

## **ANNEX 16-1**

### **RULES OF PROCEDURE OF ARBITRAL TRIBUNAL**

#### **First Written Submissions**

1. The complaining Party shall deliver its first written submission to the Arbitral Tribunal and to the Party complained against no later than 20 days after the date of the establishment of the Arbitral Tribunal. The Party complained against shall deliver its first written submission to the Arbitral Tribunal and to the complaining Party no later than 30 days after the date of delivery of the complaining Party's first written submission, unless the Arbitral Tribunal decides otherwise.

2. A Party shall provide a copy of its first written submission to each of the arbitrators and to the other Party. The copy shall be delivered against receipt, or by registered post, courier, or facsimile. A copy of the documents shall also be provided in electronic format.

#### **Hearings**

3. The chair of the Arbitral Tribunal shall fix the date and time of the hearings in consultation with the Parties and the other members of the Arbitral Tribunal. The venue of the hearings shall be decided by mutual agreement of the Parties. If there is no agreement, the venue shall alternate between the Areas of the Parties with the first hearing to be held in the Area of the Party complained against. The chair of the Arbitral Tribunal shall notify the Parties in writing of the date, time and venue of the hearings.

4. Unless a Party disagrees, the Arbitral Tribunal may decide to convene additional hearings or not to convene a hearing at all.

5. All arbitrators shall be present at the hearings.
6. The hearings of the Arbitral Tribunal shall be held in closed session.

### **Supplementary Written Submissions**

7. Within 20 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing. The Parties shall not make new complaints or present new evidence at this stage of the arbitral proceedings unless requested or authorised by the Arbitral Tribunal. The supplementary written submissions shall be delivered in accordance with paragraph 2 of this Annex. The Parties shall deliver their supplementary written submissions simultaneously.

### **Questions in Writing**

8. The Arbitral Tribunal may at any time during the proceedings put questions to the Parties in writing.
9. A Party to whom the Arbitral Tribunal addresses a written question shall deliver the written reply to the Arbitral Tribunal and the other Party in accordance with the timetable established by the Arbitral Tribunal. Each Party shall be given the opportunity to provide written comments on the reply of the other Party within five days after the date of delivery of the reply.

### **Confidentiality**

10. The deliberations of the Arbitral Tribunal and written submissions, documents, information or technical advice submitted to the Arbitral Tribunal as well as the hearings of the Arbitral Tribunal and replies to questions made during the hearings of the Arbitral Tribunal shall be kept confidential. Nothing in this Chapter shall preclude a Party from disclosing statements of its own positions to the public provided that

there is no disclosure of information which has been designated as confidential by the other Party or any individual or body referred to in paragraph 14 of this Annex. The information submitted by a Party to the Arbitral Tribunal which that Party has designated as confidential shall be treated as confidential information by the Arbitral Tribunal and the other Party. A Party shall within 28 days after a request of the other Party provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

### ***Ex parte* Contacts**

11. The Arbitral Tribunal shall not meet or contact a Party in the absence of the other Party.

12. No Party shall contact any arbitrator in relation to the dispute in the absence of the other Party and other arbitrators.

13. No arbitrator shall discuss any aspect of the subject matter of the proceedings with a Party in the absence of the other Party and other arbitrators.

### **Role of Experts**

14. Upon request of a Party or on its own initiative, the Arbitral Tribunal may seek information and technical advice from any individual or body that it deems appropriate. Any information so obtained shall be provided to the Parties for comments. Where the Arbitral Tribunal takes the information or technical advice into account in the preparation of its reports, it shall also take into account any comments by the Parties on the information or technical advice.

### **Working Language**

15. The working language of the dispute settlement proceedings under this Chapter shall be English. Written submissions, documents, oral arguments or presentations,

the reports of the Arbitral Tribunal and all written and oral communications between the Parties and with the Arbitral Tribunal shall be in the English language.