

# 北京仲裁委员会/北京国际仲裁中心 国际投资争端仲裁员行为守则

## Beijing Arbitration Commission/Beijing International Arbitration Center Code of Conduct for Arbitrators in International Investment Disputes

### 第一条：目的与宗旨

为规范国际投资争端仲裁员行为，特制定《北京仲裁委员会/北京国际仲裁中心国际投资争端仲裁员行为守则》（以下简称为“《行为守则》”）。

### Article 1 Purpose and Objective

The Beijing Arbitration Commission/Beijing International Arbitration Center Code of Conduct for Arbitrators in International Investment Disputes ('Code of Conduct') is formulated to regulate the conducts of arbitrators in international investment arbitration.

### 第二条：适用范围

1. 《行为守则》适用于担任北京仲裁委员会/北京国际仲裁中心（以下简称“本会”）受理的国际投资仲裁案件的仲裁员和本会受理的国际投资仲裁上诉案件的上诉庭成员。本会依据《联合国国际贸易法委员会仲裁规则》提供案件管理服务的，如果《联合国国际贸易法委员会仲裁规则》对仲裁员行为守则另有规定，从其规定。
2. 国际投资仲裁案件的其他参与者，包括但不限于仲裁庭秘书、仲裁庭指定的专家等，在必要时可参照适用《行为守则》。
3. 《行为守则》属于仲裁员道德准则，不是《北京仲裁委员会/北京国际仲裁中心国际投资仲裁规则》（以下简称《北仲投资仲裁规则》）的组成部分。

### Article 2 Scope of Application

1. The Code of Conduct applies to arbitrators in international investment arbitration cases submitted to the Beijing Arbitration Commission/Beijing International Arbitration Center ('BAC') and to members of the Appellate Tribunal in international investment arbitration appeals submitted to the BAC. In arbitration cases administered by the BAC under UNCITRAL Arbitration Rules, where the UNCITRAL Arbitration Rules provides otherwise with regard to the conduct of arbitrators, such rules shall prevail.

2. Where necessary, the Code of Conduct may be applied by reference to other participants in international investment arbitration cases, including but not limited to the secretary of the Arbitral Tribunal and expert(s) appointed by the Arbitral Tribunal.
3. The Code of Conduct provides for ethical standards for arbitrators; it does not form a part of the Beijing Arbitration Commission/Beijing International Arbitration Center Rules for International Investment Arbitration ('BAC/BIAC Investment Arbitration Rules').

### **第三条：履职要求**

1. 仲裁员在接受指定或选定时应确保具备公认的法律知识（特别是国际公法知识）、高尚的道德水准、必要的语言能力以及处理案件所需的充足时间。
2. 仲裁员应公正、公平、勤勉、高效地推进仲裁程序，并在规定的期限内尽速审结仲裁案件。
3. 仲裁员不得将案件的决策工作委托给他人。
4. 仲裁员应尽量避免同时在多起涉及相同当事人，或相同国际投资协定，或相同事实的仲裁案件中担任仲裁员、代理人、顾问、仲裁庭或法庭指定的专家、专家证人等。

### **Article 3 Performance of Duties**

1. Upon acceptance of nomination or appointment, arbitrators shall ensure that they have recognized competence in law(particularly knowledge of public international law), high moral character and necessary language skills, and having sufficient availability to determine the Dispute.
2. Arbitrators shall proceed the arbitration with impartiality, fairness, diligence and efficiency, and conclude the arbitration cases as expeditiously as possible within the specified time limit.
3. Arbitrators shall not delegate their decision-making function to any other person.
4. Arbitrators shall refrain from acting as arbitrator, representative, counsel, expert appointed by the arbitral tribunal or court or expert witness at the same time as they are acting on matters that involve the same Parties, the same international investment agreement, or the same facts.

### **第四条：独立性与公正性**

1. 仲裁员应始终保持独立性与公正性，不因任何私利、外界压力而影响仲裁案件审理的公正性。
2. 仲裁员在仲裁程序中应始终平等对待当事人，并避免作出可能给当事人造成不公平印象的行为。

#### **Article 4 Independence and Impartiality**

1. Arbitrators shall at all times remain independent and impartial, and shall not be influenced by self-interest or outside pressure.
2. Arbitrators shall treat the Parties with equality and shall avoid taking actions which might create an appearance of partiality in the eyes of the Parties throughout the arbitration proceedings.

#### **第五条：披露义务**

1. 仲裁员在接受指定或选定时，应书面披露可能导致对其公正性与独立性产生合理怀疑的任何事实或情形，包括但不限于：
  - ◆ 是本案的当事人、代理人或当事人、代理人的近亲属的；
  - ◆ 与本案结果有利害关系的；
  - ◆ 对于本案事先提供过咨询的，或为本案当事人推荐、介绍代理人的；
  - ◆ 担任过本案或与本案有关联的案件的证人、鉴定人、勘验人、辩护人、代理人的；
  - ◆ 与当事人或代理人有同事、代理、雇佣、顾问关系的；
  - ◆ 与当事人或代理人为共同权利人、共同义务人或有其他共同利益的；
  - ◆ 与当事人或代理人有较为密切的交谊或嫌怨关系的；
  - ◆ 在近五年内涉及当事人的其他案件的情形，包括但不限于在这些案件中担任仲裁员、代理人、顾问、仲裁庭或法庭指定的专家、专家证人等的情形；
  - ◆ 其他可能影响公正仲裁的情形。
2. 仲裁员在接受指定或选定时，基于当事人的要求，还应披露其公开发表的相关论著或演讲的清单。

3. 在仲裁过程中，如果发生可能导致对仲裁员的公平性与独立性产生合理怀疑的任何新事实或情形，仲裁员应立即予以书面披露；仲裁员未履行披露义务的，将视为违反《行为守则》，即使未予披露的事由本身并不构成不宜担任仲裁员的情形。

## **Article 5 Obligation of Disclosure**

1. Upon acceptance of nomination or appointment, arbitrators shall disclose in writing any facts or circumstances that may give rise to justifiable doubts as to their impartiality or independence, including but not limited to :
  - ♦ There is an identity between the arbitrator and a Party or its representative, or an identity between the arbitrator and the relative of a Party or its representative;
  - ♦ The arbitrator has an interest in the outcome of the arbitration case;
  - ♦ The arbitrator has provided consultation on the disputes of the present arbitration case prior to appointment or nomination, or the arbitrator has recommended or introduced representative to a Party;
  - ♦ The arbitrator has acted as witness, appraiser, inspector, defender or representative *ad litem* in the arbitration case or in other related cases;
  - ♦ The arbitrator has relationships of colleague, representation, engagement or consultation with a Party or its representative;
  - ♦ The arbitrator acts as a common obligee or obligor with a Party or its representative or has other common interests;
  - ♦ The arbitrator has relatively close friendship with or a grudge against a Party or its representative;
  - ♦ Other cases involving a Party within the past five years, including but not limited to serving as arbitrator, representative, counsel, expert or expert witness appointed by the arbitral tribunal or court in such cases;
  - ♦ A list of major publications and speeches by the arbitrator;
  - ♦ Other circumstances that may give rise to justifiable doubts to the fairness of the arbitration.
2. Upon acceptance of nomination or appointment, arbitrators shall disclose in writing a list of relevant publications and speeches by the arbitrator based on request of the parties.
3. Throughout the course of arbitration, if any new fact or circumstance that could give rise to justifiable doubts on the impartiality and independence of arbitrators arise, arbitrators shall immediately disclose in writing such new fact or circumstance; In the event of failure to disclose, arbitrators will be deemed to violate the Code of

Conduct, even if the undisclosed fact or circumstance by itself does not constitute a source which results in the inappropriateness of acting as an arbitrator.

#### **第六条：廉洁**

1. 仲裁员不得以任何直接或间接方式接受当事人或其代理人的请客、馈赠或提供的其他利益。
2. 仲裁员不得向仲裁庭成员、秘书或其他关涉案件的人员实施请客、馈赠或提供其他利益。

#### **Article 6 Anti-corruption**

1. Arbitrators shall not accept any treat, gift or benefit from any Party or its representative directly or indirectly.
2. Arbitrators shall not offer any treat, gift or benefit to the members of the arbitral tribunal, secretary or other persons involved in the arbitration case.

#### **第七条：保密**

1. 仲裁员对于仲裁案件负有保密义务，不得向外界透露案件事实、仲裁程序、仲裁裁决及当事人的商业秘密等。
2. 仲裁员在裁决或其他决定作出之前不得向当事人透露其裁决或决定的内容。
3. 仲裁员不得向外界及当事人透露仲裁庭的合议情况及其本人对案件的观点。

#### **Article 7 Confidentiality**

1. Arbitrators have an obligation to keep the confidentiality of the arbitration, and shall not disclose to the outside the facts of the arbitration case, arbitral proceedings, arbitral awards or commercial secrets of the Parties.
2. Arbitrators shall not disclose arbitral awards or other decisions to the Parties prior to their issuance.
3. Arbitrators shall not disclose to the Parties or the outside the deliberations of the arbitral tribunal or their own opinions regarding the case.

#### **第八条：交流**

1. 在被选定之前，仲裁员与一方当事人的交流应限于仲裁案件所涉争端的基本信息、当事人的名称以及解决争端所需的时间、语言及专业能力。
2. 在仲裁程序中，仲裁员不得私自会见任何一方当事人、代理人，接受其提供的证据材料；不得以任何直接或间接方式（包括但不限于谈话、电话、信件、传真、电传、电子邮件等方式）单独同一方当事人、代理人谈论有关仲裁案件的情况。

## **Article 8 Communications**

1. Prior to nomination, arbitrators may only engage in communication with a Party in respect of the general nature of the disputes, the names of the Parties, and the time, language and professional ability required for the resolution of dispute.
2. Throughout the course of arbitration, arbitrators shall not meet any Party or its representative or accept evidentiary materials offered by any Party or its representative in private; Arbitrators shall avoid any *ex part* communication with any Party or its representative directly or indirectly (including but not limited to conversation, telephone, letter, fax, telex, email, etc.).

## **第九条：仲裁费用**

1. 在本会受理的仲裁案件担任仲裁员的，仲裁员接受当事人选定或本会指定即被视为同意按照《北京仲裁委员会/北京国际仲裁中心国际投资仲裁规则附录一》计算及收取仲裁费用；非经本会同意，仲裁员不得与当事人就仲裁费用问题另作安排，也不得向当事人收取费用。
2. 在本会提供管理服务的仲裁案件担任仲裁员的，必要时，仲裁员应向本会提交与当事人之间达成的仲裁费用安排、详细的案件用时与费用清单以及相关单据。本会亦可以要求仲裁员就相关费用作出说明。
3. 仲裁员应尽可能避免任何不必要的开支。

## **Article 9 Costs of the Arbitration**

1. By accepting nomination or appointment in arbitration cases submitted to the BAC, arbitrators shall be deemed to agree to the fees pursuant to the Appendix A of the BAC/BIAC Investment Arbitration Rules; except where the BAC approves, arbitrators shall not make otherwise arrangements with the Parties for any additional fees, nor shall they charge the Parties any fees.
2. In arbitration cases where the BAC provides administrative service(s), if necessary, arbitrators shall submit the agreed arrangements with the Parties with regard to arbitration fees, detailed list of working time and list of arbitration expenses, and

relevant documents to the BAC. The BAC may also require arbitrators to make an explanation on the relevant fees or expenses.

3. Arbitrators shall avoid any unnecessary expenses as far as possible.

#### **第十条：本规则的遵守**

1. 仲裁员应严格遵守《行为守则》的规定。《行为守则》未作规定的，仲裁员应秉持最高水平的职业道德行事。
2. 本会《国际投资争端仲裁员名册》内的仲裁员违反《行为守则》的，本会将视情节考虑不予续聘直至解聘。

#### **Article 10 Compliance with the Code of Conduct**

1. Arbitrators shall strictly comply with the rules set forth in the Code of Conduct. In respect of matters not provided for in the Code of Conduct, arbitrators shall act in conformity with the highest level of professional ethics.
2. Where arbitrators on the BAC Panel of Arbitrators for International Investment Disputes have breached the Code of Conduct, the BAC may, depending on the circumstances, consider not renewing till dismissing the arbitrators.