

## **ANNEX 5**

### **RULES OF PROCEDURE OF ARBITRATION PANEL**

#### **ARTICLE 1**

##### **Definitions**

For the purpose of this Agreement and Chapter on Dispute Settlement:

- (a) “arbitration panel” means an arbitration panel established pursuant to Article 77 (Establishment of Arbitration Panel).
- (b) “complaining Party” means a Party that requests the establishment of an arbitration panel under Article 77 (Establishment of Arbitration Panel).
- (c) “responding Party” means a Party that has been complained against pursuant to Article 77 (Establishment of Arbitration Panel).

#### **ARTICLE 2**

##### **First Written Submissions**

1. The complaining Party shall deliver its first written submission no later than 20 days after the last panelist is selected. The Party complained against shall deliver its first written submission no later than 30 days after the date of delivery of the complaining Party’s first written submission.
2. A Party shall provide a copy of its written submission to the other Party and to each of the panelists. A copy of the document shall also be provided in electronic format.

#### **ARTICLE 3**

##### **Hearings**

1. The Chair of the arbitration panel shall fix the date, time and location of the hearing in consultation with the Parties and the other panelists and notify the Parties of its decision. Unless either of the Parties disagrees, the arbitration panel may decide not to convene a hearing.
2. The arbitration panel may conduct its activities by any appropriate means, including telephone or computer links.
3. The arbitration panel may convene additional hearings if the Parties so agree.
4. All panelists shall be present at hearings.
5. The hearings of the arbitration panel shall in principle be held in closed session, in particular if confidential information is exchanged, unless both Parties agree otherwise.
6. Within 30 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 supplementary written submission shall be delivered in accordance with paragraph 2 of Article 2 (First Written Submissions) of this Annex.

#### **ARTICLE 4**

##### **Questions in Writing**

1. The arbitration panel may at any time during the proceedings address questions in writing to one or both Parties and set a time period for answering them.

2. A Party to whom the arbitration panel addresses written questions shall deliver a copy of any written reply to the other Party and to the arbitration panel. Each Party shall be given the opportunity to provide written comments on the reply of the other Party within 5 days after the date of delivery of such written reply.

#### **ARTICLE 5**

##### **Confidentiality**

The Parties shall maintain the confidentiality of the arbitration panel's hearings. Each Party shall treat as confidential the information submitted by the other Party to the arbitration panel which that Party has designated as confidential.

#### **ARTICLE 6**

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

1. The arbitration panel shall not meet or contact a Party in the absence of the other Party.

2. Neither Party may contact any panelist in relation to the dispute in the absence of the other Party or other panelist.

3. No panelist may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of other panelists.

#### **ARTICLE 7**

##### **Role of Experts**

1. Upon request of a Party or on its own initiative, the arbitration panel may seek information and technical advice from any person or body that it deems appropriate. Any information so obtained shall be submitted to the Parties for comments.

2. When the arbitration panel makes a request for a written report of an expert, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date of delivery of the request and ending on the date the report is delivered to the arbitration panel.

## **ARTICLE 8**

### **Working Language**

1. The working language of the dispute settlement proceedings shall be English.

2. Written submissions, documents, oral arguments or presentations at the hearings, initial and final reports of the arbitration panel, as well as all other written or oral communications between both Parties and the arbitration panel, shall be made or conducted in the working language.