

Practice Note N° 3

Manual for the initiation of an international arbitration proceeding conducted under the Arbitration Rules of the United Nations Commission on International Trade Law, administered by the Center for Arbitration and Conciliation of the Bogota Chamber of Commerce

This Manual aims to provide a simplified portrayal for the parties and the international arbitral tribunals of the initiation and conduct of international arbitrations under the Arbitration Rules of the United Nations Commission on International Trade Law (hereinafter referred to as "the Rules"), and before the Center for Arbitration and Conciliation of the Bogota Chamber of Commerce (hereinafter "the Center" or "this arbitral institution").

The provisions contained herein are observed and applied in all international arbitrations initiated before the Center under the Rules. The articles referred to in this note correspond to the revised Rules of 2013.

For the initiation and subsequent administration of the proceedings by the Center, this Manual provides hereinafter:

I. Documents and communications

- 1.1. All documents and communications submitted by any party, as well as all documents annexed thereto, shall be sent or submitted, by electronic or physical means, with a copy to its counterparty, to the Secretariat of the Center, and to each arbitrator, once the tribunal has been constituted.
- 1.2. The e-mail address of the Secretariat of the Center is: santiago.diaz@ccb.org.co
- 1.3. The physical address of the Secretariat of the Center is: Calle 76 # 11-52, Bogotá D.C. 110221, República de Colombia.

II. Preliminary review of the Request for Arbitration

- 2.1. The *preliminary* review of the Request for Arbitration is the legal scrutiny by the Center's Secretariat of such request in order to verify whether it fulfils all requirements set forth in Article 3 of the Rules.

- 2.2. After the *preliminary* and *prima facie* review of the Request of Arbitration, the Secretariat of the Center shall request the creation of the case in the system and bring forward the corresponding administrative proceedings.
- 2.3. In the event that the Secretariat of the Center finds that the Request for Arbitration does not comply with the regulatory requirements or legal elements for continuing the arbitration proceeding, it may refrain from registering the case.

III. Registration of the case

- 3.1. This stage refers to the action taken by the Secretariat of the Center, at a time subsequent to the preliminary review of the Request for Arbitration, to provide for the registration of the case as a new international arbitration administered by the Center.
- 3.2. After the registration of the case, the Secretariat of the Center shall proceed to notify the parties of that action, in order to record that the Request for Arbitration was made in due form and that the terms to which it takes place will start counting.
- 3.3. The act of registration does not pre-empt the power of the tribunal, once constituted, to decide on the nature of the arbitration.

IV. Setting of terms

- 4.1. In the event that the Rules do not provide for terms for the stage prior to the constitution of the international arbitral tribunal or, in administrative matters, the Secretariat of the Center shall fix the relevant time limits.

V. Secretariat support

- 5.1. The Center shall provide the exclusive secretarial support service to the tribunal through the designation of a Secretariat from the Center's List of secretaries in International Arbitration.
- 5.2. The Tribunal shall receive the logistical, administrative and legal assistance as may be required from that designated Secretary.
- 5.3. The Secretariat shall not serve as an official channel of communication between the parties and the tribunal, pursuant to section I, unless the tribunal so provides.
- 5.4. The appointment of Secretariats to the tribunal, external to the Center's List of Secretariats in International Arbitration, is not permitted even with the consent of the parties.

VI. Initial costs and administrative fee of the Center

- 6.1. The "administrative fee" of the Center shall be calculated, preliminarily, based on the amount of the international arbitration -indicated preliminarily in Request for Arbitration- in application to its Tariff Framework.
- 6.2. The Claimant shall make the deposit of fifty percent (50%) of the fixed amount, together with the submission of Request for Arbitration.
- 6.3. The remaining fifty per cent (50%) shall be assumed by the Respondent after the proceedings, which shall be determined by the Secretariat of the Center.
- 6.4. In the event that the Respondent does not make the corresponding deposit, it shall have an additional period to make the payment by its Counterparty.
- 6.5. The amounts referred to may be adjusted, provided that the values contained in the Statement of Claim and Statement of Defense, if any, are higher.

VII. Deposits

- 7.1. All deposits shall be made into the bank accounts of the Bogota Chamber of Commerce in the Republic of Colombia. Consequently, the amounts will be subject to the tax regulations of the Republic of Colombia.
- 7.2. The Center may, from time to time, as a provisioning fund, where it considers it appropriate, order deposits to cover various expenses of the international arbitration.
- 7.3. The Center shall be entitled to suspend or terminate the proceedings at any time for failure to pay any of the deposits.
- 7.4. This arbitral institution shall determine, in each specific case, the value of the deposit and the time of the proceeding in which it shall be requested.

VIII. Appointments by the Center

- 8.1. In accordance with Article 8 of the Rules, where the Center is responsible for appointing international arbitrators, unless the arbitration agreement provides otherwise, it shall do so by direct appointment.
- 8.2. The list integration mechanism shall be used only when the circumstances of a case so require, always preferring direct appointment, unless the arbitration agreement provides otherwise.

IX. Challenges

- 9.1. In the event of challenges against any of the appointed arbitrators, the Center reserves the power to decide, definitively, on challenges filed by the parties, upon the request of either of them. That power shall be retained, except where the arbitration agreement assigns that role to any other authority.

X. Third-party joinder

- 10.1. The Center has no functional competence to "join" third parties.
10.2. It shall be for the tribunal, once it has been constituted and in accordance with Article 17, paragraph 5, of the Rules, to take any decision on intervention by third parties.
10.3. The foregoing does not restrict the power of the Parties to agree on the intervention and participation of a third party in international arbitration proceedings, in accordance with the Rules, subsequent to the constitution of the tribunal.

XI. Proceedings with State entities

- 11.1. The general rule on notification burdens, as provided for in the Rules, is maintained in the event that State entities participate in the international arbitration.
11.2. Where a State entity requires to be represented by another State entity, in compliance with its internal law, the latter shall be notified by the same State entity requiring representation.