

Written Submissions by the Parties

Slovenian Arbitration Conference

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Parties' Written Submissions

- Substantive Written Pleadings
 - Request for Arbitration/Answer to the Request for Arbitration
 - Statement of Claim (Memorial)/Statement of Defense (Counter-Memorial)
 - Reply/Rebuttal
 - Post-Hearing Briefs
- Procedural Pleadings
 - Submissions on Jurisdiction
 - Submissions on Interim Measures
- Other Communications with the Tribunal
 - Submissions on Organizational Issues
 - “Factual Updates”

Procedural Timetable

- Once constituted, the Tribunal prepares the procedural timetable in Procedural Order No. 1:
 - Place of hearings
 - Issues for determination
 - Bifurcation/trifurcation of the proceeding
 - Document production
 - Deadlines
- Tribunals generally prefer the Parties' agreement
- Experienced counsel can get a “good start” by obtaining the right procedure

Substantive Written Pleadings

- Request for Arbitration
- Statement of Claim
 - Relief Sought
 - Facts and Reasons Supporting the Claim
 - Witness Statements
 - Expert Reports
 - Exhibits
 - Legal Authorities
- Reply
 - Should be limited to points raised in the Statement of Defense
- Post-Hearing Briefs
 - Optional
 - Page Limit
 - Submitted Simultaneously

“Factual Updates”

- The Parties may wish/need to inform the Tribunal of factual developments outside of the procedural timetable
- Such submissions are very disturbing and require thorough justification
 - New or newly discovered facts
 - Minimum necessary scope
 - Consider a formal amendment of the claims
- The Parties should generally avoid flooding the tribunal with endless letters and complaints

Drafting Hints

- Write for the Tribunal, especially the Chairman
 - Background
 - Lawyer / Economist / Engineer...
 - Professor / Practice
 - Common law / Civil law
 - Knowledge
 - Law
 - Industry
 - Interaction among the members of the Tribunal
- Write concisely
 - Distill key facts
 - Always be specific
 - Rely on the best legal theories
 - Thoroughly structure the submissions
 - Use short, clear sentences
- The final submission should always be significantly shorter than the first draft. Such submissions are very disturbing and require thorough justification

THANK YOU FOR YOUR
ATTENTION!!!

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