

Preliminary Actions of Tribunal in Arbitration: Scheduling the Arbitration

1. Introduction

The preliminary phase of arbitration is critical in ensuring that proceedings are conducted efficiently, fairly, and without unnecessary delay. Once the arbitral tribunal is constituted, one of its primary responsibilities is to organize and schedule the arbitration process. Proper scheduling establishes the procedural framework and sets expectations for all parties involved.

2. Constitution of the Tribunal

Before any scheduling decisions are made, the tribunal must confirm its proper constitution. This includes:

- Verification of the appointment of arbitrators
- Disclosure of any conflicts of interest
- Acceptance of the mandate by each arbitrator

Once constituted, the tribunal assumes full authority over procedural matters, including scheduling.

3. Initial Communications with the Parties

The tribunal typically initiates contact with the parties to:

- Confirm receipt of relevant documents
- Establish preferred methods of communication (e.g., email, electronic platforms)
- Identify legal representatives and key contacts

This stage ensures clarity and avoids miscommunication throughout the proceedings.

4. Preliminary Meeting / Case Management Conference

A preliminary meeting—often referred to as a Case Management Conference (CMC)—is convened to discuss procedural and scheduling matters. Key issues addressed include:

- Timetable for submissions (statements of claim, defense, replies)
- Deadlines for document production
- Scheduling of hearings (if any)
- Procedural rules to be applied

The tribunal may consult institutional rules or adopt procedural guidelines tailored to the case.

5. Establishment of Procedural Timetable

One of the tribunal's most important tasks is to establish a procedural timetable. This typically includes:

- Dates for submission of written pleadings
- Timeframes for evidence submission
- Deadlines for witness statements and expert reports
- Hearing dates and duration

The timetable should balance efficiency with fairness, allowing parties adequate time to prepare their cases.

6. Procedural Orders

Following the preliminary meeting, the tribunal issues one or more procedural orders. These orders:

- Formalize the agreed or determined schedule
- Set out procedural rules governing the arbitration
- Address any specific issues raised by the parties

Procedural Order No. 1 is often the most comprehensive and serves as the roadmap for the arbitration.

7. Consideration of Logistical Arrangements

The tribunal must also address logistical aspects of scheduling, such as:

- Venue of hearings (physical or virtual)
- Time zones for international parties
- Language of proceedings
- Technology requirements for remote participation

These considerations are essential for smooth and inclusive proceedings.

8. Encouragement of Efficiency and Cooperation

Tribunals often encourage parties to cooperate in good faith to streamline the process. This may include:

- Agreeing on uncontested facts
- Narrowing issues in dispute
- Using joint experts where appropriate

Efficient scheduling reduces costs and expedites resolution.

9. Flexibility and Amendments to Schedule

While a procedural timetable is essential, the tribunal retains discretion to modify it if necessary. Adjustments may be required due to:

- Unforeseen circumstances
- Requests from parties
- Complexity of the case

Any amendments are typically formalized through additional procedural orders.

10. Conclusion

The preliminary actions of an arbitral tribunal in scheduling the arbitration lay the foundation for the entire process. Through careful planning, clear communication, and structured timelines, the tribunal ensures that the arbitration proceeds in an orderly, efficient, and fair manner. Effective scheduling not only enhances procedural integrity but also contributes to the timely resolution of disputes.