

APPENDIX 2 - PRAKAS ON THE ARBITRATION COUNCIL

99 MOSALVY
Phnom Penh, 21 April 2004

CHAPTER 1 COMPOSITION OF THE ARIBTRATION COUNCIL


Article 1 This Prakas establishes an Arbitration Council composed of at least 15 members pursuant to Article 317 of the Labor Law.

The Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation shall issue a Prakas appointing members of the Arbitration Council every year. The Prakas appointing Arbitration Council members each year shall be issued at least 14 days prior to the expiration of the term.-

Article 2 The term for members of the Arbitration Council shall be one year. Each member of the Arbitration Council shall be reappointed by Prakas each year unless:

- A. The member has died, resigned, or has otherwise become incapacitated from carrying out his or her duties as an arbitrator; or
- B. The member has been convicted of a criminal offence or has committed an act of misconduct with the effect that the member is no longer eligible for membership of the Arbitration Council under Article 6 of this Prakas; or
- C. The member has assumed an office referred to in Article 7 of this Prakas.

In case a member of the Arbitration Council is not reappointed for a reason set out in paragraphs A, B and C above then a new member shall be nominated by the same body as nominated the outgoing member, and that person shall be appointed in accordance with the procedure set out in this Prakas.



If at the end of a term a Prakas is not issued in accordance with Article 1 above, each member of the Arbitration Council shall be deemed to have been reappointed for a further term of one year.

Article 3 The membership of the Arbitration Council shall have the following components:

- A. One third nominated by the Ministry of Social Affairs Labor and Vocational Training and Youth Rehabilitation;
- B. One third nominated by employer associations that are full members of the Labor Advisory Committee;
- C. One third nominated by labor unions (federations) that are full members of the Labor Advisory Committee.

The members of the Arbitration Council shall be appointed in accordance with the above nominations.

Article 4 If the representatives of employer associations on the Labor Advisory Committee cannot reach consensus as to their nominations for membership of the Arbitration Council, each of the employer associations, which is fully represented in the Labor Advisory Committee, shall be entitled to submit an equal number of nominations.

Article 5 If the representatives of labor unions (federations) on the Labor Advisory Committee cannot reach consensus as to their nominations for membership of the Arbitration Council, each of the labor unions (federations), which is fully represented in the Labor Advisory Committee, shall be entitled to submit an equal number of nominations.

Article 6 The members of the Arbitration Council shall meet the following requirements:

A. All members shall:

- be at least 25 years old;
- be known for their moral qualities;
- possess relevant work experience of at least three years.

B. Members, appointed under Article 3 A, above shall:

- hold a Bachelor of Law degree or other equivalent legal qualifications;
- have a sound knowledge of the Labor Law and its implementing regulations.

C. Members, appointed under Article 3 B and C, above shall have:

- a sound knowledge of the Labor Law and its implementing regulations;
- at least one year's experience in labor issues or conflict resolution.

Article 7 Persons that cannot be appointed as a member of the Arbitration Council are:

A. civil servants of the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation;

B. an owner or manager of an enterprise which is member of an employer organization, or an office holder of an employer organization, or a person who used to hold such office during the past period of 12 months; or

C. a labor union member, or an office holder of a labor union, or a person who used to hold such office during the past period of 12 months.

Article 8 A member of the Arbitration Council shall be appointed without being discriminated against because of his nationality or other reasons as provided in Article 31, Paragraph two of the Constitution of the Kingdom of Cambodia.

Article 9 Notwithstanding the lapse of a member's term, that member shall continue to sit on any arbitration panel in which he or she has been chosen prior to the elapse of his or her term until an arbitral award is made or proceedings are discontinued.


Article 10 A member of the Arbitration Council who during his or her term dies, or becomes incapacitated or resigns his or her membership of the Arbitration Council; or who has been convicted of a criminal offence or has committed an act of misconduct with the effect that the member is no longer eligible for membership of the Arbitration Council under Article 6 of this Prakas; or who has assumed an office referred to in Article 7 of this Prakas, shall be replaced for the remaining period of that term. The new member shall be nominated by the same body as nominated the outgoing member, and be appointed in accordance with the procedure set out in this Prakas.

Article 11 The members of the Arbitration Council shall function in complete independence and within the scope of their authority as established in Article 312 of the Labor Law. No one shall give any instructions to the Arbitration Council or its members with regard to the settlement of disputes.

CHAPTER TWO Composition of Arbitration Panel

Article 12 Any collective dispute submitted to the Arbitration Council under Article 309 of the Labor Law shall be settled by an arbitration panel specially constituted for the consideration of that dispute. An award made by an arbitration panel shall be considered as an award of the Arbitration Council. An arbitration panel shall be composed of three members of the Arbitration Council, as follows:

- A. One member from the category indicated in Article 3 B, above, and chosen by the enterprise which is party to the dispute;

- 
-
- B. One member from the category indicated in Article 3 C, above, and chosen by the union or group of employees which is party to the dispute;
- C. One member, who shall chair the arbitration panel and chosen from the category indicated in Article 3 A, above by agreement between the two members above. In the case that the two members cannot reach an agreement as to the third member of the panel, this member shall be chosen by lot from the category indicated in Article 3 A.


Article 13 In the case that two or more enterprises are party to the dispute and they fail to reach agreement on the selection of a member, this member shall be chosen by lot. In the same way, in the case that two or more unions and/or groups of employees are party to the dispute and they fail to reach agreement on the selection of a member, this member shall be chosen by lot.

Article 14 In the case that an employee is required to attend a hearing of an arbitration panel during working hours, his or her employer shall allow him or her to do so without any negative effect on his or her existing work entitlements.

Article 15 A member of the arbitration panel shall recuse himself or herself from membership of the arbitration panel on which he or she has been chosen, if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence, including close personal or professional relationship with other members of an arbitration panel or with any of the parties, or direct personal or professional interest in the outcome of the case.


Article 16 The fact that a member of an arbitration panel does not recuse himself or herself if required under provision of Article 15 above, may be used as a reason for the implementation of provisions set out in Article 47 of this Prakas relating to the non-recognition of an award.

Article 17 If a member of an arbitration panel becomes de jure or de facto unable to perform his or her functions, a substitute arbitrator shall be chosen in accordance with Articles 12 and 13 above.



CHAPTER THREE
Arbitral Proceedings

- Article 18** The arbitration panel shall invite the parties to the dispute to make an oral presentation of their arguments before the arbitration panel and to submit documentation and any other useful information.
- Article 19** A party may appear before the arbitration panel in person, be represented by a lawyer who is a member of the Bar Association of the Kingdom of Cambodia, or be represented by any other person expressly authorized in writing by that party.
- Article 20** During the arbitration process, the parties to the dispute must abstain from any strikes or lockouts (as defined in Article 318 of the Labor Law), or any other action likely to aggravate the situation. The parties must attend all meetings to which the arbitration panel calls them.
- Article 21** In the case that one of the parties, although duly invited, fails to appear before the arbitration panel without showing good cause, the arbitration panel may proceed in the absence of that party or may terminate the arbitral proceedings by means of an award.
- Article 22** The office of the Arbitration Council shall be in Phnom Penh. However, the arbitration panel may meet at any other place in Cambodia it considers appropriate for consultation among its members, for hearing parties, witnesses or experts, for inspection of goods, other property or documents or for paying visits on site. In such cases, the arbitration panel shall inform the parties of the alternative location for its activities.
- Article 23** The language to be used during the arbitral proceedings shall be Khmer. Any party who wishes to address the arbitration panel in a language other than Khmer, or who calls a witness who does not speak Khmer, must bring a professional interpreter to the arbitration proceedings.



Article 24 The arbitration panel has the power to obtain information on the economic situation of the enterprises and the social situation of the employees involved in the dispute. It may conduct any inquiry with respect to enterprises or professional organizations and require the parties to present any document or economic, accounting, statistical, financial or administrative information that might be useful for the accomplishment of its mission. The arbitration panel may also solicit the assistance of experts.


Article 25 The arbitration panel shall be free to determine the admissibility, relevance, materiality and weight of evidence as well as the allocation of the burden of proof.

Article 26 The arbitration panel is authorized to examine witnesses as it deems appropriate. The arbitration panel shall determine the day, time and place of the examination of witnesses. All parties to a dispute shall be entitled to question the witnesses before the arbitration panel.

Article 27 All statements, documents or other information supplied to the arbitration panel by one party shall be communicated to the other party. Also, any expert report or evidentiary document on which the arbitration panel may rely in making its decisions shall be communicated to the parties. The arbitration panel shall have the authority to make appropriate rulings to safeguard the confidentiality of the information.

Article 28 Except as provided in Article 27 above, members of the arbitration panel must keep confidential the information and documents provided to them, as well as any facts that come to their attention while carrying out their duties.

Article 29 All meetings of the arbitration panel shall be held in closed session.



Article 30 The arbitration panel may invite the parties to the dispute one last time in order to help them to reach a settlement. This should not lead to an extension of the time limit given in Article 313 of the Labor Law, unless both parties agree to such an extension. Agreements made between the parties during the arbitration process may be made the subject of an arbitral award.

Article 31 The arbitration process shall take place in compliance with the Procedural Rules of the Arbitration Council, which form the Annex to this Prakas.


The Arbitration Council may make guidelines to facilitate the arbitration process. Such guidelines must not be inconsistent with the Labor Law, this Prakas or the Procedural Rules. The guidelines must be approved by all the members of the Arbitration Council. Alternatively if all members do not agree, the guidelines may be approved by an absolute majority of the members in each of the three categories indicated in Article 3 above.

CHAPTER FOUR **Jurisdiction and Remedies**

Article 32 The arbitration panel shall decide on any collective labor dispute that is referred to it in accordance with Article 309 of the Labor Law.

Article 33 The power of an arbitration panel to consider a dispute shall be limited to addressing those issues which are contained in the non-conciliation report including issues which are the direct consequences of the dispute but which arise from events subsequent to the date of the report.

Article 34 In matters referred to the arbitration panel, the panel shall have the power and authority to fully remedy any violation of provisions provided in the Labor Law, implementing regulations under the Labor Law, collective bargaining agreements or other obligations arising from the professional relationship between employer and employee. Within the limitations of the Labor Law and this Prakas, it has the power and authority to provide any civil remedy or relief which it deems just and fair, including:

- 
-
- A. orders to reinstate dismissed employees to their former or any other appropriate position;
 - B. orders to the immediate payment of back pay;
 - C. orders to cease immediately any industrial action which is being conducted by a party to the dispute;
 - D. orders to cease immediately any other illegal or prohibited conduct, including but not limited to retaliation;
 - E. orders to bargain;
 - F. orders following a settlement under Article 30 of this Prakas;
 - G. the establishment of terms for a collective bargaining agreement;
 - H. such other relief as is appropriate.

Article 35 The Arbitration Council may give notice about the award to the Department of the Labor Inspection or to the provincial/municipal offices of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation in order for these to assist in taking measures for the implementation of the award.

CHAPTER FIVE


Arbitral Award

Article 36 The arbitration panel shall attempt to reach consensus in its decisions. If consensus is not possible, the arbitration panel shall make its decisions by majority.

Article 37 The arbitration panel shall record its decisions in an award which shall be signed by all 3 arbitrators. If one of the arbitrators does not agree with the decision of the majority, the dissenting arbitrator may record his dissent as an annex to the award.

Article 38 Arbitral awards shall contain:

- A. the names of the three arbitrators;
- B. the name, domicile and seat or actual residence of the parties;
- C. a summary of the procedure;

- 
-
- D. a description of the claim and a description of the counterclaim, if any;
 - E. the reasons for the decisions given in the award with, where applicable, reference to relevant provisions in the Labor Law, its implementing regulations or collective bargaining agreements or individual labor contracts;
 - F. the decisions of the arbitration panel;
 - G. the date on which the award is made.

Article 39 Within 15 days of the date after which the case is received, the Arbitration Council shall report its award in writing to the Minister of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation, who shall immediately take action to notify the parties of it by providing them with a duly certified copy of the award. In cases where proceedings are terminated without an award, the Arbitration Council shall notify the Minister of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation that the proceedings have been terminated.

Article 40 Each of the parties may lodge an opposition to the arbitral award by informing the Minister of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation by registered letter or any other reliable means, within eight calendar days of notification. If the last day of this period is not a working day for civil government officials then the period shall be extended to include the next working day.

If either party to a dispute lodges such an opposition within the specified timeframe, the award shall be unenforceable. In this case, if the dispute is about a right relating to the application of a rule of law (for example, a provision of the Labor Law, of a collective bargaining agreement, or an arbitral award that takes the place of the collective bargaining agreement) the disputant party may bring the case before the court of competent jurisdiction for final resolution.

Article 41 If no opposition has been lodged within the specified timeframe as indicated in Article 40 above, the arbitral award shall become final, and the disputant parties shall be bound to implement it.

Article 42 Article 40 does not apply in case parties to the dispute have agreed in writing before the notification of the arbitral award, or they are bound to comply with a collective bargaining agreement stipulating, that no objection to the award shall be allowed. In such case the award shall become final and binding immediately after notification.


CHAPTER SIX

Awards Regarding Interest Disputes

Article 43 An arbitral award which settles an interest dispute takes the place of a collective bargaining agreement and shall remain in effect for one year from the date on which it becomes final unless the parties agree to make a new collective bargaining agreement replacing the award.

Article 44 Such an award shall still remain in effect after this one-year period, unless either party gives three-month advance notice to the other party that it no longer wishes to be bound by the award.

Article 45 When an arbitral award which takes the place of a collective bargaining agreement becomes final, it shall be filed and registered in accordance with procedures on collective bargaining agreements.




CHAPTER SEVEN
Enforcement

- Article 46** If the period for opposition has lapsed and one party refuses to abide by the award, the other party can request the competent court to recognize and enforce the award. The party requesting recognition and enforcement of the award shall provide to the court a duly certified copy of the award.
- Article 47** A party can only avoid the recognition and enforcement of a final and binding award if that party provides to the court proof that the award of the Arbitration Council was unjust on the grounds that:
- A. that party was not properly involved in the selection of arbitrators or was not given proper notice of the arbitral proceedings or was unfairly prevented from making a full presentation of his case;
 - B. there was non compliance with procedures indicated in the Labor Law or this Prakas in connection with the making of the award; or
 - C. the Arbitration Council rendered an award which went beyond the power given to it by the Labor Law and this Prakas.

CHAPTER EIGHT
Secretariat and Expenses

- Article 48** The Department of Labor Inspection of the Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation shall be responsible for the organization and functioning of the secretariat of the Arbitration Council.
- Article 49** In case of a non-Khmer speaking arbitrator, the body that nominated this arbitrator shall be responsible for the reasonable cost of translation and interpretation.



CHAPTER NINE
Calculation of “Days”

Article 50 Unless otherwise expressly stated, in articles of this Prakas the term 'days' means working days for civil government officials.

CHAPTER TEN
Transitional Provision

Article 51 In a transitional period, during the first, second and third terms of the Arbitration Council, all members of the Arbitration Council shall be appointed by the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation on the nomination of the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation after consultation with the ILO Labour Dispute Resolution Project.

CHAPTER ELEVEN
Repeal of Prakas #338 and Entry into Force

Article 52 The Prakas of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation No. 338 dated 11 December 2002 shall be declared null and void.

Article 53 This Prakas shall enter into effect on the date of the signature.

APPENDIX 3 - ARBITRATION COUNCIL PROCEDURAL RULES

UNDER
ARTICLE 31 OF THE PRAKAS ON THE ARBITRATION COUNCIL
(hereinafter, the Prakas)

Rule 1: The Secretariat of the Arbitration Council

1.1 The Secretariat of the Arbitration Council (the Secretariat) is the body constituted under Chapter 8 of the Prakas to administer and to facilitate the resolution of disputes by the Arbitration Council.


1.2 The address of the Secretariat is:

Secretariat of the Arbitration Council
Phnom Penh Center (A)
Sothearos Bld
Sangkat Tonle Basak
Khan Chamkar Morn
Phnom Penh

Changes of the address of the Secretariat shall be announced to the public.

1.3 Parties to any dispute brought before the Arbitration Council shall co-operate with the Secretariat in order to assist it in its functions and shall deal with any requests made to them by the Secretariat quickly and constructively.

1.4 The members of an arbitration panel and the parties shall communicate directly with each other only during a duly convened hearing of the arbitration panel. Any communication between the arbitration panel and the parties outside of a hearing shall take place through the Secretariat. The Secretariat shall take all reasonable measures to ensure that such communications reach their destination.


- 
-
- 1.5 The Secretariat shall be available to assist the parties with their queries concerning procedural aspects of the dispute and assist in clarifying issues arising out of the Prakas or of these Procedural Rules.

Rule 2: Initiating Arbitration

- 2.1 Where arbitration of the dispute is required under Article 309 c) of the Labor Law, each party shall, within 48 hours of the conclusion of the failed conciliation, advise the Secretariat, of its chosen arbitrator from the Arbitration Council to serve on the arbitration panel constituted under Article 12 of the Prakas.
- 2.2 In satisfying the requirements of Rule 2.1, a party may advise the conciliator, at the conclusion of the failed conciliation, of its chosen arbitrator. Where a party has so advised the conciliator of its chosen arbitrator for the arbitration panel, such choice of arbitrator shall be included in the report of non-conciliation provided to the Minister of Social Affairs, Labor, Vocational Training and Youth Rehabilitation under Article 308 of the Labor Law.
- 2.3 A party to any arbitration proceedings shall ensure that the Secretariat is informed of the address at which that party will accept notices and service of any documents in the proceedings as well as, if possible, a contact telephone number. Such information shall be provided at the earliest opportunity and, where possible, provided to the conciliator at the conclusion of the failed conciliation.

Rule 3: Selection of Arbitrators

- 3.1 The Secretariat shall make every effort to have all three arbitrators constituting an arbitration panel selected within three days after receipt of the report of non-conciliation by the Secretariat. The Secretariat shall take all measures to facilitate the selection of arbitrators in accordance with these Rules.

- 
-
- 3.2 When the Secretariat receives a report of non-conciliation under Article 308 of the Labor Law, the Secretariat shall immediately assign a unique file number to the dispute and enquire whether the parties have chosen arbitrators pursuant to Article 12 of the Prakas.
- 3.3 If a party has not chosen an arbitrator, or the chosen arbitrator is unavailable to perform his or her functions, then the Secretariat will assist in assuring that all parties have chosen an arbitrator in accordance with Chapter 2 of the Prakas.
- 3.4 In assisting the selection process under Rule 3.3, the Secretariat shall:
- (a) provide to an enterprise which is a party to a dispute the list of employer-nominated arbitrators on the Arbitration Council under Article 3B of the Prakas, from which the choice for arbitrator shall be made;
 - (b) provide to a union or group of workers which is a party to a dispute the list of union-nominated arbitrators on the Arbitration Council under Article 3C of the Prakas, from which the choice for arbitrator shall be made;
 - (c) conduct the selection of an arbitrator by lot where required under Article 13 of the Prakas.
- 3.5 Upon selection of the arbitrators from the lists under Article 3B and 3C of the Prakas ("the two arbitrators"), the Secretariat shall communicate with the two arbitrators in order to verify their availability. The Secretariat shall inform the two arbitrators of the file number and parties to the dispute. The two arbitrators shall inform the Secretariat if they are unavailable for any reasons, including legal reasons, such as conflicts of interest.
- 3.6 Where a chosen arbitrator is unavailable to serve on the arbitration panel, the Secretariat shall require the party which has chosen the arbitrator to make a further selection in accordance with these Rules.

3.7 Once the selection of the two arbitrators is complete, the two arbitrators shall confer to select an arbitrator from the list of arbitrators nominated by the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation under Article 3A of the Prakas ("the third arbitrator").

3.8 If the two arbitrators are able to agree on the choice of the third arbitrator, the two arbitrators shall communicate with the third arbitrator in order to verify his/her availability.


The two arbitrators shall inform the third arbitrator of the file number and parties to the dispute. The third arbitrator shall inform the two arbitrators if he or she is unavailable for any reasons, including legal reasons, such as conflicts of interest.

3.9 Once the selection of the third arbitrator is complete, the third arbitrator shall communicate the composition of the arbitration panel to the Secretariat including the file number, the parties to the dispute, and the date and time at which the third arbitrator verified his/her availability to sit on the arbitration panel in question. The Secretariat shall record these details and file them appropriately.

3.10 Where required under Article 12C of the Prakas, relating to the inability of the two arbitrators to agree on the identity of the third arbitrator, the Secretariat shall conduct the selection of the third arbitrator by lot. In such cases the Secretariat shall also take responsibility for verifying the availability of the third arbitrator.

3.11 Where a procedure for selection by lot is needed pursuant to the Prakas, and unless parties agree on a different lot procedure, such a lot procedure shall be as follows:

(a) a designated officer of the Secretariat shall write on a separate piece of paper the name of each of the arbitrators on the relevant list referred to in Article 3A, 3B, or 3C of the Prakas. The officer shall then gather these sheets of paper in an opaque container, and pick one of these sheets of paper at random, thus selecting the arbitrator.



(b) The parties to the dispute and any arbitrators already selected to sit on the arbitration panel shall be given notice of the conduct of the lot procedure and shall be entitled to be present for the conduct of the procedure.

3.12 For the purposes of these Rules, the selection of an arbitrator is complete when an arbitrator has been selected according to the mandated procedure and that arbitrator has confirmed his/her availability to sit on the arbitration panel for the dispute in question.


3.13 As soon as the selection of all three arbitrators is complete, the arbitration panel shall be considered as constituted. At the same time, the 15 day period referred to in Article 39 of the Prakas, during which the Arbitration Council must report its award, shall commence.


3.14 Where, following the constitution of the arbitration panel, a member of that panel becomes de jure or de facto unable to perform his or her functions, the Secretariat shall ensure that a substitute arbitrator is chosen pursuant to Article 17 of the Prakas, following the same procedure as the one established under these Rules.

Rule 4: Arbitration Proceedings

4.1 The members of the arbitration panel shall meet within three days following the constitution of the arbitration panel. Such meeting may be conducted by means of telephone. The arbitration panel shall inform the Secretariat of the holding of meeting and any decisions made at the meeting. Following instructions from the arbitration panel, the Secretariat shall notify the parties of a date and place at which they shall be required to appear before the arbitration panel.

4.2 In addition to oral presentation provided for in Article 18 of the Prakas, the arbitration panel may require the parties to specify their respective claims and answers in writing, in such terms.

- 
-
- 4.3 It shall be entirely within the power and competence of the arbitration panel to decide upon any matters related to the proper preparation of the dispute for hearing and regarding any aspect of the hearing.
- 4.4 The chairman of the arbitration panel shall record any direction, notification, advice or other such communication made by the arbitration panel during a hearing and shall provide the Secretariat with a copy of this record.
- 4.5 The arbitration panel may require a party to provide evidence in the form of witnesses, exhibits or documents. In addition, the panel may call experts to give evidence in relation to a dispute.
- 4.6 Parties are entitled to examine any evidence presented to the arbitration panel and to question any witnesses who give evidence to the arbitration panel.
- 4.7 If a party fails to appear in person or to be represented at arbitration proceedings, the arbitration panel may proceed in the absence of that party or may terminate the arbitration proceedings by means of an award. In either case, it must be satisfied that the parties have been properly notified of the date, time and venue of the arbitration proceedings before making such decision.
- 4.8 In making any decision concerning proceedings, including procedural disputes, the arbitration panel shall be guided by considerations of fairness, the cost-effective resolution of the dispute, and the need to resolve the dispute quickly.
- 4.9 Postponements of arbitration hearings are costly and undesirable. Postponements will only be granted by the arbitration panel where all parties to the arbitration agree such postponement.
- 4.10 Settlement through conciliation is always the desirable option and the parties at all times retain the right to settle on their own terms including during the course of the arbitration.

- 
-
- 4.11 The arbitration panel must keep record of:
- (b) any evidence given in an arbitration hearing; and
 - (c) any arbitration award or ruling made by the arbitration panel.

The record may be kept as handwritten notes or any other means including electronic recording.

All records of proceedings must be filed with the Secretariat.

Rule 5: Award

- 5.1 The arbitration panel must notify the Secretariat of its arbitral award within 15 days of the date of the initial constitution of the arbitration panel, unless the parties otherwise agree as provided under Article 30 of the Prakas and Rule 4.9 above. In cases where proceedings are terminated without an award, the arbitration panel shall notify the Secretariat that the proceedings have been terminated.
- 5.2 The arbitration panel shall present its award in writing to the Secretariat in the standardized form provided for by the Secretariat.
- 5.3 Following receipt of the arbitration award, the Secretariat shall immediately notify the parties by providing them with a duly certified copy of the award. This may be done by serving the award upon the parties at their respective addresses as provided to the Secretariat by them pursuant to Rule 2.3, above, or at the respective addresses of the representatives of the parties

Rule 6: Documents and other Communications relating to Arbitration Proceedings

- 6.1 For the purposes of any proceedings under Chapter XII, Section II of the Labor Law, or under the Prakas, where any person or party is required to serve documents upon or file documents with the Minister of Social Affairs, Labor, Vocational Training and Youth Rehabilitation, such service shall be achieved by duly delivering such documents to the Secretariat. This Rule also applies to a non-conciliation report under Article 308 of the Labor Law, and to an opposition under Article 40 of the Prakas.
- 6.2 For the purposes of any proceedings under Chapter XII, Section II of the Labor Law, or under the Prakas, where any person or party is required to serve or deliver a document, that party must be able to prove that service or delivery occurred. Acceptable methods for the service or delivery of a document include:
- (a) faxing a copy and keeping the fax transmission slip;
 - (b) sending it by courier and obtaining proof of receipt; and,
 - (c) delivery in person and obtaining proof of receipt.

This Rule also applies to an opposition to an award under Article 40 of the Prakas.

- 6.3 Because time is of the essence in the conduct of proceedings of the Arbitration Council, the use of telephone communications is encouraged among all persons involved, unless the Labor Law, the Prakas or these Rules specifically require written communication. In any case, proof of such communication may be required.
- 6.4 Any requirement in the Prakas or in these Rules that the Secretariat or arbitrators communicate with a party will be fulfilled if there is communication with the authorized representative of that party.

Rule 7: Amendments to these Procedural Rules

- 7.1 Where amendments to these Procedural Rules are needed, the Minister of Social Affairs, Labor, Vocational Training and Youth Rehabilitation shall make such amendments after consultation with the Arbitration Council.