

Rules of Arbitration of the Arbitration Center of Mexico (CAM)

Chapter Three The Arbitral Tribunal

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Chapter Three The Arbitral Tribunal

Article 13. General Provisions

1. Every arbitrator must be and remain independent of the parties.
2. Before appointment or confirmation by the General Council or the Secretary General, the prospective arbitrator shall sign a statement of independence and shall disclose in writing to the Secretary General any facts or circumstances which might be of such nature as to call into question his independence in the eyes of the parties. The Secretary General shall provide such information to the parties, fixing a time limit of 5 days for any comments thereon.
3. The arbitrators shall immediately disclose in writing to the Secretary General and to the parties, any facts or circumstances which might be of such nature as to call into question their independence in the eyes of the parties, arising during the arbitration proceedings.
4. The decisions of the General Council or the Secretary General concerning the appointment, confirmation, challenge or replacement of arbitrators shall be final. The reasons for such decisions shall not be communicated to the parties or the arbitrators.
5. The persons who accept to be designated as arbitrators in matters submitted to the CAM, undertake to carry out their responsibilities in accordance with these Rules until the total fulfillment of their functions.
6. Insofar as it has not been provided otherwise, the Arbitral Tribunal shall be constituted in accordance with the provisions of articles 14 and 15.

Article 14. Number and Appointment of Arbitrators

1. The disputes submitted to the CAM shall be decided by a sole arbitrator or by three arbitrators.
2. Where the parties have not agreed on the number of arbitrators, the dispute shall be submitted to a sole arbitrator.
3. When the dispute is submitted to a sole arbitrator:
 - a. the parties may designate him by common agreement; or
 - b. if the parties fail to nominate the sole arbitrator within 30 days from the date when the Request notified by the Secretary General has been received by the Respondent, the sole arbitrator shall be appointed by the General Council.
4. Where the parties have agreed that the dispute shall be referred to three arbitrators:
 - a. each party shall nominate one in the Request and in the Answer; respectively;
 - b. if a party fails to effectuate the nomination referred to in the previous point, the appointment shall be made by the General Council;
 - c. unless provided for otherwise, the third arbitrator shall be appointed by the General Council. If the third arbitrator is not designated in conformity with the procedure selected by the parties in the time-limit fixed by themselves or granted by the Secretary General, he shall be appointed by the General Council;
 - d. if the third arbitrator is designated in conformity with the procedure selected by the parties, the Secretary General shall confirm such designation; and
 - e. the third arbitrator shall act as chairman of the Arbitral Tribunal.

Article 15. Confirmation of Arbitrators

1. The Secretary General shall confirm the members of the Arbitral Tribunal designated by the parties or in conformity with the procedure selected by them, provided that the arbitrator has filed a statement of independence that has not given rise to objections.
2. If, in the exercise of his functions as described in the previous paragraph, the Secretary General considers that a member of the Arbitral Tribunal should not be confirmed, the matter shall be submitted to the decision of the General Council.

Article 16. Multiple Parties

1. When there are multiple parties in the arbitration proceedings, whether as Claimants or as Respondents, and the dispute is to be referred to three arbitrators, the multiple Claimants, jointly, and the multiple Respondents, jointly, shall nominate an arbitrator for confirmation by the Secretary General.

2. If a joint nomination as mentioned in the previous paragraph is not possible and the parties do not agree upon a method for the constitution of the Arbitral Tribunal, the General Council shall appoint the three members of the Arbitral Tribunal and shall designate one of them to act as chairman.

Article 17. Challenge of arbitrators

1. A challenge of an arbitrator, whether for an alleged lack of independence or otherwise, shall be made by submission to the Secretary General. This written statement must specify the facts and circumstances on which it is based.
2. In order to be admissible the written challenge must be presented:
 - a. within the 10 days following the date of notification by the Secretary General to the party initiating the challenge of the nomination or confirmation of the respective arbitrator; or
 - b. when such date is subsequent to the one established in the previous point, within 10 days following the date on which he was informed of the facts and circumstances on which the challenge is based.
3. Upon receipt of the written challenge, the Secretary General shall grant to the parties a suitable time limit to comment. Once such time limit expires, the Secretary General shall submit the matter to the General Council so that it resolves the matter within a brief time period.

Article 18. Replacement of Arbitrators

1. An arbitrator shall be replaced:
 - a. upon his death;
 - b. upon acceptance by the General Council of his resignation;
 - c. upon acceptance by the General Council of a challenge;
 - d. upon request of the Claimant and Respondent; and
 - e. when the General Council decides that for any reason he is not fulfilling his functions or is prevented from fulfilling his functions in accordance with these Rules.
2. The General Council shall decide on the matter mentioned in point (e) of the previous paragraph once the Secretary General has communicated the relevant information in writing to the arbitrator concerned, the parties and the other members of the Arbitral Tribunal, granting them an opportunity to comment in writing within a suitable time limit.
3. When an arbitrator is to be replaced, the General Council is not bound to follow the original nominating process to appoint the arbitrator. Once reconstituted, and after having noted the comments from the parties, the Arbitral Tribunal shall determine if and to what extent prior proceedings shall be repeated.