

ANNEX 29-B

CODE OF CONDUCT FOR ARBITRATORS AND MEDIATORS

Definitions

1. For this Chapter and under this Code of Conduct:

assistant means a person who, under the terms of appointment of an arbitrator, conducts, researches or provides assistance to the arbitrator;

candidate means an individual whose name is on the list of arbitrators referred to in Article 29.8 and who is under consideration for selection as an arbitrator under Article 29.7;

mediator means a person who conducts a mediation in accordance with Article 29.5;

arbitrator means a member of an arbitration panel established under Article 29.7;

proceeding, unless otherwise specified, means an arbitration proceeding;

staff, in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants.

Responsibilities of candidates and arbitrators

2. Every candidate and arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former arbitrators must comply with the obligations established in paragraphs 16 through 19.

Disclosure obligations

3. Prior to confirmation of her or his selection as an arbitrator under this Chapter, a candidate shall disclose any interest, relationship or matter that is likely to affect her or his independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of such interests, relationships and matters.
4. Without limiting the generality of the foregoing, candidates shall disclose the following interests, relationships and matters:
- (1) any financial interest of the candidate:
 - (a) in the proceeding or in its outcome, and
 - (b) in an administrative proceeding, a domestic court proceeding or another panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
 - (2) any financial interest of the candidate's employer, partner, business associate or family member:
 - (a) in the proceeding or in its outcome, and
 - (b) in an administrative proceeding, a domestic court proceeding or another panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;

- (3) any past or existing financial, business, professional, family or social relationship with the interested parties in the proceeding, or their counsel, or such relationship involving a candidate's employer, partner, business associate or family member; and
 - (4) public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same matters.
5. A candidate or arbitrator shall communicate matters concerning actual or potential violations of this Code of Conduct to the CETA Joint Committee for consideration by the Parties.
6. Once selected, an arbitrator shall continue to make all reasonable efforts to become aware of interests, relationships or matters referred to in paragraph 3 and shall disclose them. The disclosure obligation is a continuing duty which requires an arbitrator to disclose such interests, relationships or matters that may arise during all stages of the proceeding. The arbitrator shall disclose such interests, relationships or matters by informing the CETA Joint Committee promptly, in writing, for consideration by the Parties.

Duties of arbitrators

7. Upon selection an arbitrator shall be available to perform and shall perform her or his duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence.
8. An arbitrator shall consider only those issues raised in the proceeding and necessary for a ruling and shall not delegate this duty to any other person.
9. An arbitrator shall take all appropriate steps to ensure that her or his assistant and staff are aware of, and comply with, paragraphs 2 through 6, and 17 through 19.
10. An arbitrator shall not engage in *ex parte* contacts concerning the proceeding.

Independence and impartiality of arbitrators

11. An arbitrator shall avoid creating an appearance of bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party, or fear of criticism.
12. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of her or his duties.
13. An arbitrator may not use her or his position on the arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence her or him.
14. An arbitrator may not allow financial, business, professional, family or social relationships or responsibilities to influence her or his conduct or judgement.
15. An arbitrator must avoid entering into any relationship or acquiring any financial interest that is likely to affect her or his impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of former arbitrators

16. All former arbitrators must avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decision or ruling of the arbitration panel.

Confidentiality

17. No arbitrator or former arbitrator shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding except for the purposes of that proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.
18. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with this Chapter.
19. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitration panel, or any member's view.

Expenses

20. Each arbitrator shall keep a record and render a final account of the time devoted to the procedure and of her or his expenses as well as the time and expenses of her or his assistant.

Mediators

21. This Code of Conduct applies, *mutatis mutandis*, to mediators.