



CEPANI GUIDELINES ON THE USE OF ARBITRAL SECRETARIES

1. Definition and Scope

- 1.1. The Arbitral Tribunal may wish to appoint a person to assist it with the administration and management of the case ("**Arbitral Secretary**") in situations where such appointment will contribute to a more effective and efficient resolution of the dispute.
- 1.2. The Arbitral Secretary may either be a member of the law firm or organisation of the sole arbitrator or of the chair of the Arbitral Tribunal, or an external person without connection to the Arbitral Tribunal.
- 1.3. The present guidelines shall apply to the use of Arbitral Secretaries in proceedings governed by the CEPANI Arbitration Rules.

2. Appointment

- 2.1. In the situation referred to under Article 1.1 of these Guidelines, the Arbitral Tribunal shall submit to the parties all relevant information on the person it proposes as Arbitral Secretary, including his/her statement of independence and impartiality in accordance with Article 3.2 of these Guidelines.
- 2.2. After consulting the parties regarding (i) the need for the appointment of an Arbitral Secretary, (ii) the proposed candidate and (iii) his/her role, the Arbitral Tribunal decides on the appointment of an Arbitral Secretary. The Arbitral Tribunal may not appoint an Arbitral Secretary or direct one or more of the tasks set out in Article 4.3 below to an Arbitral Secretary where the parties jointly object.

3. Independence and Impartiality

- 3.1. The Arbitral Tribunal shall ensure that the Arbitral Secretary is impartial and independent of the parties and of their counsel and remains so throughout the arbitration.
- 3.2. Prior to being appointed, the Arbitral Secretary shall sign a statement confirming his/her independence and impartiality, disclosing in writing any circumstances likely to give rise to justifiable doubts as to his/her independence or impartiality.



- 3.3. The Arbitral Secretary shall act impartial in all circumstances and shall refrain from displaying any behaviour or attitude that could be interpreted as favouring one party's point of view.
- 3.4. The Arbitral Secretary shall immediately disclose to the Arbitral Tribunal any facts or circumstances arising during the arbitration that are likely to give rise to justifiable doubts as to his/her independence or impartiality.
- 3.5. A party shall inform the Arbitral Tribunal of any facts or circumstances of which it becomes aware during the arbitration that give rise to justifiable doubts as to the Arbitral Secretary's independence or impartiality within one month of the date on which that party was informed of such facts and circumstances.
- 3.6. In the cases set out under Article 3.4 and 3.5, the Arbitral Tribunal shall decide whether to replace the Arbitral Secretary. Any replacement shall be made in accordance with Article 2 of these Guidelines.

4. Role of the Arbitral Secretary

- 4.1. The Arbitral Secretary is not an arbitrator and may not take part in the decision-making of the Arbitral Tribunal.
- 4.2. The Arbitral Secretary shall at all times act in accordance with the instructions issued by the Arbitral Tribunal.
- 4.3. Unless the parties have agreed otherwise, the Arbitral Tribunal may direct an Arbitral Secretary to conduct the following tasks:
 - a. Handling communications with the parties and/or CEPANI on behalf of the Arbitral Tribunal;
 - b. Making material and organisational arrangements for in-person or remote meetings and hearings;
 - c. Managing and organizing the case file and evidence on behalf of the Arbitral Tribunal;
 - d. Attending meetings and hearings with the parties;
 - e. Attending meetings and deliberations of the Arbitral Tribunal;
 - f. Taking minutes of meetings, hearings and deliberations for the Arbitral Tribunal;
 - g. Conducting research on legal questions for the Arbitral Tribunal, to the extent that this is considered appropriate under the law governing the arbitral procedure;
 - h. Preparing summaries, overviews or timelines of certain factual or legal aspects of the case for the Arbitral Tribunal;

- i. Preparing drafts of procedural documents under the direction and supervision of the Arbitral Tribunal for the Arbitral Tribunal's review;
 - j. Preparing drafts of arbitral award(s) or sections thereof, under the direction and supervision of the Arbitral Tribunal for the Arbitral Tribunal's review;
 - k. Any tasks not mentioned in this list that are purely administrative in nature;
 - l. Any further tasks agreed by the Parties, provided they do not affect the Arbitral Tribunal's decision-making power.
- 4.4. The Arbitral Secretary shall not have contact with a party regarding the arbitration, unless explicitly instructed to do so by the Arbitral Tribunal. The Arbitral Secretary may not contact a party at his/her own initiative.
- 4.5. Subject to Article 4.4 above, bilateral contacts between the Arbitral Secretary and a party on issues of a purely organisational or administrative nature shall not be improper. Where appropriate, the Arbitral Tribunal shall subsequently communicate any guidance on such issues to all parties in writing.

5. Role of the Arbitral Tribunal in relation to the Arbitral Secretary

- 5.1. The Arbitral Tribunal may not delegate its decision-making power to the Arbitral Secretary.
- 5.2. The Arbitral Tribunal shall duly supervise the Arbitral Secretary and ensure that the Arbitral Secretary at all times acts in accordance with the Arbitral Tribunal's instructions and with these Guidelines, as they may have been adapted by the parties' agreement.
- 5.3. The appointment of an Arbitral Secretary does not in any way relieve the Arbitral Tribunal from personally reviewing the file, the procedural documents and the arbitral award(s).

6. Remuneration

- 6.1. The Arbitral Tribunal shall be solely responsible for the remuneration of the Arbitral Secretary.
- 6.2. All fees and expenses of the Arbitral Secretary are deemed to be included in the fees of the sole arbitrator or the chair of the Arbitral Tribunal, unless the parties expressly agree to bear the Arbitral Secretary's justified reasonable disbursements to travel to a hearing or meeting.



7. Confidentiality

- 7.1. The Arbitral Secretary shall be bound by the same duty of confidentiality as the Arbitral Tribunal.

8. Limitation of Liability

- 8.1. The Arbitral Secretary acts under the sole responsibility of the Arbitral Tribunal.
- 8.2. The Arbitral Secretary shall not incur any liability for any act or omission in conducting his/her tasks or duties in the framework of the arbitration, except in the case of fraud or gross negligence.