

NOTE ON THE USE OF A SECRETARY

1. General provisions

1.1 This Note sets out the instructions regarding the appointment, duties and remuneration of a secretary appointed by an arbitral tribunal in arbitrations governed by the Arbitration Rules of the Finland Chamber of Commerce (the “Rules”) and the Rules for Expedited Arbitration of the Finland Chamber of Commerce (the “Expedited Rules”) effective as of 1 June 2013 and as of 1 January 2020.

1.2 Each arbitrator and secretary appointed by an arbitral tribunal undertakes to comply with the provisions contained in this Note in all arbitrations conducted under the Rules and the Expedited Rules.

2. Appointment of a secretary

2.1 An arbitral tribunal may appoint a secretary, when deemed appropriate, at any stage of the arbitration. This applies irrespective of whether an arbitral tribunal is composed of a sole arbitrator or three arbitrators.

2.2 An arbitral tribunal shall carefully consider whether the circumstances of a particular case are such as to justify the appointment of a secretary. In general, the use of a secretary should increase the cost-efficiency of the proceedings and allow the arbitral tribunal to better focus on the resolution of the merits of the dispute, thereby contributing to the quality of the award. This may be the case, in particular, in complex arbitrations involving a number of different parties, claims, witnesses and/or extensive documentary evidence. Conversely, the use of a secretary is generally inappropriate in low-value cases where the legal or factual issues at dispute appear straightforward.

2.3 Before appointing a secretary, the arbitral tribunal shall consult with the parties. If any party objects to the use of a secretary, the arbitral tribunal may proceed with the appointment only where the tribunal is convinced that this will benefit all parties by saving time and costs.

2.4 A secretary shall meet the same requirements of impartiality and independence as any arbitrator. Promptly after having been appointed, the secretary shall disclose to the parties in writing any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. Within the time limit set by the arbitral tribunal, the parties shall inform the tribunal in writing of any objections they may have with respect to the secretary’s impartiality or independence. The arbitral tribunal shall promptly decide such objections. If the arbitral tribunal sustains the objection, the secretary shall be released from appointment.

3. Duties of a secretary

3.1 The mandate of an arbitrator is personal. By accepting appointment, an arbitrator undertakes not to delegate the mandate to any other person, including any tribunal-appointed secretary. An arbitrator may under no circumstances rely on a secretary to perform any essential duties of an arbitrator.

3.2 A secretary acts under the supervision of the arbitral tribunal. A secretary shall strictly follow the arbitral tribunal's instructions and shall not exceed the scope of the tasks assigned to him or her. The arbitral tribunal shall be responsible for the secretary's actions in connection with the arbitration.

3.3 A secretary may assist the arbitral tribunal by performing administrative tasks, such as transmitting documents and communications on behalf of the arbitral tribunal, organising meetings and hearings, taking notes or minutes of meetings, and recording witness testimonies at a hearing.

3.4 In addition, a secretary may provide limited assistance to the arbitral tribunal in its decision-making process, as long as the arbitral tribunal ensures that the secretary does not assume any decision-making function of the tribunal, or otherwise influence the tribunal's decisions in any manner. Such assistance may include, but is not limited to, the following tasks:

- i. proofreading and checking the accuracy of cross-references, citations, dates and other figures in draft procedural orders and awards as well as correcting any clerical, typographical or computational errors found in the drafts;
- ii. collecting case law or published commentaries on legal issues defined by the arbitral tribunal, preparing summaries from case law and publications as well as producing memoranda summarising the parties' respective submissions and the evidence supporting those submissions, provided that the arbitral tribunal refrains from relying solely on a secretary's work to the exclusion of its own review of the file and legal authorities.

3.5 A secretary is under the same obligation as an arbitrator to maintain the confidentiality of the arbitration and the award.

4. Remuneration of a secretary

4.1 The appointment of a secretary shall not pose any additional financial burden to the parties. The arbitral tribunal is not allowed to seek from the parties any compensation for any work done by the secretary. The parties are, however, liable to reimburse the secretary's reasonable expenses referred to in Article 4.3 below.

4.2 Any fee payable to a secretary shall be paid by the arbitral tribunal out of the tribunal's own fees as determined by the Arbitration Institute of the Finland Chamber of Commerce. Where the arbitral tribunal is composed of three arbitrators, the fee of a secretary shall, as a rule, be deducted from the fee of the presiding arbitrator. The arbitral tribunal may, however, decide to apply a different method of allocating the secretary's fee among the members of the tribunal.

4.3 A secretary is entitled to reimbursement of his or her reasonable expenses incurred in connection with the arbitration, such as reasonable travel and accommodation costs related to the attendance at a hearing. The arbitral tribunal may seek reimbursement from the parties of the secretary's expenses under this provision in accordance with Chapter VI of the Rules and the Expedited Rules.

4.4 Any expenses payable to a secretary shall be stated in the final award, consent award or order for the termination of the arbitration.