

CODE OF CONDUCT  
FOR ARBITRATORS AND MEDIATORS

Definitions

1. For the purposes of this Code of Conduct:
  - (a) "arbitrator" means a member of an arbitration panel established under Article 15.7 (Establishment of the Arbitration Panel);
  - (b) "assistant" means a person who, under the terms of appointment of an arbitrator, conducts research or provides assistance to that arbitrator;
  - (c) "candidate" means an individual whose name is on the list of arbitrators referred to in Article 15.23 (List of Arbitrators) and who is under consideration for selection as a member of an arbitration panel under Article 15.7 (Establishment of the Arbitration Panel);

- (d) "mediator" means a person who conducts a mediation procedure in accordance with Annex 15-C (Mediation Mechanism);
- (e) "proceedings", unless otherwise specified, means dispute settlement proceedings of an arbitration panel under Chapter 15 (Dispute Settlement); and
- (f) "staff", in respect of an arbitrator, means a person under the direction and control of the arbitrator, other than assistants.

## Responsibilities

2. Every candidate and arbitrator shall avoid impropriety and the appearance of impropriety, be independent and impartial, avoid direct and indirect conflicts of interests and observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former arbitrators shall comply with the obligations set out in rules 15 to 18 of this Code of Conduct.

## Disclosure Obligations

3. Prior to the appointment as an arbitrator under Chapter 15 (Dispute Settlement), a candidate shall disclose any interests, relationships, or matters, that are likely to affect that candidate's independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceedings. To that end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships or matters.
4. A candidate or arbitrator shall communicate, in writing, matters concerning actual or potential violations of this Code of Conduct to the Trade Committee for consideration by the Parties.
5. Once appointed, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in rule 3 of this Code of Conduct and shall disclose them by informing the Trade Committee, in writing, for consideration by the Parties. The disclosure obligation is a continuing duty which requires an arbitrator to disclose any such interests, relationships or matters that may arise during any stage of the proceedings.

## Duties of Arbitrators

6. An arbitrator shall be available to perform, and shall perform his duties thoroughly, expeditiously, and with fairness and diligence, throughout the course of the proceedings.

7. An arbitrator shall consider only those issues raised in the proceedings and necessary for a ruling and shall not delegate this duty to any other person.
8. An arbitrator shall take all appropriate steps to ensure that his assistant and staff are aware of, and comply with, rules 2, 3, 4, 5, 16, 17 and 18 of this Code of Conduct.
9. An arbitrator shall not engage in *ex parte* contacts concerning the proceedings.

#### Independence and Impartiality of Arbitrators

10. An arbitrator shall avoid creating an appearance of bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour and 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 his duties.
12. An arbitrator shall not use 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 him.

13. An arbitrator shall not allow financial, business, professional, personal or social relationships or responsibilities to influence his conduct or judgement.
14. An arbitrator shall avoid entering into any relationship or acquiring any financial interest that is likely to affect his impartiality or that might reasonably create an appearance of impropriety or bias.

#### Obligations of Former Arbitrators

15. All former arbitrators shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decisions or rulings of the arbitration panel.

#### Confidentiality

16. No arbitrator or former arbitrator shall at any time disclose or use any non-public information concerning proceedings or acquired during 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 adversely affect the interest of others.

17. An arbitrator shall not disclose an arbitration panel ruling or parts thereof prior to its publication in accordance with Chapter 15 (Dispute Settlement).
18. An arbitrator or a former arbitrator shall not disclose the deliberations of an arbitration panel, or any arbitrator's view at any time.

Expenses

19. Each arbitrator shall keep a record and render a final account of the time devoted to the procedure and of his expenses, as well as the time and expenses of his assistant and staff.

Mediators

20. This Code of Conduct applies *mutatis mutandis* to mediators.
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