

## **Annex 6**

### **Rules of Procedure of Arbitral Tribunal**

#### **First Written Submissions**

1. The complaining Party is proposed to deliver its first written submission no later than 20 days after the appointment of the last arbitrator. The responding Party is proposed to deliver its first written submission no later than 30 days after the date of delivery of the complaining Party's first written submission, unless the arbitral tribunal decides otherwise.

2. A Party shall provide a copy of its first written submission to each of the arbitrators and to the other Party. A copy of the documents shall also be provided in electronic format.

#### **Hearings**

3. The chair of the arbitral tribunal shall fix the date and time of the hearing after consultation with the Parties and other members of the arbitral tribunal. The venue of the hearings shall be agreed by the Parties in conformity with Article 13.9 (Rules of Procedure of an Arbitral Tribunal). If there is no agreement, the venue shall alternate between the territories of the Parties with the first hearing to be held in the territory of the responding Party. The chair of the arbitral tribunal shall notify in writing to the Parties of the date, time and venue of the hearing. Unless either Party disagrees, the arbitral tribunal may decide not to convene a hearing.

4. The arbitral tribunal may convene additional hearings.

5. All arbitrators shall be present at hearings.

6. The hearings of the arbitral tribunal shall be held in closed session.

#### **Supplementary Written Submissions**

7. Within 20 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 submissions shall be delivered in accordance with paragraph 2 of these Rules.

### **Questions in Writing**

8. The arbitral tribunal may, at any time during the proceedings, put questions in writing to the Parties.

9. A Party shall deliver the written reply to the arbitral tribunal, and to the other Party in accordance with the timetable established by the arbitral tribunal. Each Party shall be given the opportunity to provide written comments on the reply of the other Party.

### **Confidentiality**

10. The arbitral tribunal's hearings and the documents submitted to it shall be kept confidential. Nothing in Chapter 13 (Dispute Settlement) shall preclude a Party from disclosing statements of its own positions to the public. The information submitted by a Party to the arbitral tribunal which that Party has designated as confidential shall be treated as confidential.

### **Ex parte Contacts**

11. The arbitral tribunal shall not meet or contact a Party in the absence of the other Party.

12. No Party may contact any arbitrator in relation to the dispute in the absence of the other Party or other arbitrators.

13. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of other arbitrators.

### **Role of Experts**

14. Upon request of a Party, or on its own initiative, the arbitral tribunal may seek information and technical advice from any individual or body that it deems appropriate. Any information so obtained shall be provided to the Parties for comments.

15. When the tribunal takes into consideration such information or technical advice in the preparation of its report, it shall also take into account any comments or observations submitted by the Parties on the information or technical advice.

### **Working Language**

16. Unless otherwise agreed by the Parties, the working language of the dispute settlement proceedings shall be English. Whenever a document is presented in either Chinese or Spanish, the Party presenting the document shall file a translation to English.