
UNCITRAL Model Provisions on Mediation for International Investment Disputes

Provision 1

Availability and commencement of mediation

1. “Mediation” means a process, irrespective of the expression used or the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person or persons (the “mediator”) lacking the authority to impose a solution upon the parties to the dispute.
2. The parties should consider mediation to settle an international investment dispute amicably.
3. The parties may agree to engage in mediation at any time, including after the commencement of any other dispute resolution proceeding.
4. A party may invite the other party in writing to engage in mediation in accordance with provision 2 (the “invitation”).
5. The other party should make all reasonable efforts to accept or reject the invitation in writing within 30 days of receipt of the invitation. If the inviting party does not receive an acceptance within 60 days of receipt of the invitation, that party may elect to treat it as a rejection of the invitation.
6. The parties shall agree to conduct the mediation in accordance with these Provisions and:
 - (a) The United Nations Commission on International Trade Law (UNCITRAL) Mediation Rules;
 - (b) The International Centre for Settlement of Investment Disputes (ICSID) Mediation Rules;
 - (c) The International Bar Association (IBA) Rules for Investor-State Mediation; or
 - (d) Any other rules.
7. Unless provided otherwise in the rules agreed by the parties pursuant to paragraph 6:
 - (a) The mediation shall be deemed to have commenced on the day on which the other party accepts the invitation;
 - (b) The parties shall appoint a mediator within 30 days of the commencement of the mediation. If a mediator is not appointed within that period of time, the parties shall agree on an institution or a person that shall assist them in appointing a mediator; and
 - (c) The mediator shall convene a meeting with the parties within 15 days after the appointment, and the parties shall attend that meeting.
8. The parties may at any time agree to exclude or vary any of these Provisions.
9. Where any of these Provisions is in conflict with a provision of the law applicable to the mediation from which the parties cannot derogate, including any applicable instrument or court order, that provision of the law shall prevail.

Provision 2
Information required in an invitation

The invitation to engage in mediation referred to in provision 1, paragraph 4, shall contain at least the following information:

- (a) The name and contact details of the inviting party and its legal representative and, if the invitation is made by a legal person, the place of its incorporation;
- (b) Government agencies and entities that have been involved in the matters giving rise to the invitation;
- (c) A description of the basis of the dispute sufficient to identify the matters giving rise to the invitation; and
- (d) A description of any prior steps taken to resolve the dispute, including information on any pending claim.

Provision 3
Relationship with arbitration and other proceedings to resolve the dispute

1. Upon the commencement of the mediation, a party shall not initiate or continue any other proceeding to resolve the dispute until the mediation is terminated.
2. If the mediation commences while another proceeding to resolve the dispute is in progress, the parties shall request the suspension of that proceeding pursuant to the rules applicable to that proceeding.

Provision 4
Use of information in other proceedings

A party shall not rely in other proceedings on any positions taken, admissions or offers of settlement made or views expressed by the other party or the mediator during the mediation.

Provision 5
Settlement agreement

The parties should consider whether the settlement agreement resulting from mediation meets the requirements set forth in the United Nations Convention on International Settlement Agreements Resulting from Mediation.