

ANNEX 10-B
Code of Conduct for Arbitrators

Definitions

1. For purposes of this Chapter:

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

Responsibilities to the Process

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, shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement proceeding are preserved, and shall get acquainted with this Code of Conduct. Former arbitrators must comply with the obligations established in paragraphs 15 through 18.

Disclosure Obligations

3. Prior to confirmation of his or her appointment as an arbitrator under Article 10.9, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her 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 any such interests, relationships and matters.

4. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 3 and shall disclose them. The obligation to disclose is a continuing duty which requires an arbitrator to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. The arbitrator shall disclose such interests, relationships or matters by communicating them in writing to the Joint Committee for consideration by the Parties.

Duties

5. Upon appointment, an arbitrator shall perform an arbitrator's duties thoroughly and expeditiously throughout the course of the proceedings.

6. An arbitrator shall carry out all duties fairly and diligently.
7. An arbitrator shall consider only those issues raised in the proceeding and necessary for a decision and shall not delegate the duty to decide to any other person.
8. An arbitrator shall take all appropriate steps to ensure that the arbitrator's assistants and staff are aware of and comply with paragraphs 2, 3, 4, 16, 17 and 18.
9. An arbitrator shall not engage in *ex parte* communications concerning the proceeding in accordance with paragraphs 28 and 29 of Annex 10-A.

Independence and Impartiality of Members of Arbitration Panels

10. An arbitrator shall be independent and impartial. An arbitrator shall act in a fair manner, shall avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamor, loyalty to a Party or fear of criticism.
11. 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 the arbitrator's duties.
12. An arbitrator shall not use his or her position on the arbitration panel to advance any personal or private interests. An arbitrator shall avoid actions that may create the impression that others are in a special position to influence the arbitrator.
13. An arbitrator shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the arbitrator's conduct or judgement.
14. An arbitrator shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the arbitrator's impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of Former Arbitrators

15. 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

16. An arbitrator or former arbitrator shall not at any time disclose or use any non-public information concerning the proceedings, or acquired during the proceedings, except for the purposes of those proceedings and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others, or to affect adversely the interest of others.

17. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication.

18. An arbitrator or former arbitrator shall not at any time disclose the deliberations of an arbitration panel, or any arbitrator's view.