NV [New]

Indian Springs Air Force Auxiliary Field, NV (Lat. 36°35'14" N, long. 115°40'24" W)

That airspace extending upward from the surface to and including 5,700 feet MSL within a 5-mile radius of Indian Springs Air Force Auxiliary Field, excluding Restricted Area R-4806W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * *

Issued in Los Angeles, California, on January 30, 2002.

Steve Lloyd,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 02–4626 Filed 2–26–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Chlorhexidine Ointment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for topical use of chlorhexidine ointment for surface wounds on dogs, cats, and horses.

DATES: This rule is effective February 27, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200–301 for PRIVASAN (chlorhexidine acetate) Antiseptic Ointment. The application provides for topical use of a 1-percent chlorhexidine acetate ointment for surface wounds on dogs, cats, and horses. First Priority's PRIVASAN Antiseptic Ointment is approved as a generic copy of Ft. Dodge Animal Health's NOLVASAN Antiseptic Ointment, approved under NADA 9–872. ANADA 200–301 is approved as of November 6, 2001, and 21 CFR 524.402 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 524.402 is revised to read as follows:

§ 524.402 Chlorhexidine ointment.

(a) *Specifications.* The product contains 1-percent chlorhexidine acetate in an ointment base.

(b) *Sponsor.* See Nos. 000856 and 058829 in § 510.600(c) of this chapter.

(c) *Conditions of use—(1) Indications for use.* Use as a topical antiseptic ointment for surface wounds on dogs, cats, and horses.

(2) *Limitations.* Not for use in horses intended for food.

Dated: January 30, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–4595 Filed 2–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 194

[Public Notice 3879]

Inter-American Convention on International Commercial Arbitration Rules of Procedure

ACTION: Final rule.

SUMMARY: The Department of State has determined that the amended Rules of Procedure of the Inter-American Commercial Arbitration Commission (“IACAC”) should become effective in the United States pursuant to Chapter III of the Federal Arbitration Act. The amended Rules clarify and enhance the role of IACAC in the initiation and conduct of arbitration of international commercial disputes to which the International Convention on

Commercial Arbitration ("Convention") applies. The amended Rules address such issues as notice procedures, the appointment of arbitrators, and the role of each National Section of IACAC. These Rules will come into force on April 1, 2002, for all states party to the convention.

EFFECTIVE DATE: April 1, 2002.

FOR FURTHER INFORMATION CONTACT:

Jeffrey D. Kovar, Assistant Legal Adviser for Private International Law, 2430 E St., NW., South Bldg., Suite 357, Washington DC 20037-2851; email: kovarj@ms.state.gov; tel: 202-776-8420.

SUPPLEMENTARY INFORMATION:

Regulatory History

IACAC has amended its Rules of Procedure applicable to the conduct of international commercial arbitration under the Convention. The amended Rules of Procedure will enter into force on April 1, 2002, for all states party to the Convention. The Convention entered into force for the United States in 1990 with the reservation that the United States is only bound by the Rules of Procedure in effect on July 1, 1988, unless the Secretary of State determines by regulation that any subsequent modification or amendment will apply in the United States. Pursuant to section 306 of the Federal Arbitration Act, 9 U.S.C. Sec. 306, the rulemaking procedures of Title 5 section 553 of the United States Code apply to any determination to effectuate such a modification or amendment within the United States.

On February 19, 1999, the Department received a copy of the amended IACAC Rules of Procedure from the U.S. National Section of IACAC, the American Arbitration Association in New York. After clarifying some typographical and translation errors with IACAC, the Department published a notice of proposed rulemaking in the **Federal Register** on October 4, 1999 (64 FR 53632, Oct. 4, 1999), and requested public comments by November 18, 1999, on the text of the amendments. A small number of requests were received for copies of the amended Rules of Procedure and comments received. The comments were reviewed, discussed with the individuals submitting them, and provided to the American Arbitration Association with a request that IACAC consider making modifications to its amendments.

On May 31, 2000, the Department was notified by the American Arbitration Association that IACAC had made minor changes to the amendments primarily related to ensuring the text is consistent with the Rules of Arbitration

published by the United Nations Commission on International Trade Law ("UNCITRAL"), and that the English and Spanish language versions are in conformity. The revised amendments were formally adopted by IACAC on July 1, 2000. The amendments will uniformly enter into force for all states party to the Convention on April 1, 2002, and are incorporated in the text of the final rule published today.

IACAC Internal Administrative Procedures

In addition to the Rules of Procedure published here governing the conduct of arbitration under the Convention, IACAC has amended its internal procedures for cases administered under its Rules. These internal procedures, which largely cover fees and internal practices related to the appointment of arbitrators, will not be published in the Code of Federal Regulations. Interested persons should contact the American Arbitration Association, the U.S. National Section of IACAC, at 335 Madison Ave. New York, NY 10017, with any queries about these internal procedures. The text of the internal procedures follows:

IACAC'S Internal Administrative Procedures for Cases Administered Under Its Rules

The following procedures shall govern in those instances when an Arbitral Tribunal is constituted under the Rules of Procedure of the IACAC:

1. Lists of Arbitrators

1.1 In order to faithfully and efficiently designate arbitrators, a list of candidates will be compiled and kept up to date by the Office of the Director General of the IACAC.

1.2 At least every (2) years a detailed revision of the lists will be undertaken in order to guarantee that its members are individuals who possess the necessary knowledge and experience to fulfill their functions satisfactorily.

1.3 To configure the list, each National Section will send to the Director General of the IACAC a number of candidates to be included, in a number no larger than (10). Each of the names will be accompanied by his/her respective detailed "curriculum vitae" and a complete description of his/her specific professional experience, as well as that which corresponds to the specific position for which the name is submitted. The Director General will conduct the verification and analysis of the requests. The report by the Director General will be presented to the Executive Committee, which will compose the lists, classifying its members by specialties.

2. Appointment of Arbitrators

2.1 The appointment of arbitrators, that according to the rules of procedure should be made by the IACAC, will be conducted by the Arbitrator Nominating Committee, which will be permanent in nature and will be

composed of the President, the Director General and (2) members of the Executive Committee, which the executive Committee will designate to that effect. If possible, said Committee will reach its decisions during a special meeting, or if a meeting were not possible, via telephone, telex, fax, or any other medium that allows the formation of the Committee's decision.

2.2 Minutes of the designation will be taken by the Director, who will serve as the Committee's Secretary.

3. Responsibilities of the Arbitrators

In the fulfillment of their position, Arbitrators designated by the IACAC as well as those designated by the parties who have agreed to submit themselves to the Rules of Procedure of the IACAC, are obligated to respect and follow, in the exercise of their position (as arbitrators), not only the referred rules and these rules, but to follow strictly the fee schedules established by the Commission.

4. Challenge of Arbitrators

Whenever the IACAC is required to make a decision regarding the withdrawal of an arbitrator said decision shall be made by the Arbitrator Nominating Committee referred to above by item 2.

5. Secretarial Services

Absent an agreement by the parties to the contrary, the Secretarial functions of the Tribunal will be conducted by the corresponding National Section at the seat of the Tribunal. It will be the National Section's responsibility to provide all the technical and logistical support required to fulfill its responsibilities. Among the costs and expenses of the Tribunal, remuneration of the corresponding secretarial services will be included in conformity with the applicable IACAC fee schedule in place at the time of the filing of the arbitration. In the event that there is no National Section of the IACAC and the parties had not agreed to anything on this regard, secretarial services will be provided according to whatever the Arbitral Tribunal decides.

6. Schedule of Fees

6.1 Filing Fees

A non-refundable filing fee in the amount of US\$1,000 shall be paid at the filing of an arbitration; claimant must attach it to its request for arbitration referred to in Article 3 of these Rules. Said amount may be modified periodically by the IACAC.

6.2 Administrative Fees of the IACAC

The administrative fee shall be calculated by applying the indicated percentages to the successive parts of the amounts in controversy, and adding the amounts calculated in that way.

Amount of claim (in US\$)	Administrative fee (in US\$)
Up to \$50,000	\$2,000
From 50,001 to 100,000	3.00%
From 100,001 to 500,000	1.50%
From 500,001 to 1,000,000	1.00%
From 1,000,001 to 2,000,000	0.50%

Amount of claim (in US\$)	Administrative fee (in US\$)
From 2,000,001 to 5,000,000	0.20%
From 5,000,001 to 10,000,000	0.10%
From 10,000,001 to 80,000,000	0.05%
Over 80,000,000	\$65,500.00

6.3 Arbitrator Fees

Arbitrator fees for each arbitrator will be calculated by applying the indicated percentages to the successive parts of the amounts in controversy, and adding the amounts calculated in that way.

Amount in controversy (in US\$)	Fees (in US\$)	
	Minimum	Maximum
Up to \$50,000	2,000	15%
From 50,001 to 100,000	1.50%	10%
From 100,001 to 500,000	0.80%	5%
From 500,001 to 1,000,000	0.50%	3%
From 1,000,001 to 2,000,000	0.30%	2.50%
From 2,000,001 to 5,000,000	0.20%	0.80%
From 5,000,001 to 10,000,000	0.10%	0.50%
From 10,000,001 to 50,000,000	0.05%	0.15%
From 50,000,001 to 100,000,000	0.02%	0.10%
Over 100,000,000	0.01%	0.05%

6.4 Fees for Other Services

6.4.1 Postponement or Cancellation Fees

In the event that a hearing scheduled to take place before a single arbitrator Tribunal has to be postponed or cancelled for reasons attributable to one of the parties, a charge of US\$150 will be assessed to that party causing the postponement or cancellation. The charge will be US\$250 if the hearing was to take place before a Tribunal of three arbitrators.

6.4.2 Suspension for Nonpayment

If compensation due to the arbitrators or administrative fees have not been completely paid, the Tribunal or its Secretariat, in its place, will inform the parties of said circumstances so that the fees may be paid in full either by both parties or one of them. Once requested, if payment is not received, the Tribunal may order the suspension or termination of the arbitration at its discretion. If the arbitrators have not been designated, the IACAC may suspend the arbitration.

6.4.3 Rental of Facilities

The rental of hearing rooms will be available to the parties in the respective National Sections for a fee and subject to availability.

[End of IACAC Internal Administrative Procedures]

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule after it was published as a proposed rule on October 4, 1999 (see Supplementary Information).

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State does not consider this rule, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this

rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

List of Subjects in 22 CFR Part 194

Administrative practice and procedure, Foreign relations, Treaties.

For the reasons set out in the preamble, 22 CFR chapter I is amended by adding subchapter U consisting of part 194 to read as follows:

SUBCHAPTER U—INTERNATIONAL COMMERCIAL ARBITRATION

PART 194—INTER-AMERICAN COMMERCIAL ARBITRATION COMMISSION RULES OF PROCEDURE

Sec.

194.1 Authority and scope of application.

Appendix A to Part 194—Inter-American Commercial Arbitration Commission Rules of Procedure (As Amended April 1, 2002)

Authority: 9 U.S.C. 306.

§ 194.1 Authority and scope of application.

In accordance with the authority in chapter III of the Federal Arbitration Act (9 U.S.C. 306), the Department of State has determined that the amended Rules of Procedures of the Inter-American Commercial Arbitration Commission (IACAC) should become effective in the United States and will come into force on April 1, 2002, at the same time as for all states party to the Inter-American Convention on International Commercial Arbitration. The IACAC's amended Rules of Procedure set forth the procedures for the initiation and conduct of arbitration of certain international commercial disputes to which the Inter-American Convention on International Commercial Arbitration applies. The amended Rules of Procedure are set out in full in appendix A to this part.

Appendix A to Part 194—Inter-American Commercial Arbitration Commission Rules of Procedure (As Amended April 1, 2002)

Table of Contents

Art. 1	Scope of Application
Art. 2	Notice, Calculation of Periods of Time
Art. 3	Notice of Arbitration
Art. 4	Representation and Assistance
Art. 5	Appointment of Arbitrators
Art. 6	Challenge of Arbitrators
Art. 7	Challenge of Arbitrators
Art. 8	Challenge of Arbitrators
Art. 9	Challenge of Arbitrators
Art. 10	Replacement of an Arbitrator
Art. 11	Repetition of Hearings in the Event of the Replacement of an Arbitrator
Art. 12	General Provisions
Art. 13	Place of Arbitration

Art. 14	Language
Art. 15	Statement of Claim
Art. 16	Statement of Defense
Art. 17	Amendments to the Claim or Defense
Art. 18	Plea as to the Jurisdiction of the Arbitral Tribunal
Art. 19	Further Written Statements
Art. 20	Periods of Time
Art. 21	Evidence and Hearings
Art. 22	Evidence and Hearings
Art. 23	Interim Measures of Protection
Art. 24	Experts
Art. 25	Default
Art. 26	Closure of Hearings
Art. 27	Waiver of Rules
Art. 28	Decisions
Art. 29	Form and Effect of the Award
Art. 30	Applicable law, Amiable Compositeur
Art. 31	Settlement or Other Grounds for Termination
Art. 32	Interpretation of the Award
Art. 33	Correction of the Award
Art. 34	Additional Award
Art. 35	Costs
Art. 36	Costs
Art. 37	Costs
Art. 38	Costs: Deposit of Costs
Art. 39	Transitory Article

Rules of Procedure (As Amended April 1, 2002)

Section I. Introductory Rules

Scope of Application

Article 1

1. Where the parties to a contract have agreed in writing that disputes in relation to that contract shall be referred to arbitration under the IACAC Rules of Procedure, then such disputes shall be settled in accordance with these Rules subject to such modification as the parties may agree in writing and the IACAC may approve.

2. These Rules shall govern the arbitration, except that where any such rule is in conflict with any provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

Notice, Calculation of Periods of Time

Article 2

1. For the purposes of these rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee in person or via fax, telex or any other means agreed to by the parties, or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last known habitual residence or at his last known place of business. Notice shall be deemed to have been received on the day it is so delivered by any of the means stated in these rules.

2. For the purposes of calculating a period of time under these rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is

extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

Notice of Arbitration

Article 3

1. The party initiating recourse to arbitration (hereinafter referred to as the "claimant") shall give to the other party (hereinafter referred to as the "respondent") a notice requesting arbitration and shall provide a copy to the Director General of the IACAC, either directly or through the IACAC National Section if one exists in his country of domicile.

2. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the respondent.

3. The request for arbitration shall at least include the following:

- (a) A request that the dispute be submitted to arbitration;
- (b) The names and addresses of the parties;
- (c) A copy of the arbitration clause or the separate arbitration agreement;
- (d) A reference to the contract out of which, or in relation to which, the dispute has arisen, and a copy thereof if the claimant deems it necessary;
- (e) The general nature of the claim and an indication of the amount involved, if any;
- (f) The relief or remedy sought;
- (g) If three arbitrators are to be appointed, designation of one arbitrator, as referred to in Article 5, paragraph 3.

4. The request for arbitration may also include the statement of claim referred to in Article 15.

5. Upon receipt of the notice of arbitration, the Director General of the IACAC or the IACAC National Section shall communicate with all parties with respect to the arbitration and shall acknowledge the commencement of the arbitration.

Representation and Assistance

Article 4

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons must be communicated in writing to the other party; such communication must specify whether the appointment is being made for purposes of representation or assistance.

Section II. Composition of the Arbitral Tribunal

Appointment of Arbitrators

Article 5

1. If the parties have not otherwise agreed, three arbitrators shall be appointed.

2. When the parties have agreed that the dispute will be resolved by a single arbitrator, he may be appointed by the mutual agreement of the parties. If the parties have not done so within thirty (30) days from the date on which the notice of arbitration is received by the respondent, the arbitrator will be designated by the IACAC.

3. If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator, who will act as the presiding arbitrator of the tribunal.

4. If within thirty (30) days after receipt of the claimant's notification of the appointment of an arbitrator, the other party has not notified the first party with a copy to the Director General of the IACAC either directly or through the IACAC National Section if one exists in his country of domicile, of the arbitrator he has appointed, the arbitrator will be designated by the IACAC.

5. If within thirty (30) days after the appointment of the second arbitrator, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator will be appointed by the IACAC.

6. In making appointments, the IACAC shall have regard to such considerations as are likely to secure the appointment of independent and impartial arbitrators, and shall also take into account the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

7. The IACAC may request from either party any information it deems necessary in order to discharge its functions.

Challenge of Arbitrators

Article 6

A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed or chosen, shall disclose such circumstances to the parties and to the IACAC, if appointed by the IACAC, unless they have already been informed by him of these circumstances.

Article 7

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.

2. A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.

Article 8

1. A party who intends to challenge an arbitrator shall send notice of his challenge within fifteen days after the appointment of the challenged arbitrator has been notified to the challenging party or within fifteen days after the circumstances mentioned in Articles 6 and 7 became known to that party.

2. The challenge shall be notified to the other party, to the arbitrator who is challenged and to the other members of the arbitral tribunal and to the Director General of the IACAC. The notification shall be in writing and shall state the reasons for the challenge.

3. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases the procedure provided in article 5 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.

Article 9

1. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the IACAC.

2. If the IACAC sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in these rules.

Replacement of an Arbitrator

Article 10

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of the arbitrator being replaced.

2. In the event that an arbitrator fails to fulfill his functions or in the event of the *de jure* or *de facto* impossibility of performing his function, or if the IACAC determines that there are sufficient reasons to accept the resignation of an arbitrator, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply.

3. If an arbitrator on a three-person tribunal does not participate in the arbitration, the two other arbitrators shall have the power in their sole discretion to continue the arbitration and make any decision, ruling or award, notwithstanding the refusal of the third arbitrator to participate. In deciding whether to continue the arbitration or to render any decision, ruling or award, the two other arbitrators shall take into account the stage of the arbitration proceedings, the reasons, if any, stated by the third arbitrator for not participating, as well as such other matters they consider appropriate in the circumstances of the case. If the two arbitrators decide not to continue the arbitration without the participation of the third arbitrator, the IACAC on proof satisfactory to it shall declare the office vacant, and the party that initially appointed him shall proceed to appoint a substitute arbitrator within thirty (30) days following the vacancy declaration. If the designation is not made within the stated term, then the substitute arbitrator will be appointed by the IACAC.

Repetition of Hearings in the Event of the Replacement of an Arbitrator

Article 11

If under Articles 8 to 10 the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the arbitral tribunal.

Section III. Arbitral Proceedings

General Provisions

Article 12

1. Subject to these rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case.

2. If either party so requests at any stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other evidence.

3. All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party.

Place of Arbitration

Article 13

1. If the parties have not reached an agreement regarding the place of arbitration, the place of arbitration may initially be determined by the IACAC, subject to the power of the tribunal to determine finally the place of arbitration within sixty (60) days following the appointment of the last arbitrator. All such determinations shall be made having regard for the contentions of the parties and the circumstances of the case.

2. Notwithstanding the foregoing, the tribunal may meet in any place it may deem appropriate to hold hearings, hold meetings for consultation, hear witnesses, or inspect property or documents. The parties shall be given sufficient written notice to enable them to be present at any such proceeding.

Language

Article 14

1. Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. This determination shall apply to the statement of claim, the statement of defense, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.

2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defense, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statement of Claim

Article 15

1. Unless the statement of claim was contained in the request for arbitration, within a period of time to be determined by the arbitral tribunal, the claimant shall communicate his statement of claim in writing to the respondent and to each of the arbitrators, with a copy to the IACAC. A copy of the contract, and of the arbitration agreement if not contained in the contract, shall be annexed thereto.

2. The statement of claim shall include the following particulars:

- (a) The names and addresses of the parties;
- (b) A statement of the facts supporting the claim;
- (c) The points at issue;
- (d) The relief or remedy sought.

The claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

Statement of Defense

Article 16

1. Within a period of time to be determined by the arbitral tribunal, the respondent shall communicate his statement of defense in writing to the claimant and to each of the arbitrators, with a copy to the IACAC.

2. The statement of defense shall reply to the particulars (b), (c) and (d) of the statement of claim (Article 15, paragraph 2). The respondent may annex to his statement the documents on which he relies for his defense or may add a reference to the documents or other evidence he will submit.

3. In his statement of defense, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counterclaim arising out of the same contract, or rely on a claim arising out of the same contract for the purpose of a set-off.

4. The requirements provided in Article 15, paragraph 2, of these Rules shall apply to both any counterclaim or to any claim presented for the purposes of a set-off.

Amendments to the Claim or Defense

Article 17

During the course of arbitral proceedings either party may amend or supplement his claim or defense unless the arbitral tribunal considers it inappropriate to allow such amendment, having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate arbitration agreement.

Plea as to the Jurisdiction of the Arbitral Tribunal

Article 18

1. The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objection with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.

2. The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause or an arbitration agreement forms a part.

For the purposes of this Article, an arbitration clause that forms part of a contract and that provides for arbitration under these rules shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause or the arbitration agreement.

3. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defense or, with respect to a counterclaim, in the reply to the counterclaim.

4. In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as

a preliminary question. However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in its final award.

Further Written Statements

Article 19

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defense, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Periods of Time

Article 20

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defense) should not exceed forty-five days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Evidence and Hearings (Articles 21 & 22)

Article 21

1. Each party shall have the burden of proving the facts relied on to support his claim or defense.

2. The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence that that party intends to present in support of the facts in issue set out in his statement of claim or statement of defense.

3. At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine.

Article 22

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.

2. If witnesses are to be heard, at least fifteen days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses he intends to present, and the subject upon and the languages in which such witnesses will give their testimony.

3. The arbitral tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal at least fifteen days before the hearing.

4. Hearings shall be held *in camera* unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.

5. Evidence of witnesses may also be presented in the form of written statements signed by them.

6. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Interim Measures of Protection

Article 23

1. At the request of either party, the arbitral tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of the goods forming the subject matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.

2. Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require security for the costs of such measures.

3. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Experts

Article 24

1. The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

2. The parties shall give the expert any relevant information or produce for his inspection any relevant document or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.

3. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.

4. At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Article 22 shall be applicable to such proceedings.

Default

Article 25

1. If, within the period of time fixed by the arbitral tribunal, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings.

2. If one of the parties, duly notified under these rules, fails to appear at a hearing without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

3. If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

Closure of Hearings

Article 26

1. The arbitral tribunal may inquire of the parties if they have any further proofs to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.

2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Rules

Article 27

A party who knows that any provision of, or requirement under, these rules has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance shall be deemed to have waived his right to object.

Section IV. The Award

Decisions

Article 28

The arbitral tribunal shall adopt its decisions by a majority vote. When there is no majority, the decision shall be made by the president of the tribunal.

Form and Effect of the Award

Article 29

1. In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards.

2. The award shall be made in writing and shall be final and binding on the parties and subject to no appeal. The parties undertake to carry out the award without delay.

3. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.

4. An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made, which shall be the place designated in Article 13. Where there are three arbitrators and one of them fails to sign, the award shall state the reasons for the absence of the signature.

5. The award may be made public only with the consent of both parties.

6. Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.

7. If the arbitration law of the country where the award is made requires that the award be filed or registered by the arbitral tribunal, the tribunal shall comply with this requirement within the period of time required by law.

Applicable law, Amiable Compositeur

Article 30

1. The arbitral tribunal shall apply the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules that it considers applicable.

2. The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono*

only if the parties have expressly authorized the arbitral tribunal to do so and if the law applicable to the arbitral procedure permits such arbitration.

3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Settlement or Other Grounds for Termination

Article 31

1. If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

3. 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 parties. Where an arbitral award on agreed terms is made, the provisions of Article 29, paragraphs 2 and 4, shall apply.

Interpretation of the Award

Article 32

1. Within thirty days after the receipt of the award, either party may request that the arbitral tribunal give an interpretation of the award. The tribunal shall notify the other party or parties to the proceedings of such request.

2. The interpretation shall be given in writing within forty-five days after the receipt of the request. The interpretation shall form part of the award and the provisions of Article 29, paragraphs 2 to 7, shall apply.

Correction of the Award

Article 33

1. Within thirty days after the receipt of the award, either party may request the arbitral tribunal, which shall notify the other party, to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.

2. Such corrections shall be in writing, and the provisions of Article 29, paragraphs 2 to 7, shall apply.

Additional Award

Article 34

1. Within thirty days after the receipt of the award, either party may request the arbitral tribunal, which shall notify the other party,

to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

2. If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request.

3. When an additional award is made, the provisions of Article 29, paragraphs 2 to 7, shall apply.

Costs (Articles 35 to 38)

Article 35

The arbitral tribunal shall fix the costs of arbitration in its award. The term "costs" includes only:

(a) The fees of the arbitral tribunal, to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with Article 36;

(b) The travel and other expenses incurred by the arbitrators;

(c) The costs of expert advice and of other assistance required by the arbitral tribunal;

(d) The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

(e) The costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;

(f) The administrative fee and other service charges of the IACAC; which shall be set by the Arbitrator Nominating Committee of the IACAC in accordance with the schedule in effect at the time of the commencement of the arbitration. The committee may set a provisional fee when the proceedings are instituted and the final amount before the award is rendered, so that such amount may be taken into account by the tribunal when rendering its award.

Article 36

1. The fees of the arbitral tribunal and the administrative fees for the IACAC shall be set in accordance with the schedule in effect at the time of commencement of the arbitration. The fees shall be calculated on the basis of the amount involved in the arbitration; if that amount cannot be determined, the fees shall be set discretionally.

2. The amount between the maximum and minimum range in the schedule shall be set in accordance with the nature of the dispute, the complexity of the subject matter and any other relevant circumstances of the case.

Article 37

1. The costs of arbitration shall be borne by the unsuccessful party. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.

2. When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred to in Article 35 in the text of that order or award.

3. No additional fees may be charged by an arbitral tribunal for interpretation or

correction or completion of its award under Articles 32 to 34.

Article 38

Deposit of Costs

1. The arbitral tribunal, on its establishment, or the Arbitrator Nominating Committee of the IACAC within its purview, may request each party to deposit an equal amount as an advance for the costs referred to in Article 35, paragraphs (a), (b), (c) and (f).

2. During the course of the arbitral proceedings the arbitral tribunal may request supplementary deposits from the parties.

3. When a party so requests, the arbitral tribunal shall fix the amounts of any deposits or supplementary deposits only after consultation with the IACAC, which may make any comments to the arbitral tribunal which it deems appropriate concerning the amounts of such deposits and supplementary deposits.

4. If the required deposits are not paid in full within thirty days after the receipt of the request, the arbitral tribunal shall so inform the parties in order that one or another of them may make the required payment. Should one of the parties fail to pay its deposits in full, the other party may do so in its stead. If payment in full is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.

5. After the award has been made, the arbitral tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

Transitory Article

Article 39

Any disputes arising under contracts that stipulate resolution of such disputes pursuant to the IACAC Rules of Procedure and that have not been submitted to an arbitral tribunal as of the date on which these rules enter into effect shall be subject to these rules in their entirety.

Dated: November 15, 2001.

Jeffrey Kovar,

Assistant Legal Advisor for Private International Law, Department of State.

[FR Doc. 02-2860 Filed 2-26-02; 8:45 am]

BILLING CODE 4710-08-P

BROADCASTING BOARD OF GOVERNORS

22 CFR Part 503

Freedom of Information Act Regulations

AGENCY: The Broadcasting Board of Governors.

ACTION: Final rule.

SUMMARY: This regulation establishes rules for implementing the Freedom of Information Act (FOIA) for the newly created Broadcasting Board of Governors (BBG or Agency).