

RECOMMENDED GOOD PRACTICES FOR THE CONDUCT OF ARBITRATION PROCEEDINGS AND DRAFTING OF AWARDS IN ARBITRATIONS ADMINISTERED UNDER THE AIAC ARBITRATION RULES 2018

INTRODUCTION

These are recommended good practices, save where the recommendations made are specifically set out as procedural requirements under the AIAC Arbitration Rules 2018 (“AIAC Rules”). This document serves as a guide to arbitrators appointed under the AIAC Rules towards the conduct of the arbitration proceedings, the subsequent drafting of arbitral awards and the process culminating thereto.

For arbitrations administered under the AIAC Fast Track Arbitration Rules 2018 and the AIAC i-Arbitration Rules 2018, reference should be made to the corresponding provisions under such rules when using this guide. Where applicable, this guide also draws reference from the UNCITRAL Model Law 2010.

There are two parts to this guide. Part I of the guide deals with the conduct of arbitration proceedings commencing prior to the constitution of the Arbitral Tribunal to the close of the arbitration proceedings. Part II of the guide deals with the drafting of an arbitral award.

This guide shall in no way constitute nor be treated as an exhaustive, mandatory or otherwise binding document between the AIAC, the Director of the AIAC (“Director”) and the Arbitral Tribunal *inter se*. Any future reliance placed by the Arbitral Tribunal herein and decisions made arising therefrom is through no compulsion of the AIAC and shall not serve as a ground to invalidate or set aside an arbitral award or be relied upon to institute, commence or maintain any civil action and/or any other complaint. Neither the AIAC nor the Director shall be liable for any reliance placed on this guide whether through any act and/or omission of any Party or the Arbitral Tribunal.

PART I - CONDUCT OF ARBITRATION PROCEEDINGS

Throughout the conduct of arbitration proceedings, the Arbitral Tribunal shall, at all times treat all parties equally and ensure that each party is given a fair, efficient and reasonable opportunity of presenting its case.¹ As a matter of good practice, it is recommended that the Arbitral Tribunal provides Parties a timely notice prior to the convening of any hearing or meeting and to proactively engage with the Parties, via written correspondence and meetings, to avoid unnecessary delays and expenses.² The Arbitral Tribunal is also strongly reminded to avoid *ex parte* communications and ensure compliance to confidentiality requirements.³

¹ AIAC Rules 2018, Article 17

² AIAC Rules 2018, Rule 6

³ AIAC Rules 2018, Rule 16(1)

No.	Item	√
1.	Conducting a conflict check upon being nominated as an arbitrator by a Party	
2.	Confirming availability and competence to serve as arbitrator in the proposed arbitration within the timelines stipulated by the AIAC	
3.	Setting out any disclosures to the Declaration in the Letter of Acceptance	
4.	Initiate correspondence with the Parties to discuss proposed terms of appointment and procedural timetable to govern the conduct of arbitration proceedings	
5.	Keeping the Director informed of any Fee Agreement between the Arbitral Tribunal and the Parties, and where required, for the necessary approvals to be obtained ⁴	
6.	Confirming the collection of deposits with the AIAC to continue with proceedings ⁵	
7.	Scheduling a Preliminary Meeting and drafting first Procedural Order	
First Procedural Order		
8.	Inviting suggestions from the Parties on their availability and timetabling preferences for the conduct of the arbitration proceedings, having regard to the circumstances of the dispute and business practice of the Parties – including means of communication for the arbitration proceedings, free dates for the fixing of meetings and hearings as well as mode of such meetings and hearings i.e. whether teleconference, in-person / physical meetings or virtual / online meetings	
9.	Consideration for the appointment of a tribunal secretary, if necessary, and utility of other facilities of the AIAC for the purposes of the arbitration proceedings ⁶	
10.	Identification of all individuals relevant to the arbitration proceedings who are to be kept in communication including names, affiliation, postal and email addresses	
11.	Setting out the appropriate procedure and timetable for filing of documents, dates of hearings and meetings including the mode of such hearings and meetings, as well as any directions for discovery of documents, the method of and calling of witnesses and experts, filing of submissions, etc. ⁷	
Issuance of Subsequent Procedural Orders		
12.	Ensuring that where circumstances warrant or where appropriate, procedural orders containing the determinations and directions of the Arbitral Tribunal are issued for the efficient conduct and management of the arbitration proceedings ⁸	
13.	Where there is a challenge to the Arbitral Tribunal ⁹	
14.	Where there is an interlocutory application or a request for an interim measure ¹⁰	

⁴ AIAC Rules 2018, Rule 13(4) and AIAC Arbitration Circular 03 dated 26th January 2021

⁵ AIAC Rules 2018, Rule 14(3)

⁶ AIAC Rules 2018, Rule 11

⁷ AIAC Rules 2018, Article 17(3)

⁸ AIAC Rules 2018, Rule 6

⁹ AIAC Rules 2018, Rule 5

¹⁰ AIAC Rules 2018, Rule 8

No.	Item	√
15.	Where there is a request for joinder of parties ¹¹	
16.	Where adjustments are made to the costs of the arbitration due to a change in the amount in dispute including claims and/or counterclaims made ¹²	
Communications with AIAC		
17.	Ensure that correct subject line is used in all email and physical correspondence	
18.	AIAC Case Counsel and AIAC Arbitration to be copied to all correspondence	
19.	Confirming the collection of all remaining deposits with the AIAC ¹³	
Close of Proceedings¹⁴		
20.	Upon the conclusion of hearings and the submission of the final or last oral / written submission, the Arbitral Tribunal shall declare the arbitration proceedings closed	
21.	Declaration to be communicated in writing to the Parties and the Director	
22.	Declaration to identify the date in which the proceedings are declared closed	
23.	To ensure that no further evidence or submissions are conveyed by the Parties	
Technical Review of Draft Award		
24.	To submit draft Final Award in Word.doc or Word.docx format to the Director via email within three (3) months from the date the proceedings were declared closed ¹⁵	
25.	Resubmitting a revised draft Final Award to the Director within ten (10) days from the date on which the Arbitral Tribunal is notified by the Director of any irregularities in the draft Final Award ¹⁶	
Delivery of Final Award		
26.	Arbitral Tribunal to ensure that Final Award is not delivered directly to the Parties	
27.	Arbitral Tribunal to deliver sufficient physical copies of the signed Final Award to the Director with one (1) copy for each of the Parties and one (1) copy for each member of the arbitral tribunal and two (2) copies for the AIAC ¹⁷	
28.	Release of the Final Award to the Parties to be undertaken by the AIAC following confirmation of full settlement of the costs of the arbitration by the Parties ¹⁸	

¹¹ AIAC Rules 2018, Rule 9

¹² AIAC Rules 2018, Rule 13(7) and Article 41, Part II, UNCITRAL Arbitration Rules (revised in 2013)

¹³ AIAC Rules 2018, Rule 14(6) and AIAC Arbitration Circular 04 dated 26th January 2021

¹⁴ AIAC Rules 2018, Rule 12(1)

¹⁵ AIAC Rules 2018, Rule 12(2). The time limit for submitting the Draft Final Award to the Director may be extended with the consent of the Parties and upon consultation with the Director

¹⁶ AIAC Rules 2018, Rule 12(6)

¹⁷ AIAC Rules 2018, Rule 12(7)

¹⁸ AIAC Rules 2018, Rule 12(7)

PART II – DRAFTING OF ARBITRAL AWARD

An arbitral award shall, as a general rule, be made in writing and shall state the reasons upon which it is based unless the Parties have agreed that no reasons are to be given. Whilst the form and contents of an arbitral award may vary stylistically from one Arbitral Tribunal to another, the following are recommended good practice inclusions when drafting an award:

A. Overview

No.	Item	√
1.	AIAC case reference number written in full on cover page	
2.	Indication of the application of the AIAC Arbitration Rules 2018 on cover page	
3.	Award clearly identified as Interim, Partial, Final Award or Award by Consent	
4.	Indication of the date and seat of the award on the cover page	
5.	Identification of the parties and the arbitral tribunal on the cover page	
6.	Insertion of table of contents and table of abbreviations, where applicable	
7.	All paragraphs numbered	
8.	All pages numbered	
9.	All abbreviations defined and used consistently	

B. Details of the Parties, Parties' Representative, Arbitral Tribunal and Tribunal Secretary

No.	Item	√
1.	Identification and full particulars of the Parties	
2.	Identification and full particulars of the Parties' representatives	
3.	Identification and full particulars of the Arbitral Tribunal	
4.	Identification and full particulars of the tribunal secretary, if any	

C. Arbitration Agreement and Applicable Laws

No.	Item	√
1.	Quotation and reproduction of the full excerpt of the arbitration agreement or submission agreement	
2.	Particulars and details of any agreed amendments to the arbitration agreement or submission agreement	
3.	Identification of the parties to and/or signatories of the arbitration agreements or submission agreements	
4.	Indication of the applicable substantive and procedural laws	

D. History of the Arbitral Proceedings

No.	Item	√
Summary of documents exchange and procedural steps		
1.	Filing of the Notice of Arbitration and Response to the Notice of Arbitration	
2.	Filing of the Commencement Request and the date of commencement as confirmed by the AIAC	
3.	Chronology on the constitution of the Arbitral Tribunal including confirmation of appointment process and the Director's appointment of the Arbitral Tribunal	
4.	Date of meetings and the issuance of the procedural orders/directions	
5.	Indication of any preliminary objections raised as to jurisdiction	
6.	Indication on the filing of Pleadings such as the Statement of Claim, Statement of Defence and/or Counterclaim, Statement of Reply and any amendments made thereto including such amendment applications	
7.	Indication on the filing of additional documents such as List of Witnesses, Witness Statements, Redfern Schedule, etc.	
8.	Indication on the filing of any interlocutory applications or interim measures	
9.	Filing of Written Submissions and Bundles of Authorities by the Parties	
10.	Indication of any other procedural matters including changes to the time table such as postponement of hearings, etc.	
Indication of Decisions made by the Director		
11.	Number of Arbitrators ¹⁹	
12.	Challenge of Arbitrator ²⁰	
13.	Joinder Request ²¹	
14.	Consolidation of Hearings ²²	
15.	Adjustment to Costs of Arbitration ²³	
16.	Director's Consultation on Unquantified Amount of Dispute ²⁴	
17.	Separate Advance Deposit ²⁵	
Other Procedural Indications		
18.	Clearance by the AIAC that all required deposits have been duly paid ²⁶	

¹⁹ AIAC Rules 2018, Rule 4(2)

²⁰ AIAC Rules 2018, Rule 5(7)

²¹ AIAC Rules 2018, Rule 9(1) and 9(6)

²² AIAC Rules 2018, Rule 10(1)

²³ AIAC Rules 2018, Rule 13(6)

²⁴ AIAC Rules 2018, Rule 13(8)

²⁵ AIAC Rules 2018, Rule 14(8)

²⁶ AIAC Rules 2018, Rule 14(4-7)

No.	Item	√
19.	Indication of the date proceedings are declared closed ²⁷	
20.	Indication of the date the draft Final Award is submitted to AIAC for technical review and re-submission of award to AIAC for technical review, if applicable ²⁸	

E. Content of Award

No.	Item	√
1.	Information on any preliminary objections raised, including on jurisdiction and the decisions rendered thereto by the arbitral tribunal	
2.	Indication of time limit for rendering the award	
3.	Issues and sub-issues clearly headed and numbered with relevant citations to all documents and authorities, where applicable	
4.	Considerations and reasoning set out, unless otherwise agreed to by Parties ²⁹	

F. Costs of Arbitration

No.	Item	√
1.	Indication of any Fee Agreement entered into between the Parties and the Arbitral Tribunal and details thereof ³⁰	
2.	Indication of the costs of arbitration fixed by the Director of the AIAC and setting out each party's respective costs in both, the body of the award and in the dispositive section ³¹	
3.	Indication of how costs, including the costs of the arbitration, legal costs and other costs are to be borne and allocated as between the Parties ³²	
4.	Indication of pre- and/or post-award interest, the rate of interest and period of interest accrual, where applicable	
5.	Indication of method and calculation for interests and costs to be sound ³³	

G. Dispositive Section of the Award

No.	Item	√
1.	Award contains a dispositive section addressing all orders including those made on jurisdiction, where applicable	
2.	Award deals and addresses all of the issues and Parties' claims	

²⁷ AIAC Rules 2018, Rule 12(1)

²⁸ AIAC Rules 2018, Rule 12(1)

²⁹ UNCITRAL Model Law 2010, Art. 34(3)

³⁰ AIAC Rules 2018, Rule 13(4)

³¹ AIAC Rules 2018, Rule 13(2)

³² AIAC Rules 2018, Article 42(1)

³³ AIAC Rules 2018, Rule 12(4)

No.	Item	√
3.	Names and signatures of all members of the Arbitral Tribunal	
4.	Indication of the date of the award and seat of the Award	

CONCLUSION

Please note that the abovementioned recommendations only serve as a guide to the Arbitral Tribunal appointed under the AIAC Rules. These recommendations are not exhaustive, and the Arbitral Tribunal has full discretion to conduct the arbitration proceedings as it deems fit and deliver its Final Award.