
CHECKLIST OF MATTERS FOR CONSIDERATION AT PRELIMINARY MEETING (RULE 4.6)

1. APPEARANCES

- 1.1 Appearances on behalf of claimant: names, addresses, telephone numbers, fax numbers, e-mail addresses
- 1.2 Appearances on behalf of respondent: names, addresses, telephone numbers, fax numbers, e-mail addresses
- 1.3 Consider having parties attend as well as counsel?

2. CONFIRMATION OF TRIBUNAL'S APPOINTMENT

- 2.1 Confirm that Tribunal validly constituted?
- 2.2 Waiver of challenges to Tribunal's appointment based on knowledge to date? (Rule 2.4.2)
- 2.3 Confirm that ADRIC to administer arbitration? (Rule 1.5.1)
- 2.4 Confirm agreement to ADRIC Arbitration Rules? (Rule 1.3.1)
- 2.5 Execution of Terms of Appointment of Arbitrator
- 2.6 All required preconditions to commencement of arbitration completed or waived? (Rule 2.4.2)
- 2.7 Any challenges to jurisdiction? (Rule 4.8.1)
- 2.8 Waiver of challenges to jurisdiction based on knowledge to date? (Rule 2.4.2)
- 2.9 Parties to pay deposits on account of Arbitration Costs to be paid in equal amounts? (Rule 4.23.2)
- 2.10 No "agreement otherwise" in respect of Arbitrator independence (Rule 3.3.1)

3. RELEVANT LAW

- 3.1 Confirmation of Seat of Arbitration
- 3.2 Confirmation of law governing substance of dispute
- 3.3 Confirmation of law of the arbitration (lex arbitri)

4. CONTRACT

- 4.1 Date executed
- 4.2 Arbitration clause (Rule 2.1.3)
- 4.3 Any provisions in arbitration agreement that affect conduct of arbitration proceedings?

5. OUTLINE OF DISPUTE

- 5.1 Underlying factual matrix and subject matter of claim
- 5.2 Approximate value of claim

- 5.3 Counterclaim (if any) Subject matter
 Approximate value of counterclaim
- 5.4 Are liability and damages both in dispute?
- 5.5 Does dispute involve one principal question or multiple small issues? Primarily questions of fact or issues of law?
- 5.6 Will the assessment of credibility be a significant factor in the outcome of the dispute?

6. PROCEDURAL MATTERS

- 6.1 Any agreement to vary or exclude the Rules (Rule 1.3.5)?
- 6.2 Waiver of any non-compliance with Rules to date (Rule 2.4.2)?
- 6.3 Any Interim Arbitrator proceedings? (Rule 3.7)?
- 6.4 Any other provisional relief?
- 6.5 Any agreement to apply simplified arbitration procedure? (Rule 6.2.1)?
- 6.6 Any parties to be added? (Rule 4.3.1)?
- 6.7 Venue for meetings and hearings (Rule 4.1.1)
- 6.8 Any “agreement otherwise” on procedures to be adopted by Tribunal? (Rule 4.9.1)
- 6.9 Hearings to be conducted other than in person? (Rule 4.1.2)
- 6.10 Language of proceedings (Rule 4.2) Translations needed?
- 6.11 Exchange of written statements? (Rule 4.10)
- 6.12 Written or oral submissions?
- 6.13 Consolidation with other proceedings?
- 6.14 Concurrent hearings?
- 6.15 Appointment by Tribunal of experts / legal advisers / assessors?
- 6.16 Security for costs to be provided by claimant?
- 6.17 Examination of witnesses on oath?
- 6.18 Preservation of evidence?
- 6.19 Exclusion of court’s power to determine questions of law?
- 6.20 Choice of relevant law governing substance of dispute?
- 6.21 Determination of disputes on considerations other than law?

7. SEQUENCE OF SUBMISSIONS

- 7.1 Statement of claim no later than 14 days after delivery of Notice of Request to Arbitrate or Notice of Submission to Arbitration? (Rule 4.10.1)
- 7.2 Statement of Defence (and Counterclaim?) within 14 days after respondent receives Statement of Claim? (Rule 4.10.4)
- 7.3 Statement of Defence to Counterclaim within 14 days of receipt of Counterclaim? (Rule 4.10.6).
- 7.4 Deadline for requests for particulars?

8. EVIDENTIARY ISSUES

- 8.1 Document production other than in accordance with Rule 4.13?
- 8.2 Is a Request to Produce likely to be issued? (Rule 4.13.3)
- 8.3 Will there be a significant number of documents produced?
- 8.4 Lists of documents within 14 days of parties' statements? (Rule 4.13.1)
- 8.5 Are parties willing to prepare a joint document brief?
- 8.6 Oral pre-hearing examination of witnesses? If so, on what issues? How long? (Rule 4.14)
- 8.7 Agreed statement of facts? (Rule 4.15)
- 8.8 Fact witnesses expected?
- 8.9 Expert evidence expected? If so, on what issues? Appropriate to limit number of experts? Tribunal experts? (Rule 4.21)
- 8.10 If there is to be expert evidence, is it an appropriate case for organizing two or more experts into a panel and hearing their evidence concurrently?
- 8.11 Witness lists to be prepared?
- 8.12 Will subpoenas need to be issued?
- 8.13 Written witness statements to be employed for evidence in chief? (Rule 4.20.1)
- 8.14 Cross-examination of witnesses on evidence in chief? (Rule 4.20.3)
- 8.15 Agreement on degree of assistance from counsel in preparing witness statements and preparing witnesses for cross examination?
- 8.16 Agreement that no discovery permitted in respect of communications between (a) counsel and witnesses concerning their testimony; and (b) counsel and experts?
- 8.17 Agreement that no discovery permitted of drafts, working papers, and other documents created by experts?
- 8.18 How and when are documents to be tendered as exhibits to be provided to Tribunal? How should they be identified? Should they be admitted as evidence subject to objection?
- 8.19 Is a site visit or inspection necessary?

9. HEARING

- 9.1 Parties to be represented at hearings? (Rule 4.16)
- 9.2 Any "agreement otherwise" in respect of privacy of proceedings? (Rule 4.18.1)
- 9.3 Any "agreement otherwise" in respect of confidentiality of proceedings? (Rule 4.18.2)
- 9.4 Is an oral evidentiary hearing necessary? If so and there are multiple issues, can any of those issues be dealt with in writing and without an oral evidentiary hearing?
- 9.5 Realistic estimate of hearing duration?
- 9.6 Date?
- 9.7 Location?
- 9.8 Allocation of time?
- 9.9 Will interpreters or other witness assistance be required?
- 9.10 What audiovisual or computer equipment will be needed for the hearing?
- 9.11 How many rooms and breakout rooms needed?
- 9.12 Will there be witnesses from outside the jurisdiction? If so, can their evidence be taken by Skype or other technologies or are the witnesses required to testify in person?

- 9.13 Pre-hearing briefs of fact and law to be submitted?
- 9.14 Are the hearings going to be transcribed? (Rule 4.7.5) If so, what software will be used?
- 9.15 Should bifurcation of the hearings be considered for separate issues?
- 9.16 If there are multiple issues, should the evidence on each issue be presented by all parties sequentially or should the claimant present all of its evidence on all issues first to be followed by the respondent's evidence?
- 9.17 If there are multiple issues, would the Tribunal be assisted at the hearings by a Scott Schedule that sets out in tabular form the respective parties' position on each item in dispute?
- 9.18 Will any witnesses or other individuals need to be excluded from the hearings?

10. AWARD

- 10.1 Any "agreement otherwise" in respect of 60-day deadline for all final awards? (Rule 5.1.3)
- 10.2 Any "agreement otherwise" in respect of requirement for reasons? (Rule 5.1.4)
- 10.3 Separate awards covering separate issues? [Unless parties agree to contrary, I shall make a separate award of costs after hearing the parties, after delivery of substantive award(s).]
- 10.4 Form of award(s): declaratory, monetary, performance, rectificatory?
- 10.5 Determination by Tribunal of amount of recoverable costs?
- 10.6 Limitation of recoverable costs?
- 10.7 Any "agreement otherwise" in respect of Tribunal's award being final and binding and not being subject to appeal? (Rule 5.4.7)

11. CONCLUDING ITEMS

- 11.1 Any other matters?
- 11.2 Would a further preliminary meeting be of value?
- 11.3 Issuance of written record or Order in respect of preliminary meeting within 14 days (Rule 4.6.3).