

## ANNEX XVI

### CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS

#### Definitions

1. In this Code of Conduct,
  - (a) "member" means a member of an arbitration panel effectively established under Article 185 of this Agreement;
  - (b) "candidate" means an individual whose name is on the list of arbitrators referred to in of Article 185(2) of this Agreement and who is under consideration for appointment as a member of an arbitration panel under Article 185(3) of this Agreement;
  - (c) "assistant" means a person who, under the terms of appointment of a member, conducts, research or provides support for the member;
  - (d) "proceeding", unless otherwise specified, means an arbitration panel proceeding under Title VIII, Chapter III of this Agreement;
  - (e) "staff", in respect of a member, means persons under the direction and control of the member, other than assistants.

#### I. Responsibilities to the process

2. Every candidate and member 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 process are preserved. Former members must comply with the obligations established in Parts V and VI of this Code of Conduct.

#### II. Disclosure obligations

3. Prior to confirmation of his or her selection as a member of the arbitration panel under Article 185 of this Agreement, 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 selected, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in rule 3 and shall disclose them. The obligation to disclose is a continuing duty which requires a member to disclose any such interests, relationships and matters that may arise during any stage of the proceeding. The member shall disclose such interests, relationships and matters by communicating them in writing to the Association Committee for consideration by the Parties.

### **III. The performance of duties by candidates and members**

5. A candidate who accepts a selection as a member shall be available to perform, and shall perform, a member's duties thoroughly and expeditiously throughout the course of the proceeding.
6. A member shall carry out all duties fairly and diligently.
7. A member shall comply with this Code of Conduct.
8. A member shall not deny other members the opportunity to participate in all aspects of the proceeding.
9. A member shall consider only those issues raised in the proceeding and necessary to a decision and shall not delegate the duty to decide to any other person.
10. A member shall take all reasonable steps to ensure that the member's assistant and staff comply with Parts I, II and VI of this Code of Conduct.
11. A member shall not engage in *ex parte* contacts concerning the proceeding.
12. A candidate or member shall not communicate matters concerning actual or potential violations of this Code of Conduct unless the communication is to the Association Committee or is necessary to ascertain whether that candidate or member has violated or may violate this Code.

### **IV. Independence and impartiality of members**

13. A member shall be independent and impartial. A member shall act in a fair manner and shall avoid creating an appearance of impropriety or bias.
14. A member shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
15. A member 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 member's duties.
16. A member shall not use his or her position on the arbitration panel to advance any personal or private interests. A member shall avoid actions that may create the impression that others are in a special position to influence the member. A member shall make every effort to prevent or discourage others from representing themselves as being in such a position.
17. A member shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the member's conduct or judgement.
18. A member shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the member's impartiality or that might reasonably create an appearance of impropriety or bias.

## **V. Duties in certain situations**

19. A member or former member shall avoid actions that may create the appearance that the member was biased in carrying out the member's duties or would benefit from the decision or ruling of the arbitration panel.

## **VI. Maintenance of confidentiality**

20. A member or former member shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding 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 another.

21. A member shall not disclose an arbitration panel ruling prior to its publication.

22. A member or former member shall not at any time disclose the deliberations of an arbitration panel, or any member's view.

## **VII. Responsibilities of assistants and staff**

23. Parts I (Responsibilities to the process), II (Disclosure obligations) and VI (Maintenance of confidentiality) of this Code of Conduct apply also to assistants and staff.