1 June 2026

NOTE TO ICC NATIONAL COMMITTEES AND GROUPS ON THE PROPOSAL OF ARBITRATORS

I - Purpose of the Note

1. This Note explains the role of ICC National Committees and Groups ("Committees and Groups") in the appointment of arbitrators pursuant to the ICC Rules of Arbitration ("ICC Rules"). In particular, the Note addresses the desired interaction between Committees and Groups, the ICC International Court of Arbitration ("Court") and its Secretariat ("Secretariat").

2. The term "ICC Rules" in this Note refers to the version of the ICC Rules that applies in any given case including, but not limited to, the 2017, 2021 and 2026 ICC Rules. The term "president" refers to the chairman of the arbitral tribunal under the 1998 ICC Rules and/or to the president of the arbitral tribunal under the 2012, 2017, 2021 and 2026 ICC Rules.

3. For ease of reference, a practical Checklist for Proposing Arbitrators is annexed for Committees and Groups to use when they are invited to propose a prospective arbitrator.

4. Although this Note refers to the appointment of arbitrators, it applies mutatis mutandis to all appointments made by ICC upon the proposal of a Committee or Group, including but not limited to mediators and experts.

II - Duties of Committees and Groups

a) General

5. Pursuant to the ICC Rules, the Court may, when appointing an arbitrator, seek a proposal from a Committee or Group. Such proposals are non-binding in nature, and the Court enjoys full discretion regarding whether to appoint any of the proposed arbitrators.

6. The Court will generally make the appointment upon a proposal from one or more Committees or Groups. When the Court selects a particular Committee or Group to propose an arbitrator, it does so, as a matter of principle, because it considers that it would be appropriate for a national or resident of that Committee's country or a resident in that Group's territory to act as arbitrator in the case.

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7. The Court may decide to invite several Committees or Groups at the same time to propose prospective arbitrators for a given case. In transmitting the Court's invitation, the Secretariat will inform each Committee or Group if the Court is considering proposals from other Committees or Groups. The Court may also invite a Committee or Group to propose several prospective arbitrators for the Court's consideration.

8. Committees or Groups shall propose the best suited prospective arbitrator(s), considering the circumstances of the case and bearing in mind the interest of the parties, as detailed in paragraphs 36 to 47 below.

9. In general, the Court will not appoint the same arbitrator more than once during a period of twelve (12) months, although this limitation does not apply to the appointment of emergency arbitrators. The Court will thus communicate promptly with Committees and Groups regarding the arbitrators with the nationality and/or residence of the respective Committee or resident in that Group's territory who the Court has directly appointed. In addition, the Court will communicate annually with Committees and Groups regarding the overall statistics about appointments of arbitrators with the nationality of the respective Committee or residency in that Group's territory.

b) Nominations Commission and Contact Person

10. To ensure the neutrality of the process and avoid any perception of bias, Committees and Groups are encouraged to create a Nominations Commission in charge of proposing arbitrators to the Court. If a Committee or Group considers that it is not appropriate to create or no longer appropriate to maintain a Nominations Commission, such Committee or Group shall promptly inform the Secretary General of the Court about the method by which proposals will be made.

11. The Committee or Group, in consultation with the Secretary General, has the discretion to determine the constitution process and composition of the Nominations Commission. The Committee or Group shall inform the Secretary General of the method for selecting members of the Nominations Commission and any proposed change in the membership of the Nominations Commission.

12. Nominations Commissions should include members who are experienced in arbitration.

13. In-house counsel cannot be members of Nominations Commissions.

14. Members of a Nominations Commission shall not hold positions in any other arbitral institution unless the Secretary General of the Court agrees to an exception.

15. Save in exceptional cases discussed with the Secretary General of the Court, no member of the Nominations Commission shall serve for longer than a three-year term, renewable once.

16. Nominations Commission membership should reflect the diversity, broadly defined, of the arbitration community in the Committee's country or in the Group's territory, including but not limited to racial, ethnic, cultural, generational, and gender diversity. Committees and Groups should make best efforts to achieve and maintain gender parity in their Nominations Commissions.

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17. Consistent with the Court's policy to foster transparency, Committees and Groups shall:

a. make publicly available the composition of their Nominations Commission or, in the absence thereof, of the method by which proposals are made by:

(i) posting the information on their website, or

(ii) sending, with no undue delay, such information to the Secretariat, which will post such information in a dedicated section of the ICC website; and

b. ensure that such information is updated promptly.

18. If a Committee or Group fails to make information about the composition of their Nominations Commission publicly available or to promptly update such information, the Court will not invite such Committee or Group to propose arbitrators.

19. Upon consultation with the Secretariat, Committees and Groups shall designate one of their staff members and/or a member of their Nominations Commission to be responsible for coordinating the Court's requests for proposals of arbitrators ("Contact Person"). The Contact Person serves as the link between the Nominations Commission and the Secretariat.

c) Confidentiality and Conflicts of Interest

20. Members of a Nominations Commission and any staff member of a Committee or Group involved in the selection process of prospective arbitrators in any capacity shall be bound by an obligation of confidentiality concerning all information exchanged.

21. Members of a Nominations Commission shall sign a Non-Disclosure Agreement ("NDA"), a copy of which will be communicated to the ICA ICC General Counsel. A model of such NDA is attached to this Note.

22. When a Committee or Group receives a request for a proposal, the Contact Person should distribute the information to the members of the Nominations Commission, who shall confirm to the Contact Person within one business day after receipt of information regarding an arbitration the absence of any commercial or personal relationship with any of the parties or related parties. Absent timely confirmation, such members of the Nominations Commission shall not work on the proposal of a prospective arbitrator. If the Contact Person has any such conflict, the Contact Person shall designate another member of the Nominations Commission as the Contact Person for that proposal.

23. Members of a Nominations Commission shall be wholly excluded from participating in the work of said Commission for cases in which they or their employer, firm, business or organisation may be interested in any capacity.

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d) Prohibitions

24. Nominations Commissions shall not propose their own members as prospective arbitrators.

25. If the Nominations Commission intends to propose a relative or colleague in the same company or organisation of any of the members of the Nominations Commission, they should disclose this relationship to the Secretariat.

26. Committees and Groups shall not require that a prospective arbitrator be a member of the Committee or Group as a condition for being proposed as an arbitrator (ICC Global Partnership Agreement between the ICC World Council and National Committees and Groups, article 2).

27. Committees and Groups shall not require that a prospective arbitrator be a member of any other institution or require that the prospective arbitrator has already acted as arbitrator or otherwise for a local dispute resolution provider.

28. Committees and Groups are not allowed to accept or require any form of benefit, payment, or compensation for their proposals and/or for including prospective arbitrators on any list of arbitrators they might have.

29. If Committees and Groups keep unofficial lists of arbitrators for their own internal work, Committees and Groups shall not limit their proposals to said lists.

III - Recommendations for making proposals

a) Procedure

30. Time is of the essence of any appointment process. A Committee or Group shall therefore make its proposal by the deadline specified in the Secretariat's letter requesting the proposal of an arbitrator (usually 7 days, or 4 days in Expedited Procedure Provisions cases). In exceptional circumstances, a Committee or Group may request from the Secretariat a limited extension of time to make its proposal.

31. If the Court does not accept the proposal made, or if the Committee or Group fails to make the requested proposal within the prescribed time limit, the Court may, in its discretion, repeat its request, request a proposal from another Committee or Group that it considers to be appropriate, or directly appoint any prospective arbitrator whom it regards as suitable.

32. The Secretariat teams in charge of ICC arbitration cases will provide Committees and Groups with relevant information needed in selecting the best suited arbitrator for each case.

33. Committees and Groups are encouraged to consult with the Secretariat prior to submitting their proposal.

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34. Any discussion between the Committee or Group and the Secretariat concerning prospective arbitrators is confidential and its content must not be disclosed to the prospective arbitrator(s). The Committee or Group should inform the prospective arbitrator that the Court alone makes all appointments, and the fact that the Committee or Group is contacting them will not necessarily result in an appointment.

35. Unless otherwise indicated by the Secretariat, the Committee or Group should handle all communications with the prospective arbitrator(s) during the nomination process.In this respect, it is for the Committee or Group to ensure that the prospective arbitrators have completed the requisite forms properly. It is also for the Committee or the Group to inform the prospective arbitrators if the Court has ultimately decided not to appoint them.

b) Profile of Prospective Arbitrators

36. Committees and Groups are encouraged to carefully read the Secretariat's letter requesting the proposal of an arbitrator and the case information, which set out detailed information concerning the case and specific requests regarding the profile of prospective arbitrators. This includes primarily the names of the parties and other relevant entities, their counsel (if any), and any arbitrators already proposed, confirmed, or appointed in the case, the place of arbitration, the language (or potential language(s)) of the arbitration, the law applicable to the merits of the dispute (if known), a brief description of the nature, facts and circumstances of the case and the current amount in dispute (if known).

37. The information provided to the Committee or Group is intended to help it propose one or more prospective arbitrators suitable for the case in question, considering the facts and circumstances of the case, the level of experience needed for the case and other criteria the Secretariat considers relevant.

38. Unless the Court requires it specifically, prior experience as an arbitrator in ICC cases is not a pre-requisite for consideration as a prospective arbitrator. For cases of lower complexity, Committees and Groups are encouraged to propose prospective arbitrators with experience in arbitration, but not necessarily as arbitrators (such as experience as counsel or as tribunal secretary). In such cases, Committees and Groups are encouraged to propose new and/or young arbitrators, as this may help the pool of prospective arbitrators in that community to grow.

39. When the amount in dispute is relatively low, the Court may invite the Committee or Group to propose a prospective arbitrator residing at or near the place of arbitration to help keep the costs of the arbitration as low as possible.

40. When proposing arbitrators, Committees and Groups are encouraged to consider diversity, broadly defined, including but not limited to racial, ethnic, cultural, generational, and gender diversity.

41. Court members cannot be proposed as prospective arbitrators (Article 2(2) of Appendix II to the ICC Rules).

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c) *Nationality of arbitrators*

42. When proposing an arbitrator, the Committee or Group is not limited to proposing only nationals of the Committee's country and may also propose those who are domiciled or resident in the same country if so communicated by the Secretariat.

43. Prospective sole arbitrators or presidents generally must not have the nationality of any of the parties, unless so requested by the Secretariat. Committees or Groups should therefore check if the prospective arbitrators they might wish to propose as sole arbitrator or president have more than one nationality and, if so, verify that none of those nationalities coincide with those of any of the parties.

d) *Availability, Impartiality and Independence of Arbitrators*

44. Committees and Groups shall communicate the case information to the prospective arbitrator they wish to propose and ask them to complete the forms transmitted to them by the Secretariat (the ICC Case Connect Profile or *curriculum vitae* and the Statement of Acceptance, Availability, Impartiality and Independence ("Statement")). Prospective arbitrators should also read carefully the Note to Parties and Arbitral Tribunals on the Conduct of ICC Arbitration ("Note").

45. Every prospective arbitrator must disclose any facts or circumstances that might be of such a nature as to call into question the arbitrator's independence in the eyes of the parties, or that could give rise to reasonable doubts as to the arbitrator's impartiality (Article 11(2) of the 2017/2021 ICC Rules and Article 12(2) of the 2026 ICC Rules). When a prospective arbitrator makes disclosures as to his or her independence and/or impartiality, he or she is said to have filed a 'qualified' Statement, and when no disclosures are made, the Statement is 'unqualified'. The Court's practice regarding the Statement and any disclosures to be made therein are set out in paragraphs 23 to 37 of the Note.

46. A qualified Statement, which includes a disclosure, will not, in and of itself, preclude appointment by the Court. If a Committee or Group intends to propose an arbitrator who filed a qualified Statement, the Committee or Group shall confer with the Secretariat to discuss whether the proposal is appropriate in the circumstances.

47. Committees and Groups should particularly draw the prospective arbitrator's attention to the availability section of the Statement in which a prospective arbitrator should provide thorough information about (i) the number of pending cases in which he or she is involved, and (ii) his or her existing commitments, the nature and details of which need not be disclosed.

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CHECKLIST FOR PROPOSING ARBITRATORS FOR ICC NATIONAL COMMITTEES AND GROUPS

☐ **PRIOR CONSULTATION WITH THE SECRETARIAT**

Once the Committee or Group has identified one or more prospective arbitrators, the Contact Person is encouraged to call the Counsel in charge of the case to discuss the potential proposal.

☐ **CONTACT PROSPECTIVE ARBITRATORS**

After having discussed such proposal, the Committee or Group should contact the prospective arbitrators. Any discussion between the Committee or Group and the Secretariat concerning prospective arbitrators is confidential and its content should not be disclosed to the prospective arbitrators.

☐ **PROFILE OF PROSPECTIVE ARBITRATORS**

Committees and Groups are encouraged to consider among others the following criteria:

- ☐ facts and circumstances of a particular case
- ☐ level of experience as arbitrator required
- ☐ area of expertise
- ☐ place of arbitration
- ☐ applicable law
- ☐ amount in dispute
- ☐ language
- ☐ availability
- ☐ diversity, including but not limited to racial, ethnic, cultural, generational, and gender

☐ **NATIONALITY, DOMICILE OR RESIDENCE OF PROSPECTIVE ARBITRATORS**

The Committee or Group is not limited to proposing only nationals of the Committee's country. If so communicated by the Secretariat, the prospective arbitrator may be domiciled or resident in the same country.

☐ **IMPARTIALITY AND INDEPENDENCE OF PROSPECTIVE ARBITRATORS**

The prospective arbitrator must provide an ICC Case Connect Profile or *curriculum vitae* and the Statement of Acceptance, Availability, Impartiality and Independence. If the prospective arbitrator has filed a qualified Statement, this needs to be discussed with the Secretariat.

☐ **AVAILABILITY OF PROSPECTIVE ARBITRATORS**

The availability section must be completed thoroughly and provide (i) the number of pending cases in which the prospective arbitrator is involved, and (ii) the dates on which he or she hascommitments already.

☐ **TIMING**

Committees and Groups should propose a prospective arbitrator within the deadline set forth in the Secretariat's letter requesting the proposal of an arbitrator (usually 7 days, or 4 days under the Expedited Procedures Provisions).

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