

## Guidelines for GAFTA Appointment of Arbitrators

### 1. There Are Four Categories of Arbitrator

- Gafta Qualified Arbitrator under Rule number 125 and 126
- Gafta Qualified Arbitrator under Rule number 127
- Gafta Qualified Mediator under Rule number 128 (not dealt with under these Guidelines)

### 2. To become a Gafta qualified arbitrator, a Gafta member must comply with the General Eligibility and Qualification criteria as set out in the Rules and Code of Conduct for Qualified Arbitrators and Qualified Mediators, as amended from time to time.

### 3. Gafta will appoint an arbitrator in the following circumstances:

- To sit alone as a single arbitrator in a first tier arbitration hearing if either the parties agree on a sole arbitrator or if the Respondent is silent and the Claimant has suggested it
- To appoint an arbitrator on behalf of the Claimant on their request
- To appoint an arbitrator on behalf of the Respondent in accordance with Rule 3 of the Gafta 125 Arbitration Rules. The current appropriate fee is £125.00 (ex. VAT)
- To appoint an arbitrator as chairman of a first tier arbitration hearing
- To select a panel of 2 or 4 arbitrators and a chairman to act as a second tier appeal panel. Gafta qualified arbitrators may only sit on an appeal where their right to do so has been proposed and seconded at Gafta's Annual General Meeting ('AGM')

The following process will be used:

The Director General of Gafta ('Director General') shall recommend the appointment of an arbitrator to the Gafta Arbitration Team from a list of Qualified Arbitrators maintained by Gafta. In doing so, the Director General shall take into consideration the selection criteria as set out in these Guidelines. An up to date list of Qualified Arbitrators is available on the Gafta website at <http://www.gafta.com/Membership-Directory/arbitrators> or may be requested, from Gafta, at [arbitration@gafta.com](mailto:arbitration@gafta.com).

On receipt of the Director General's recommendation, the Arbitration Team shall promptly notify Gafta's Appointment Panel ('The Panel') to seek approval of the recommendation. The Panel consists of certain Current Officers and Past Presidents of Gafta. The composition of The Panel shall be notified to the Arbitration Team by the Director General in the January following Gafta's AGM.

The Panel shall use all reasonable endeavours to consider the Director General's recommendation within 48 hours of its receipt.

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If approval is not given, The Panel shall promptly provide within reasons to the Director General who, on receipt, shall recommend an alternative arbitrator(s) from the list (above). If approval is given, The Panel shall promptly notify the Arbitration Team who, on receipt, shall write to the nominated arbitrator(s) and invite them to accept the appointment.

The arbitrator must promptly and clearly accept the appointment in writing and confirm that, amongst other things:

- She/he is a current member of Gafta,
- She/he will comply with all relevant rules and regulations of Gafta, including without limitation the:
  1. General Rules and Regulations Applicable To All Members,
  2. General Code of Conduct Applicable To All Members,
  3. Rules And Code of Conduct For Qualified Arbitrators And Qualified Mediators (noting, in particular, the provisions relating to conflicts as set out in paragraph 6 therein),
  4. Arbitrators Expenses Guidelines
  5. Gafta Qualified Arbitrators Annual Continuing Professional Development Policy (CPD),
  6. She/he has the necessary time (including the ability to be readily available for hearings), capacity and experience so as to be able to properly discharge the responsibilities of an arbitrator,

The Arbitration Team will, for a period of 6 years following the Director General's recommendation, keep proper records of all proposed nominations, approvals, refusals and declinations to act, for internal monitoring and regulatory purposes.

#### 4. Selection Criteria For Arbitrators

Gafta does not operate a rota system. Rather appointments are considered on a case by case basis with the intention of selecting the most appropriate arbitrator for that case irrespective of that arbitrator's geographical location.

There is no guarantee of an appointment and there are a number of criteria that Gafta shall consider. Without limitation, Gafta shall use all reasonable endeavours to:

- Avoid nominating arbitrators where there is an actual or perceived conflict of interest. It is, however, the responsibility of both the parties to the dispute and the individual arbitrator(s) to inform Gafta immediately if they believe there is, or is likely to be, a conflict.
- Maintain impartiality by seeking to make, insofar as it is reasonably practicable to do so, as wide a range of arbitration appointments from the list of Qualified Arbitrators as is possible, and, in doing so, reflect the diversity of its membership by promoting representation from different age groups, ethnicities, nationalities and genders. In so far as age is concerned, it is Gafta's policy not to nominate and/or appoint an arbitrator over the age of 70, unless Gafta, in its absolute discretion, decides otherwise. In exercising its

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discretion, following an application by an affected Qualified Arbitrator, Gafta shall take into account a number of factors including, but not limited to whether:

- (1) The arbitrator has been appointed to a Gafta tribunal in the previous 12 months,
  - (2) Gafta have received any formal complaints about the individual, including from any other arbitrator, Gafta member or any party to any Gafta arbitration hearing and
  - (3) That the arbitrator has attended all necessary training as prescribed by Gafta. If Gafta exercises its discretion in favour of an individual, then Gafta shall review that decision annually but, in any event, the individual shall not be permitted to continue as a Gafta arbitrator beyond the age of 75.
- Ensure that any panel has a sufficient mix of trade knowledge and expertise and shall, where it is appropriate to do so, partner less experienced arbitrators with more experienced ones and vice versa,
  - Ensure that any arbitrator nominated has suitable experience so as to be able to effectively arbitrate the case in question. For the purposes of this sub-clause, experience includes, but is not limited to; trade knowledge and legal experience (including a good understanding of relevant English law), the ability to work cooperatively with any fellow arbitrator(s) appointed and, in those circumstances where the arbitrator has been previously appointed to arbitrate on a Gafta dispute, any bona fide, 'on the record', material comments received, by Gafta, from any other participant in the hearing, whether positive or negative.

This list is not exhaustive and Gafta reserves the right to amend its selection criteria at any time and without notice.

### 5. Special Circumstances

In exceptional circumstances, Gafta reserves the right to decline to nominate and/or appoint an arbitrator if, in its reasonable opinion, this could bring the reputation of Gafta into disrepute.

Jonathan Waters  
General Counsel  
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