ICCA CHECKLIST
FIRST PROCEDURAL ORDER

This is a checklist of issues to consider including in a first procedural order in arbitration. In your case, it may not be appropriate to include all of the issues below: some may be better dealt with later, or not at all.

The ICCA Drafting Sourcebook for Logistical Matters in Procedural Orders (<www.arbitration-icca.org>) contains boilerplate drafting for some of the listed issues – see footnotes below.

1. STRUCTURAL ISSUES: jurisdiction; interim/provisional measures; counterclaims; bifurcation; fast-track; multiple parties; related proceedings; joining proceedings
2. CASE MANAGEMENT CONFERENCE: in person or telephone/video conference; attempt agreement on terms of first procedural order; planning for remainder of arbitration
3. TIMETABLE: all events up to hearing, or beyond hearing to end of arbitration
4. GOVERNING LAW: for arbitration agreement; for procedure; for merits
5. CONFIDENTIALITY: what regime applies; does it cover existence of proceedings, submissions, evidence, orders/awards
6. PRIVILEGE: which rules apply
7. COUNSEL ETHICS: which rules apply; obligation to disclose counsel conflicts
8. ADMINISTRATIVE SECRETARY: whether to use; under what conditions
9. SUBMISSIONS:¹ how many rounds; paper/electronic; paper size; numbering; specificity of references; page limits; accompanied by documentary/witness evidence or not
10. UNSCHEDULED APPLICATIONS:² procedure for notifying tribunal and other side
11. DOCUMENTARY EVIDENCE:³ filed with submissions or later; paper/electronic; paper size; exhibit naming/numbering
12. DOCUMENTS NOT IN LANGUAGE OF THE ARBITRATION:⁴ who presents and pays for translation of which documents; conformity of “look” with originals; where to place

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¹ Sourcebook: 8. Written Submissions; and 9. Formatting.
² Sourcebook: 5. Unscheduled Applications and Submissions.
³ Sourcebook: 8. Written Submissions; and 12. Documentary Evidence and Legal Authorities.
13. **WITNESS/EXPERT STATEMENTS:** filed with submissions or later; how many rounds; paper/electronic; paper size; replace direct testimony or outline only; numbering; exhibit naming/numbering

14. **WITNESS/EXPERT EVIDENCE NOT IN LANGUAGE OF ARBITRATION:** translation; who arranges simultaneous/sequential interpretation at hearing

15. **EXCHANGE OF SUBMISSIONS AND WITNESS/EXPERT STATEMENTS:** simultaneous/sequential; deadline time zone

16. **REQUESTS FOR OPPOSING PARTY DOCUMENTS:** timing; applicable rules; specificity; procedure for resolving disputes

17. **PRODUCTION OF REQUESTED DOCUMENTS:** to whom; in what format; who pays; whether automatically in the record

18. **PRE-HEARING CONFERENCE:** time and location; in person or by telephone/video conference

19. **TRIBUNAL MEETING PRE-HEARING:** whether to schedule Reed Retreat; whether tribunal to produce list of issues/questions

20. **HEARING:** who books/pays for hearing and breakout rooms; whether hearing bundle required; who will attend and subject to what restrictions (party representatives; fact witnesses and experts; live or by video); time allocation; scope of hearing; format/scope of witness/expert examination; oral closing or post-hearing briefs

21. **RECORD OF HEARINGS/OTHER MEETINGS:** real time or other transcript; who engages court reporter; language/s for transcript; audio or video recording; recording of one or more language versions; how transcript becomes final

22. **COSTS:** security for costs; budgets and other cost limitation techniques; costs to be dealt with in award on merits or otherwise; format of costs submissions; timing of costs submissions (before or after merits hearing, or after partial award on merits); whether disclosure of funding sources required

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7. Sourcebook: 2. Pre-hearing Filing (Time Zones); and 8. Written Submissions.

8. Sourcebook: 15. Pre-hearing Meeting or Teleconference.


