

ANNEX

RULES AND PROCEDURES FOR THE ARBITRAL PANEL

PROCEEDINGS

Application

1. These Rules are established under Article 10 and shall apply to arbitral panel proceedings under this Agreement unless the parties to the dispute otherwise agree.
2. Any reference made in these Rules to an Article is a reference to the appropriate Article in this Agreement.

Terms of Reference for Arbitral Panels

3. An arbitral panel shall have the following terms of reference unless the parties to the dispute agree otherwise within ten (10) days from the date of the establishment of an arbitral panel:

"To examine, in the light of the relevant provisions in (name of the covered agreement(s) cited by the parties to the dispute), the matter referred to in the request for the establishment of an arbitral panel pursuant to Article 5, to make findings, determinations, recommendations and suggestions, if any, as provided in Article 11, and to present the written reports referred to in Articles 11 and 12."

4. The parties to the dispute shall promptly deliver the agreed terms of reference to the arbitral panel. The arbitral panel shall address the relevant provisions in the covered agreements cited by the parties to the dispute.

Written Submissions and Other Documents

5. Each party to the dispute shall deliver no less than four copies of its written submissions to the arbitral panel and a copy to the other party to the dispute.

6. A complaining party shall deliver its initial written submission to the party complained against no later than twenty (20) days after the date of the establishment of the arbitral panel. The party complained against shall deliver its written submission to the complaining party no later than twenty (20) days after the date of receipt of the initial written submission of the complaining party.

7. In respect of any request, notice or other document(s) related to the arbitral panel proceeding that is not covered by paragraphs 5 and 6, each party to the dispute may deliver a copy of the document(s) to the other party to the dispute by facsimile, email or other means of electronic transmission.

8. A party to the dispute may at any time correct minor errors of a clerical nature in any request, notice, written submission or other document(s) related to the arbitral panel proceeding by delivering a

new document clearly indicating the changes.

Operation of Arbitral Panels

9. The chair of the arbitral panel shall preside at all of its meetings. An arbitral panel may delegate to the chair authority to make administrative and procedural decisions.
10. Except as otherwise provided in these Rules, the arbitral panel may conduct its business by any means, including by telephone, facsimile transmission and computer links.
11. Only members of the arbitral panel may take part in the deliberations of the arbitral panel, but the arbitral panel may, in consultation with the parties to the dispute, retain such number of assistants, interpreters or translators, or designated note takers as may be required for the proceeding and permit them to be present during such deliberations. The members of the arbitral panel and the persons retained by the arbitral panel shall maintain the confidentiality of the arbitral panel proceeding unless such information is already made available to the public.
12. Where a procedural question arises that is not addressed by these Rules, an arbitral panel may adopt an appropriate procedure that is not inconsistent with this Agreement, unless it considers that the procedural question may affect in a meaningful manner the

way in which it examines matters before it, in which case it shall consult with the parties to the dispute.

13. Any time period applicable to the arbitral panel proceeding shall be suspended for a period that begins on the date on which any member of the arbitral panel becomes unable to act and ends on the date on which the successor member is appointed.

14. An arbitral panel may, in consultation with the parties to the dispute, modify any time period applicable in the arbitral panel proceeding and make such other procedural or administrative adjustments as may be required in the proceeding.

15. The venue for the arbitral panel proceedings shall be decided by mutual agreement between the parties to the dispute. If there is no agreement, the venue shall alternate between the capitals of the parties to the dispute with the first session of the arbitral panel proceeding to be held in the capital of the party complained against.

16. All third parties which have notified their interest in the dispute shall be invited in writing to present their views during the first session of the arbitral panel proceeding set aside for that purpose. All such third parties may be present during the entirety of this session.

17. The interim and final report of the arbitral panel shall be

drafted without the presence of the parties to the dispute in the light of the information provided and the statements made. Opinions expressed in the report of the arbitral panel by its individual member shall be anonymous.

18. Following the consideration of submissions, arguments and any information before it, the arbitral panel shall present an interim report to the parties to the dispute, including both a descriptive section relating to the facts of the dispute and the arguments of the parties to the dispute and the arbitral panel's findings and conclusions. The arbitral panel shall accord adequate opportunity to the parties to the dispute to review the entirety of its interim report prior to its finalisation and shall include a discussion of any comments by the parties concerned in its final report.

Timetable

19. After consulting the parties to the dispute, the chair of the arbitral panel shall, as soon as practicable and whenever possible within fifteen (15) days after the establishment of the arbitral panel, fix the timetable for the arbitral panel process. In determining the timetable for the arbitral panel process, the arbitral panel shall provide sufficient time for the parties to the dispute to prepare their respective submissions. The arbitral panel should set precise deadlines for written submissions by the parties to the dispute and they shall respect those deadlines.

Decisions of the Arbitral Panel

20. The arbitral panel shall take its decisions by consensus; provided that where the arbitral panel is unable to reach consensus, it may take its decisions by majority vote.

Availability of Information

. . . The deliberations of the arbitral panel and the documents submitted to it shall be kept confidential. No party to the dispute shall be precluded from disclosing statements of its own positions to the public. The parties to the dispute shall treat as confidential information submitted by the other party to the dispute to the arbitral panel which that party has designated as confidential. Where a party to the dispute submits a confidential version of its written submissions to the arbitral panel, it shall also, upon request of the other party to the dispute, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.

Remuneration and Payment of Expenses

22. The arbitral panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to their assistants, designated note takers or other individuals that it retains pursuant to paragraph 11.