

Preliminary Actions of Tribunal on Arbitration Powers of Chairman

Introduction

Arbitration is a widely recognized alternative dispute resolution mechanism that enables parties to resolve disputes outside traditional court systems. The arbitral tribunal plays a central role in ensuring fairness, efficiency, and adherence to agreed procedures. Within the tribunal, the chairman (or presiding arbitrator) holds significant authority in guiding proceedings, especially during the preliminary stage.

This document examines the preliminary actions undertaken by an arbitral tribunal, with particular focus on the powers and responsibilities of the chairman.

Constitution of the Arbitral Tribunal

Before any preliminary actions can be taken, the tribunal must be properly constituted. This involves:

- Appointment of arbitrators by the parties or appointing authority
- Confirmation of independence and impartiality
- Disclosure of potential conflicts of interest

The chairman is typically selected either by agreement of the parties or by the co-arbitrators. Once appointed, the chairman assumes a leadership role in organizing the proceedings.

Preliminary Meeting and Procedural Directions

One of the first actions taken by the tribunal is the preliminary meeting (also called a case management conference). The chairman leads this process, which includes:

- Establishing procedural rules
- Determining the timetable for submissions and hearings
- Clarifying issues in dispute
- Discussing language, venue, and applicable law

The chairman ensures that both parties are treated equally and given a fair opportunity to present their case.

Determination of Jurisdiction

The tribunal must assess whether it has jurisdiction to hear the dispute. The chairman plays a key role in:

- Reviewing the arbitration agreement
- Considering objections to jurisdiction
- Issuing preliminary rulings where necessary

This step is critical, as proceedings cannot continue without proper jurisdiction.

Case Management Powers of the Chairman

The chairman exercises various case management powers to ensure efficiency and fairness, including:

- Setting deadlines and enforcing procedural timelines
- Deciding on document production and evidence submission
- Managing hearings and witness examination
- Encouraging settlement where appropriate

These powers are often derived from institutional rules or agreed procedural frameworks.

Interim Measures and Procedural Orders

During preliminary stages, the tribunal may issue interim measures to preserve rights or maintain the status quo. The chairman typically coordinates and may:

- Grant urgent interim relief (in some rules, subject to tribunal authority)
- Issue procedural orders on logistics and conduct
- Address confidentiality and document handling

Such actions ensure that the arbitration proceeds smoothly and without prejudice to either party.

Communication and Coordination

The chairman serves as the primary point of communication between the tribunal and the parties. Responsibilities include:

- Coordinating correspondence
- Ensuring transparency in communications

- Maintaining procedural integrity

Effective communication helps prevent misunderstandings and delays.

Ensuring Fairness and Due Process

A fundamental duty of the chairman is to uphold principles of natural justice, including:

- Equality of treatment
- Right to be heard
- Impartial decision-making

All preliminary actions must align with these principles to ensure enforceability of the final award.

Conclusion

The preliminary phase of arbitration is crucial in setting the foundation for an efficient and fair process. The chairman of the arbitral tribunal plays a pivotal role in organizing proceedings, determining jurisdiction, managing procedures, and safeguarding due process. Effective exercise of these powers ensures that arbitration remains a reliable and efficient method of dispute resolution.

References (Optional)

- UNCITRAL Model Law on International Commercial Arbitration
- ICC Arbitration Rules
- LCIA Arbitration Rules
- Relevant national arbitration legislation