

Chapter II: Establishment of the Tribunal

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ICSID Arbitration Rules

Rule 13: General Provisions Regarding the Establishment of the Tribunal

(1) The Tribunal shall be constituted without delay after registration of the Request for arbitration.

(2) The majority of the arbitrators on a Tribunal shall be nationals of States other than the State party to the dispute and the State whose national is a party to the dispute, unless the Sole Arbitrator or each individual member of the Tribunal is appointed by agreement of the parties.

(3) A party may not appoint an arbitrator who is a national of the State party to the dispute or the State whose national is a party to the dispute without agreement of the other party.

(4) A person previously involved in the resolution of the dispute as a conciliator, judge, mediator or in a similar capacity may be appointed as an arbitrator only by agreement of the parties.

Rule 14: Notice of Third-Party Funding

(1) A party shall file a written notice disclosing the name and address of any non-party from which the party, directly or indirectly, has received funds for the pursuit or defense of the proceeding through a donation or grant, or in return for remuneration dependent on the outcome of the proceeding (“third-party funding”). If the non-party providing funding is a juridical person, the notice shall include the names of the persons and entities that own and control that juridical person.

(2) A party shall file the notice referred to in paragraph (1) with the Secretary-General upon registration of the Request for arbitration, or immediately upon concluding a third-party funding arrangement after registration. The party shall immediately notify the Secretary-General of any changes to the information in the notice.

(3) The Secretary-General shall transmit the notice of third-party funding and any notification of changes to the information in such notice to the parties and to any arbitrator proposed for appointment or appointed in a proceeding for purposes of completing the arbitrator declaration required by Rule 19(3)(b).

(4) The Tribunal may order disclosure of further information regarding the funding agreement and the non-party providing funding pursuant to Rule 36(3).

Rule 15: Method of Constituting the Tribunal

(1) The number of arbitrators and the method of their appointment must be determined before the Secretary-General can act on any appointment proposed by a party.

(2) The parties shall endeavor to agree on any uneven number of arbitrators and the method of their appointment. If the parties do not advise the Secretary-General of an agreement within 45 days after the date of registration, the Tribunal shall be constituted in accordance with Article 37(2)(b) of the Convention.

Rule 16: Appointment of Arbitrators to a Tribunal Constituted in Accordance with Article 37(2)(b) of the Convention

If the Tribunal is to be constituted in accordance with Article 37(2)(b) of the Convention, each party shall appoint an arbitrator and the parties shall jointly appoint the President of the Tribunal.

Rule 17: Assistance of the Secretary-General with Appointment

The parties may jointly request that the Secretary-General assist with the appointment of the President of the Tribunal or a Sole Arbitrator.

Rule 18: Appointment of Arbitrators by the Chair in Accordance with Article 38 of the Convention

(1) If the Tribunal has not been constituted within 90 days after the date of registration, or such other period as the parties may agree, either party may request that the Chair appoint the arbitrator(s) who have not yet been appointed pursuant to Article 38 of the Convention.

(2) The Chair shall appoint the President of the Tribunal after appointing any members who have not yet been appointed.

(3) The Chair shall consult with the parties as far as possible before appointing an arbitrator and shall use best efforts to appoint any arbitrator(s) within 30 days after receipt of the request to appoint.

Rule 19: Acceptance of Appointment

(1) A party appointing an arbitrator shall notify the Secretary-General of the appointment and provide the appointee's name, nationality and contact information.

(2) Upon receipt of a notification pursuant to paragraph (1), the Secretary-General shall request an acceptance from the appointee and shall transmit to the appointee the information received from the parties relevant to completion of the declaration referred to in paragraph (3)(b).

(3) Within 20 days after receipt of the request for acceptance of an appointment, the appointee shall:

(a) accept the appointment; and

(b) provide a signed declaration in the form published by the Centre, addressing matters including the arbitrator's independence, impartiality, availability and commitment to maintain the confidentiality of the proceeding.

(4) The Secretary-General shall notify the parties of the acceptance of appointment by each arbitrator and transmit the signed declaration to them.

(5) The Secretary-General shall notify the parties if an arbitrator fails to accept the appointment or provide a signed declaration within the time limit referred to in paragraph (3), and another person shall be appointed as arbitrator in accordance with the method followed for the previous appointment.

(6) Each arbitrator shall have a continuing obligation promptly to disclose any change of circumstances relevant to the declaration referred to in paragraph (3)(b).

Rule 20: Replacement of Arbitrators Prior to Constitution of the Tribunal

(1) At any time before the Tribunal is constituted:

(a) an arbitrator may withdraw an acceptance;

(b) a party may replace an arbitrator whom it appointed; or

(c) the parties may agree to replace any arbitrator.

(2) A replacement arbitrator shall be appointed as soon as possible, in accordance with the method by which the withdrawing or replaced arbitrator was appointed.

Rule 21: Constitution of the Tribunal

(1) The Tribunal shall be deemed to be constituted on the date the Secretary-General notifies the parties that all the arbitrators have accepted their appointments and signed the declaration required by Rule 19(3)(b).

(2) As soon as the Tribunal is constituted, the Secretary-General shall transmit the Request for arbitration, the supporting documents, the notice of registration and communications with the parties to each member.