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LEGAL & REGULATORY UPDATES, ANALYSIS AND COMMENTARY

Stages Of Arbitration Proceedings

In arbitration agreements, parties often designate a specific arbitral institution, such as the Bangladesh International Arbitration Centre (BIAC), to administer the proceedings. Where an institution is chosen, the arbitration is conducted in accordance with that institution's procedural rules (for example, the BIAC Rules).

However, **the arbitration agreements between GME and SBL do not designate any arbitral institution.** Consequently, **no institutional rules or procedures have been adopted or agreed upon by the parties,** and **no statutory framework mandates any fixed sequence of procedural stages** for this arbitration.

In the absence of any chosen institution or prescribed procedural rules, the **Arbitral Tribunal has full discretion** to determine the stages, timelines, and manner in which the proceedings will be conducted, guided by principles of fairness and efficiency.

To provide an indication of what may be expected, we may look to the **typical stages followed in ad hoc arbitrations,** which commonly serve as practical reference points. Given that the present arbitration between GME and SBL is already at the **framing of issues** stage, the stages outlined below will begin **from the framing of issues onward,** excluding pre-commencement or pre-trial steps.

- I. **Framing of Issues:** At this stage, the Tribunal identifies and formulates the specific unresolved questions that must be determined in order to render a final award. These "issues" represent the core points of dispute between the parties, and the Tribunal's findings on each issue ultimately determine whether the award will be made in favour of one party or the other. Throughout the evidentiary phase, the Tribunal examines the pleadings, submissions, and the relevant factual and legal materials to resolve the framed issues.
- II. **Scheduling of Peremptory Hearing:** Following the framing of issues, the Tribunal typically proceeds to fix a date for the Peremptory Hearing ("PH"). This hearing generally marks the commencement of the substantive evidentiary phase of the arbitration.

- III. **Opening Statements:** At the outset of the hearing, counsel for both the Claimant and the Respondent present their opening statements. These remarks provide the Tribunal with an overview of each party's case, the factual narrative they intend to establish, and the legal basis upon which they seek relief or defence.
- IV. **Examination, Cross-Examination, and Re-Examination of Witnesses:** The Tribunal then moves to the witness examination phase. This typically proceeds in the following sequence:
- A. **Examination-in-Chief:**
A party may call its witness to testify in support of its case. During examination-in-chief, the witness presents their evidence and affirms the contents of their witness statement (where applicable).
 - B. **Cross-Examination:**
The opposing party is then afforded the opportunity to question the witness. The purpose of cross-examination is to test the credibility, reliability, and accuracy of the witness's evidence.
 - C. **Re-Examination:**
After cross-examination, the party who called the witness may conduct a re-examination. This is limited to clarifying matters that arose during cross-examination or addressing any confusion or inconsistencies created during that process.
- V. **Argument:** Once the evidentiary phase is completed, the parties are invited to present their oral arguments. During this stage, counsel for each party addresses the Tribunal on the relevant facts and legal principles, relying on the documents, witness testimony, and other evidence tendered during the hearing. The purpose of oral arguments is to assist the Tribunal in understanding how each party's evidence supports its case and to persuade the Tribunal to adopt that party's position on the framed issues. This stage represents the parties' final opportunity to advocate their respective cases before the Tribunal.
- VI. **Deliberation and Issuance of Award:** After the conclusion of arguments, the Tribunal undertakes its deliberations. During this process, the Tribunal evaluates the evidence, applies the relevant legal principles, and reaches findings on the framed issues. Based on these determinations, the Tribunal renders its final award.

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