

II. SELECTION OF THE ARBITRATOR

Selecting the Arbitrator

After the Arbitral Tribunal has received the Notice of Arbitration, IFTA will transmit a copy of the Notice, a copy of the IFTA Rules, and a list of at least three proposed arbitrators to each of the parties named in the Notice. (IFTA Rule 6.1). The arbitrators are required to disclose any actual or potential conflicts of interest and each party has five business days to remove any unacceptable arbitrators from the list. (IFTA Rule 6.2). The parties will then rank the remaining arbitrators from most acceptable to least acceptable, and send the ranking back to the Arbitral Tribunal. (IFTA Rule 6.2). Then, within seven days from receipt of each party's list, or five days from the last day provided to the parties to return their lists (whichever is earlier) IFTA will select the arbitrator who has received the most favorable acceptance based on the combined rankings from those lists. (IFTA Rule 6.3). If any party fails to return the list, the Arbitral Agent will select the highest rated available arbitrator from the opposing party's list. (IFTA Rule 6.4).

Challenging Selection of the Arbitrator

Any prospective arbitrator must disclose any potential conflicts to the parties. (IFTA Rule 6.5). An arbitrator may be challenged if circumstances exist which create serious doubt regarding the arbitrator's impartiality or independence. (IFTA Rule 6.6). The challenging party has seven days after discovery of the facts creating the conflict to bring the challenge, but it must be brought prior to the issue of the final or tentative award. (IFTA Rule 6.6.1). Once a challenge is submitted, three options arise: 1) the opposing party may agree to the challenge and substitution of a new arbitrator; 2) the arbitrator may withdraw; 3) or the Arbitral Agent may determine that a sufficient issue exists to justify the appointment of a new arbitrator. (IFTA Rule 6.6.2). If a new arbitrator must be selected, the Arbitral Agent may, in its discretion, designate a new arbitrator or repeat the process listed above. (IFTA Rule 6.6.3). If the Arbitral Agent declines to exercise the option to replace the arbitrator, the arbitrator shall continue to serve for the dispute and the challenge is considered overruled. (6.6.4). This decision is final and the Arbitral Agent is not required to communicate its reasons to the parties. (IFTA Rule 6.6.7).