

ANNEX 13-1

RULES OF PROCEDURE FOR ARBITRAL TRIBUNAL PROCEEDINGS

Timetable

1. In determining the timetable for the arbitral tribunal process, the arbitral tribunal shall provide sufficient time for the Parties to the dispute to prepare their respective submissions. The arbitral tribunal shall set precise deadlines for written submissions by the Parties to the dispute and the Third Parties and they shall respect those deadlines.

2. Any time period applicable to the arbitral tribunal proceedings shall be suspended for a period that begins on the date on which any arbitrator resigns or becomes unable to act and ends on the date on which the successor arbitrator is appointed.

3. Unless the Parties to the dispute otherwise agree, an arbitral tribunal may, in consultation with the Parties to the dispute, modify any time period applicable in the arbitral tribunal proceedings and make such other procedural or administrative adjustments as may be required in the proceedings.

Arbitral Tribunal Proceedings

4. The Parties to the dispute and Third Parties shall be present only when invited by the arbitral tribunal to appear before it. Unless the Parties to the dispute otherwise agree, an arbitral tribunal shall hold its substantive meetings in closed session. All presentations and statements made at substantive

meetings shall be made in the presence of the Parties to the dispute. There shall be no *ex parte* communications with the arbitral tribunal concerning matters under consideration by it.

5. The chair of the arbitral tribunal shall preside at all of its meetings. An arbitral tribunal may delegate to the chair authority to make administrative and procedural decisions.

6. Unless otherwise provided in this Annex, the arbitral tribunal may conduct its business by any means, including by telephone, facsimile transmission, or any other means of electronic communication.

7. Only members of the arbitral tribunal may take part in the deliberations of the arbitral tribunal.

8. The arbitral tribunal may, in consultation with the Parties to the dispute, retain such number of assistants, interpreters, translators, designated note takers, or other individuals as may be required for the proceedings and permit them to be present during its deliberations. Any such arrangements established by the arbitral tribunal may be modified by the agreement of the Parties to the dispute.

Written Submissions and other Documents

9. Each Party to the dispute shall have opportunity to set out in writing the facts of its case, its arguments and counter-arguments. The timetable fixed by the arbitral tribunal shall include precise deadlines for submissions by the Parties to the dispute and Third Parties.

10. Each Party to the dispute shall transmit to the arbitral tribunal a first submission in writing setting out

the facts of its case and its arguments. Unless the Parties to the dispute otherwise agree, a Complaining Party shall deliver its first submission to the arbitral tribunal and to the Responding Party within 14 days after the date of the establishment of the arbitral tribunal. The Responding Party shall deliver its first submission to the arbitral tribunal and to the Complaining Party within 21 days after the date of receipt of the first submission of the Complaining Party. All subsequent written submissions shall be submitted simultaneously.

11. A Party to the dispute shall deliver no less than four copies of each of its written submissions to the arbitral tribunal and one copy to the other Party or Parties to the dispute. Third Parties shall receive the submissions of the Parties to the dispute to the first substantive meeting. The copies shall be delivered against receipt, or by registered post, courier, or facsimile. A copy of the written submissions shall also be provided in electronic format.

12. In respect of any written request, notice, or other document delivered to the arbitral tribunal related to the arbitral tribunal proceeding that is not covered by Rules 10 and 11, each Party to the dispute shall deliver a copy of such request, notice, or document to the other Party or Parties to the dispute and may do so by facsimile, email, or other means of electronic transmission.

13. A Party to the dispute may at any time correct minor errors of a clerical nature in any written request, notice, submission, or other document related to the arbitral tribunal proceeding by delivering a new document clearly indicating the changes.

Substantive Meetings

14. The timetable fixed by the arbitral tribunal shall provide for at least one substantive meeting for the Parties to the dispute to present their case to the arbitral tribunal. As a general rule, the timetable shall not provide more than two substantive meetings unless special circumstances exist.

15. At the first substantive meeting with the Parties to the dispute, each Party to the dispute shall present the facts of its case and its arguments. The Complaining Party shall present its position first. The Parties to the dispute shall be given an opportunity for final statements, with the Complaining Party presenting its statement first.

16. All Third Parties shall be invited to present their views during a separate session of the first substantive meeting of the arbitral tribunal set aside for that purpose. All Third Parties may be present during the entirety of this session.

17. The Parties to the dispute and Third Parties shall make available to the arbitral tribunal written versions of their oral statements and responses to questions made in substantive meetings with the arbitral tribunal.

Confidentiality

18. Written submissions, documents, information, or technical advice submitted to the arbitral tribunal, written versions of oral statements and responses to questions made in substantive meetings with the arbitral tribunal shall be treated as confidential, but shall be made available to the Parties to the dispute. No Party to the dispute shall be precluded 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 a Party to the dispute, a Third Party, or any individual or body under paragraph 8 of Article 13 (Arbitral Tribunal Procedures). The Parties to the dispute, Third Parties and the arbitral tribunal shall treat information submitted by a Party to the dispute to the arbitral tribunal, which that Party has designated as confidential, as confidential information. A Party to the dispute shall within 28 days of a request of another Party to the dispute, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

19. The members of the arbitral tribunal and the persons retained by the arbitral tribunal shall maintain the confidentiality of arbitral tribunal proceedings and deliberations.

Venue

20. The venue for substantive meetings shall be decided by mutual agreement between the Parties to the dispute. If there is no agreement, the venue shall alternate between the Areas of the Parties to the dispute, with the first substantive meeting to be held in the Area of the Responding Party.

Remuneration and Payment of Expenses

21. The arbitral tribunal shall keep a record and render a final account of all general expenses incurred in connection with the arbitral tribunal proceedings, including those paid to the chair of the arbitral tribunal as well as its assistants, interpreters, translators, designated note takers, or other individuals that it retains pursuant to Rule 8.