

In force as of 15 March 2005 for NDF based on decision by NDF's Board of Directors

ARBITRATION REGULATIONS



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I. SCOPE OF APPLICATION

§ 1 Purpose of these Regulations

These Regulations shall govern all arbitral proceedings relating to employment-related disputes between the Nordic Investment Bank (NIB), the Nordic Development Fund (NDF) and/or the Nordic Environment Financing Company (NEFCO), hereinafter together referred to as the “Institutions” and individually as “Institution”, and their employees, hereinafter referred to as the “staff members” or individually as “staff member”.

Any disputes between the Institutions and individual staff members arising out of or relating to contracts of employment or other terms and conditions of employment, hereinafter referred to as the “disputes” or “employment-related disputes”, that cannot be amicably settled may be referred to arbitration and finally settled by an arbitral tribunal, hereinafter referred to as the “Arbitral Tribunal”, in accordance with these Rules.

§ 2 Applicability to different staff categories

These Rules shall be applicable to all current and former staff members of the Institutions. For the purposes of these Rules, the term “staff member” shall be deemed to include all employees including the Presidents of the Institutions.

§ 3 The parties

The parties to an arbitral proceeding shall be:

- 1) any current or former staff member or, in cases involving salary or other monetary claims with respect to a deceased staff member, the legal successor(s) of the deceased staff member; and
- 2) the Institution or Institutions with whom the staff member in question has or had his employment contract.

Any current or former staff member or the legal successor(s) of a deceased staff member may initiate arbitral proceedings under these Rules. In such cases, the same stipulations of these Rules, applicable to a current staff member, shall be applied to a former staff member or the legal successor(s) of a deceased staff member. An Institution may also initiate proceedings in cases where the Institution has a monetary claim against a current or former staff member or a deceased staff member.

II. COMMENCEMENT OF THE ARBITRATION

§ 4 Notice of arbitration

The party who wishes to initiate arbitration proceedings (hereinafter called the “claimant”) shall give to the other party or parties to the dispute (hereinafter called the “respondent” or “respondents”) a written notice of arbitration.

If a staff member’s claim is against more than one Institution, the claimant staff member may send a single notice of arbitration to the respondent Institutions. In the case of a claim on behalf of more than one Institution, the claimant Institutions may jointly send a notice of arbitration to the respondent staff member.

Any notice of arbitration by a staff member shall be addressed to the President(s) of the Institution(s), and delivered to the Head of the Personnel and Office Department at NIB.

The notice of arbitration shall include the following:

- (a) the name, address, telephone number and other contact details of the claimant;
- (b) a demand that the dispute be referred to arbitration;
- (c) a reference to the contract of employment out of or in relation to which the dispute arises;
- (d) a preliminary statement of claim including the remedy sought, with an indication of the amount involved, if any;
- (e) the name, address, telephone number and other contact details of the arbitrator appointed by the claimant; and
- (f) a request that the respondent appoint an arbitrator within 45 days from the date of receipt of the notice of arbitration.

The arbitral proceedings shall be deemed to commence when the notice of arbitration has been received by the respondent.

Commencement of arbitral proceedings shall not have the effect of postponing or suspending a measure or decision taken by an Institution in relation to the dispute. The Arbitral Tribunal may, however, if it deems it appropriate, decide that such a measure or decision shall be suspended or postponed until the conclusion of the proceedings in accordance with these Rules.

III. COMPOSITION OF THE ARBITRAL TRIBUNAL

§ 5 Number of arbitrators and the appointment procedure

The Arbitral Tribunal shall consist of three arbitrators. The claimant shall appoint one arbitrator. The respondent shall within 45 days from receipt of a notice of arbitration appoint one arbitrator. The two arbitrators thus appointed by the parties shall within 45 days appoint a third arbitrator who shall serve as the Chairman of the Arbitral Tribunal.

If within 45 days after the receipt of a party's notice of the appointment of an arbitrator the other party has not notified the first party of the arbitrator he has appointed, the first party may request the Arbitration Institute of the Central Chamber of Commerce of Finland (hereinafter called the "appointing authority") to appoint the second arbitrator.

If within 45 days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the third arbitrator, the third arbitrator shall, at the request of either party, be appointed by the appointing authority.

§ 6 Qualifications of an arbitrator

A person appointed as an arbitrator must be independent and impartial and possess sufficient knowledge of employment-related issues.

Only a fully qualified lawyer shall be eligible for appointment as the Chairman of the Arbitral Tribunal.

A person who is, or has been during the previous five years, a staff member of an Institution or an Ombudsman or a President of an Institution will not be eligible for appointment as an arbitrator. A person performing the task of an arbitrator cannot be employed by an Institution or be appointed

Ombudsman or President of an Institution for a period of five years after the end of such person's appointment as an arbitrator.

§ 7 Challenge of an arbitrator

A prospective arbitrator shall immediately disclose to the party approaching him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.

An arbitrator is obliged to disclose to the parties, until the end of the arbitral proceedings, all such circumstances referred to above unless the parties have already been informed of those circumstances.

If a party wishes to challenge an arbitrator, the challenge shall be made in writing to the Chairman of the Arbitral Tribunal and notified to the other party, to the arbitrator who is challenged, and to the other arbitrator. The challenge shall state the grounds therefore and shall be made within 15 days from the date the grounds became known to the party making the challenge, failing which such party shall be deemed to have waived his right to make such a challenge.

When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge.

Unless the other party agrees to the challenge or the arbitrator challenged resigns, the Arbitral Tribunal shall make a decision on the said challenge.

§ 8 Discharge of an arbitrator

An arbitrator may be discharged upon agreement of the parties if the arbitrator is found to be unqualified for the fulfilment of his task or if he fails to fulfil his duties or, without valid reasons, delays the proceedings, or if there are other justifiable grounds for discharge.

§ 9 Replacement of an arbitrator

In the event of the resignation, discharge or death of an arbitrator, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for above that was applicable to the appointment or choice of the arbitrator being replaced.

If the Chairman of the Arbitral Tribunal or any other arbitrator is replaced, any hearings held previously may be repeated at the discretion of the Arbitral Tribunal.

IV. ARBITRAL PROCEEDINGS

§ 10 Procedure

The Arbitral Tribunal shall carry out the proceedings impartially and promptly. Each party shall be given an adequate opportunity of presenting his case.

Subject to these Rules, the Arbitral Tribunal shall determine the most appropriate manner for conducting the proceedings having regard to the requirements of impartiality and promptness. If both parties agree, the Arbitral Tribunal may decide to dispense with oral hearings and to conduct

the proceedings on the basis of documents and other materials supplied to the Arbitral Tribunal. All documents or information supplied to the Arbitral Tribunal by one party shall at the same time be communicated by that party to the other party.

Any decisions on questions of procedure shall be made by a majority of the arbitrators. When there is no majority, the Chairman of the Arbitral Tribunal shall decide questions of procedure on his own.

§ 11 *Language of the proceedings*

The proceedings including the statement of claim and statement of defence shall be conducted in Swedish or English, unless the parties and the Arbitral Tribunal agree otherwise. The staff member may, however, personally use any official language of the Institutions' member countries during the proceedings. Any necessary interpretation services into and from an official language of the member countries shall be provided if so requested by the Arbitral Tribunal.

Documents presented in a case may be in any one of the official languages of the member countries. In such case, the Arbitral Tribunal may, if necessary, request that each document be accompanied by a translation into the language of the proceedings.

The arbitral award shall be given in the language of the proceedings.

§ 12 *Place and date of arbitration*

The proceedings shall normally be held in Helsinki. The parties may agree upon a different place of arbitration.

When deciding on the date(s) for the proceedings, the Arbitral Tribunal shall, to the extent possible, take the wishes of the parties into account.

§ 13 *Representation and assistance*

Except as provided below, the parties may be represented or assisted by a person or persons of their choice, including a lawyer. The names and contact details of such persons must be communicated in writing to the other party and to the Arbitral Tribunal.

If the claimant is a staff member (including the President of an Institution), the claimant shall not be represented or assisted by a lawyer from the General Counsel's Office at NIB.

If the claimant is the President of an Institution, the claimant shall not be entitled to appoint or designate persons to represent or assist the respondent Institution. This right shall be exercised on behalf of the Institution by the Board of Directors of the Institution concerned, as provided below.

§ 14 *Representation of an Institution*

The President of the Institution concerned or the Director responsible for staff matters within the Management Committee or Head of the Personnel and Office Department at NIB shall represent the Institution, supported by the General Counsel of NIB.

The Institution's case may also be conducted by some other duly authorised representative or by an external counsel.

Should the claimant in a dispute be the President of an Institution, the Board of Directors of the Institution shall designate or appoint the person or persons who will conduct the Institution's case before the Arbitral Tribunal.

If there are two or more respondent Institutions, the said Institutions shall jointly conduct their case before the Arbitral Tribunal. The aforementioned provisions regarding representation shall apply equally in all such situations.

§ 15 Statement of claim

The Arbitral Tribunal shall require the claimant to submit, within a specified time not exceeding 45 days, a concise statement of claim in writing to the Arbitral Tribunal and to each respondent. The claimant shall annex to his statement of claim a copy of the contract of employment. He may also annex all documents he deems relevant, or may add a reference to the documents or other evidence he will submit.

The statement of claim shall include the following particulars:

- 1) a brief description of the claim;
- 2) a statement of facts supporting the claim;
- 3) the points at issue;
- 4) the remedy sought;
- 5) to the extent possible, the evidence the claimant intends to adduce in the matter; and
- 6) the name, address, telephone number and other contact details of the claimant and his representative or counsel.

§ 16 Statement of defence

The Arbitral Tribunal shall require the respondent to submit, within a specified time not exceeding 45 days, a concise statement of defence in writing to the claimant and to the Arbitral Tribunal. The respondent may annex to his statement the documents on which he relies for his defence, or may add a reference to the documents or other evidence he will submit.

The statement of defence, which must specifically reply to particulars (2), (3) and (4) of the statement of claim, shall include the following:

- 1) a statement as to whether and to what extent the respondent accepts or contests the claim;
- 2) grounds for contesting the claim and/or the facts relied upon by the claimant in support of his claim;
- 3) where applicable, a counter-claim or demand for a set-off and the grounds therefore;
- 4) to the extent possible, the evidence the respondent intends to adduce in the matter; and
- 5) the name, address, telephone number and other contact details of the respondent and the representative or counsel of the respondent.

The provisions of the preceding Article concerning the particulars required for a statement of claim shall also apply to a counter-claim or the demand for a set-off.

§ 17 Alteration and Amendment of claim or defence

During the course of the arbitral proceedings, a party may amend or supplement his claim or defence or the grounds therefore and also make a counter-claim or demand for a set-off, unless in the opinion of the Arbitral Tribunal this would cause undue delay to, or prejudice, the arbitral proceedings.

§ 18 Conduct of proceedings; oral hearing

The arbitral proceedings shall be held in private, with attendance limited to the parties and their representatives, and such other persons, including any witnesses, whose attendance is authorised by the Arbitral Tribunal. A witness may be present at the proceedings only while the said witness is being examined.

As a rule, an oral hearing shall be held during the arbitral proceedings in a manner determined by the Arbitral Tribunal and taking into consideration the reasonable wishes of the parties.

Whenever practicable, the proceedings shall take place in one continuous session.

§ 19 Jurisdiction of the Arbitral Tribunal

The Arbitral Tribunal shall in all cases consider whether it has jurisdiction over the dispute. The Arbitral Tribunal may, by written decision, deny jurisdiction notwithstanding that no plea as to the jurisdiction of the Arbitral Tribunal has been raised.

The Arbitral Tribunal shall have the power to rule on objections that it has no jurisdiction.

A plea that the Arbitral Tribunal has no jurisdiction shall be raised not later than in the statement of defence or, with respect to a counter-claim, in the reply to the counter-claim.

In general, the Arbitral Tribunal should rule on a plea concerning its jurisdiction as a preliminary question.

§ 20 Production of evidence

At the request of the Arbitral Tribunal, the parties shall state the evidence on which they wish to rely, specifying what they wish to prove with each item of evidence.

A party shall be entitled to have access to all documents and materials related to the dispute which are submitted to the Arbitral Tribunal by the other party.

The Arbitral Tribunal is free to determine the manner in which witnesses are examined. The Arbitral Tribunal shall determine to what extent signed written statements of witnesses may be submitted as evidence.

The Arbitral Tribunal may refuse to accept evidence that relates to a fact that is irrelevant or that has already been established or if the evidence can be produced by other less expensive or less burdensome means.

The Arbitral Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

After having scrutinised and evaluated all evidence produced during the proceedings, the Arbitral Tribunal shall determine the matters that shall be deemed proven in the matter.

§ 21 Burden of proof

The Institution(s) shall have the burden of proof in matters related to the termination or cancellation of an employment contract at the initiative of the Institution(s). In all other matters, each party shall have the burden of proving the facts relied on to support his claim or defence.

§ 22 Use of experts

Unless the parties agree otherwise, the Arbitral Tribunal may, after hearing the parties, appoint an expert to investigate and to give an opinion on a material fact relevant to the determination of the case, especially if special professional knowledge is needed to evaluate such fact.

The Arbitral Tribunal may also require a party to give the expert any information necessary for the performance of his task and to give the expert an opportunity to inspect any relevant documents and materials.

§ 23 Failure of a party to appear

If a party fails to appear at a hearing or to comply otherwise with an order of the Arbitral Tribunal, such failure will not prevent the Arbitral Tribunal from proceeding with and deciding the case.

V. ARBITRAL AWARD

§ 24 Rules applicable to the substance of the dispute

The Arbitral Tribunal shall decide the dispute in accordance with the rules of law applicable to the substance of the dispute, i.e., the terms of the employment contract and the rules and regulations applicable to the Institutions and their staff members (the Set of Staff Regulations and Rules).

The aforementioned regulations and rules are, in addition to these Arbitration Rules, set out in the respective Agreements and Headquarters Agreements of the Institutions, and in the Staff Policy for the Employees of NIB, NDF and NEFCO, Code of Conduct for the Employees of NIB, NDF and NEFCO, Staff Regulations for the Employees of NIB, NDF and NEFCO, Staff Rules for the Employees of NIB, NDF and NEFCO, Rules for the Ombudsman of NIB, NDF and NEFCO, and in other internal regulations and instructions of the Institutions.

Should the Arbitral Tribunal not find a relevant stipulation in the said rules and regulations or in a decision adopted by the NIB's Board of Directors, then the Arbitral Tribunal may seek guidance from the legislation of the host country taking into account generally applicable common Nordic legal principles and common practices of international administrative law.

Exceptionally, the Arbitral Tribunal may decide the dispute *ex aequo et bono* if the parties have expressly authorised it to do so and if this would not be contrary to the law applicable to the substance of the dispute.

§ 25 Decisions and awards

Any award or other decision of the Arbitral Tribunal shall be made by a majority of the arbitrators. When there is no majority, the opinion of the Chairman of the Arbitral Tribunal shall prevail.

§ 26 Award to be final and binding

The award shall be made in writing and shall be final and binding upon the parties and without appeal. The parties shall carry out the award without delay.

§ 27 Basis of the award

The Arbitral Tribunal shall state the reasons upon which the award is based and the remedies awarded to a successful party. The facts and circumstances and the rules and regulations which formed the basis of the award shall be explicitly set out in the award, which shall also mention the grounds on which disputed issues were deemed to be proven or not proven.

§ 28 Form, date and place of the award

The award shall be signed by all three arbitrators. If one of the arbitrators fails to sign, the award shall state the reason for the absence of the signature. A dissenting opinion of an arbitrator, if any, shall be attached to the award.

The award shall state the date on which and the place where the award was made.

§ 29 Rendering and communicating the award

The arbitral award shall, unless otherwise agreed between the parties or in the absence of special reasons, be rendered no later than 90 days after the respondent has submitted his written defence to the Arbitral Tribunal and the claimant.

A duly signed copy of the award shall be given to each party at a session of the Arbitral Tribunal or it shall be delivered to the parties by other verifiable means.

§ 30 Settlement or other grounds for termination

If during the arbitral proceeding the parties settle the dispute, the Arbitral Tribunal may either issue an order for the termination of the arbitral proceedings or, if requested by a party, record the settlement in the form of an arbitral award on agreed terms. The Arbitral Tribunal is not obliged to give reasons for such an award.

§ 31 Partial award

The Arbitral Tribunal may, at the request of a party, render a partial arbitral award on an independent claim in a dispute where several claims have been made. The Arbitral Tribunal may also, at the request of a party, render a partial award on that part of the claim that has been admitted by the respondent.

A claim and a demand for a set-off with regard thereto shall, in all cases, be determined together and not separately from each other.

§ 32 Interim award

The Arbitral Tribunal may, if the parties so agree, decide by an interim arbitral award a separate issue in dispute, if rendering an award on other matters in dispute is dependent on rendering such an interim award.

§ 33 Correction of the award, additional award and new proceedings

A party may request the Arbitral Tribunal to correct in the award any errors in computation or any clerical or typographical errors, or any other errors of a similar nature. A party must, after notification to the other party, request such correction within 30 days after receiving a copy of the award.

If the Arbitral Tribunal considers the request to be justified, the Arbitral Tribunal shall make the requested correction without delay and, if possible, not later than 30 days after receipt of the request by the Chairman of the Arbitral Tribunal.

The Arbitral Tribunal may, at its own initiative, within 60 days after rendering the award, correct any error of the type referred to above. Before such correction is made, the parties shall be given an opportunity to be heard with regard to the correction to be made.

Either party may, with notice to the other party within 30 days after the rendering of the award, request the Arbitral Tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the Arbitral Tribunal considers the request for an additional award to be justified, it shall make an additional award within 60 days. Before rendering the additional award, the parties shall be given an opportunity to be heard.

VI. COSTS OF ARBITRATION AND OTHER PROVISIONS

§ 34 Arbitrators' remuneration and expenses and the costs of arbitration

The remuneration and expenses of the arbitrators shall be reasonable. The Arbitral Tribunal may in the award fix and order the remuneration to be paid to each arbitrator taking into account the maximum amount, if any, established by the Institutions from time to time.

When deciding on the remuneration of the arbitrators, the time required to resolve the dispute, the complexity of the subject matter, the amount in dispute and other relevant circumstances shall be taken into account

The Institutions are responsible for paying the remuneration and expenses of the arbitrators. The Institutions shall be liable for the general costs and expenses related to the arbitral proceedings such as hiring of facilities, costs of translations and interpretation and materials and fees of experts invited by the Arbitral Tribunal.

The Institutions shall as a rule be responsible for all of their own costs and expenses related to the proceedings such as fees of a representative or counsel and the legal costs and expenses of the staff member.

If the proceedings have been initiated by a staff member and the claim of the staff member is dismissed, the Arbitral Tribunal may rule that the staff member is to compensate the Institution for its costs and expenses with an amount the Arbitral Tribunal finds justified. Such amount shall, however, not exceed the staff member's gross basic salary for one month. In addition, the Arbitral Tribunal may, in such a case, rule that the obligations of the Institution(s) to cover the legal costs and expenses of the staff member be limited to an amount found justified by the arbitrators.

If the settlement or dismissal of a dispute takes place after the arbitral proceedings shall have commenced, the arbitral tribunal may fix and order to be paid the arbitrators' remuneration and expenses.

§ 35 *Disposition of documents and disclosure*

Documents presented to the Arbitral Tribunal and any award, termination order or other decision of the Arbitral Tribunal shall be filed in the archives of the Institutions.

The Institutions shall publish an annual report regarding arbitration awards. This report shall be available to the staff members of the Institutions, and may upon request be available to others. Subject to the consent of the staff member upon the commencement of the proceedings, the report shall contain a short description of the dispute in each case and the reasons for the award. Information regarding the identity of the staff member concerned or any specific sums awarded shall, however, not be published.

Subject to the consent of the staff member upon the commencement of the proceedings, the parties may upon termination of the proceedings make a public announcement regarding the dispute and the award including the reasons therefore.

Complete information concerning the documents or the award referred to above may not be disclosed to anyone other than the parties and the arbitrators involved in the proceedings, unless all parties concerned explicitly consent to such a disclosure.

§ 36 *Exclusion of liability*

An arbitrator shall not be liable for any loss incurred by the parties in arbitral proceedings under these Rules, save for loss resulting from wilful misconduct or gross negligence.

§ 37 *Entry into force and amendment*

These Regulations shall enter into force following the submission of written statements by the Boards of Directors of NDF and NEFCO and a decision by the Board of Directors of NIB.

Subject to the Board of Directors' decision, these Regulations shall enter into force as of a date to be determined by the President and CEO of NIB, and shall be applied to any arbitral proceedings commenced after that date.

These Regulations may be amended following the procedure referred to in the first paragraph of this Section 37.