

Practice Note N° 1

Introductory and Explanatory Guide to the International Arbitration Proceeding of the  
Bogota Chamber of Commerce for New Arbitrators or Representatives

This Guide aims to provide a simplified portrayal of the international arbitration proceeding regulated in the International Commercial Arbitration Rules, for new operators or users. To this end, the foregoing document introduces and outlines the main actions and steps to be taken in this type of proceedings:

I. Request for Arbitration

1. The International Arbitration Section of the Center for Arbitration and Conciliation of the Bogota Chamber of Commerce (hereinafter, the "Center" or "this arbitral institution") receives the Request for Arbitration to verify whether it fulfills all requirements set forth in Article 3.5 of the International Arbitration Rules of the Center. The Center also verifies the submission of the filing fee payment receipt and of the sending receipt of the Request for Arbitration to the Respondent. If any requirement set forth in the Rules is not met, if the filing fee is not paid or if the request was not sent to the Respondent, the Center shall grant an additional term for the Claimant to fulfill all requirements.
2. Once the aforementioned stage has been completed and verified that the request fulfills all the requirements, that the filing fee has been paid and that the Respondent has been served, the International Arbitration Section shall request the creation of the case in the system, proceed with the registry and, subsequently, notify the parties the proceeding's initiation date, which will be taken as the relevant date for all the legal effects about tribunal's constitution and general time average duration.
3. The Financial section of the Centre will verify that the payment of the filing fee has been effectively registered at the corresponding bank accounts. Afterwards, the Center will legalize the amount paid by requesting the Claimant to complete a standard form, which is required in order to issue an invoice for the filing fee.

II. Response to the Request for Arbitration

1. The Respondent shall file its Response to the Request for Arbitration (if any) within 30 calendar days following the receipt date of the Request for Arbitration, as informed by the Center in the Notice of Registration. The Centre will verify that the response contains all requirements provided in article 3.6 of Rules, acknowledge its receipt and include the documents in the original file of the case.

### III. Constitution of the international arbitral tribunal

1. In accordance with the arbitration agreement, the Center will: (i) offer a space for, but not call for an appointment meeting of the international arbitrators, (ii) ensure that they are appointed by each party at the appropriate procedural opportunities, (iii) invite the parties to the lot, or (iv) nominate the international arbitrators directly; to constitute the international arbitral tribunal that will settle the dispute. In any event, the Center must be vested with the authority to appoint, either as the principal authority to appoint arbitrators or in lieu of a consensus between the parties.
  - a) Unless otherwise provided in the arbitration agreement, the arbitrators appointment meeting shall be convened and held no later than 30 calendar days after the initiation date of the arbitral proceedings, since this is the deadline for the parties to submit, by mutual agreement, the candidates to international arbitrators under the Center's International Commercial Arbitration Rules.
  - b) The corresponding procedural opportunities for each party to appoint its arbitrator are the Request for Arbitration and its Response, respectively.
  - c) In case the lot is applicable, the Center will pre-select the candidates who meet the requirements for each specific case, considering criteria such as language, jurisdiction, nationality, availability, and suitability, among others.
2. Once the appointment has been made, the Head of the International Arbitration Section will inform it to the candidates to arbitrators, granting them a deadline to submit any comment on their appointment. Once the declarations of acceptance, independence and impartiality have been filed, they will be sent to the parties for comments, observations and/or challenges on any or all the arbitrators, within a 15 calendar days term. After the expiration of the last term, the Center can confirm the international arbitral tribunal, or provide for the non-confirmation and subsequent actions.

3. The Center will issue the final decision on the appointment of the arbitrators, should any party file a challenge. In the event of the reconstitution of the tribunal, the Center will proceed to appoint the remaining arbitrators.

#### IV. The process

##### A. Written phase

1. The Tribunal, with the support of the International Administrative Secretariat, will prepare a draft of a procedural order establishing the rules to conduct the proceeding, the procedure to notice the parties, along with their respective addresses and those of their representatives, as well as the procedural timetable -which may refer only to the immediately following stage or to the entire proceeding until its completion- defining the duration and terms of the proceeding. Once the final draft has been prepared, the Tribunal -through the Secretariat- will schedule a preliminary conference to present, discuss and determine the procedural timetable, as well as to discuss other relevant aspects of the draft. The procedural order will also set forth the fees of the Tribunal, which may vary within the minimum and maximum spans defined by the Center's International Arbitration Fee Application, as well as the administrative fee fixed by the Center.
2. Once the procedural order has been issued, the Secretariat, along with the Financial Section of the Center, will address certain administrative orders or "*Instruction letters*" to the parties, specifying the sums of money required under the procedural order, the bank accounts of the Bogota Chamber of Commerce to transfer the funds and the deadline to execute the transfer.
3. Once the procedural order and the instruction letter are served to the Parties, the term to file the Statement of Claim and transfer the funds required in the instruction letter, begin to elapse simultaneously. If none of the Parties or only one Party transfers the deposits, the Center is authorized -by statutory provision- to stay or even terminate the proceeding.
4. During the written phase, which will depend on the memorials and statements allowed and admitted by the Tribunal, the Parties may submit, *inter alia*, a Statement of Claim, a Statement of Defense, a Counterclaim, and a Statement of Defense to the Counterclaim. The Secretariat will acknowledge receipt of all documents submitted

during this stage, assist the Tribunal according to its requirements and incorporate to the case file all memorials and annexes admitted by the Tribunal.

B. Oral phase

1. Upon completion of the written phase, which comprises the incorporation of all documents received in the case file, the Tribunal -through the Secretariat- will schedule the evidentiary hearing, at the request of the Parties. The taking of all evidence requested by the Parties at the corresponding procedural opportunities, will be conducted during the hearing –if it takes place-. To convene the evidentiary hearing, the Tribunal must previously consult with the Secretariat, the availability of hearing rooms at the Center to conduct the hearing. Parties may also dispense with the evidentiary hearing.
2. The Tribunal will grant the Parties a term to file their closing arguments during the same hearing, after the examination of evidence has been completed, unless the Parties agree the closing arguments to be filed in writing, after hearing.

C. Award

1. Once the evidence requested by the Parties has been taken and the closing arguments have been heard or received in writing, the Tribunal will render the final award within the time limit set forth in the Rules or by the Parties' mutual agreement.
2. The Secretariat will be responsible for serving the award. Upon notice of the Final Award, the Parties will have the statutory term to submit requests for clarification, correction, or addendum of the award, before the Tribunal. The Tribunal will render its decision within the deadline set forth in the Rules, and such decision will also be served by the Secretariat.