

INTERNATIONAL RENEWABLE ENERGY AGENCY

Eighth meeting of the Council

Abu Dhabi, 3 – 4 November 2014

**Report of the Director-General
on the operation of the arbitration system for IRENA**

1. Staff Regulation 12.3 provides for the establishment of an independent judicial or arbitral mechanism to which staff members dissatisfied with the outcome of the internal appeal process set forth in Staff Rule 112.2, or with decisions imposing disciplinary measures, may present a recourse against the validity of the final decision taken by the Director-General. In order to give full effect to this provision, the Assembly, at its third session, adopted decision A/3/DC/7 on Administration of Justice at IRENA, in which it, inter alia, decided to establish an arbitration system for IRENA as described in the report of the Director-General on Administration of Justice at IRENA (document A/3/18), and requested the Director-General, after consultation with the staff representative body, to submit to the Assembly at its fifth session a report on the operation of the system and recommendations to address issues or concerns that may have been found in the process.
2. The present report is therefore submitted, following consultation with the staff representative body and in accordance with above-mentioned decision, for the consideration of the Council for further transmission to the Assembly taking into account the recommendations contained in paragraph 7 below.
3. The arbitration system established for IRENA is a self-administered system, governed by the IRENA Provisional Arbitration Rules set out in Annex 3 to the Director-General's report A/3/18 and adopted by the Assembly in its decision A/3/DC/7 (hereinafter, "the Rules"). Pursuant to Rule 33, the Rules are adopted as provisional until they are confirmed or finalized by the Assembly.
4. Since the establishment of the arbitration system in January 2013, the Secretariat has not received any request for arbitration from staff members in respect of decisions taken by the Director-General. Accordingly, to date, the Agency's system of administration of justice has not been tested and no issue or concern that would need to be addressed has been identified.
5. Notwithstanding the above, Rule 33(3) of the Provisional Rules of Arbitration requires the Director-General to draw to the attention of the Assembly every recommendation or comment by an Arbitrator on the need for amendment of the Rules. In this respect, an Arbitrator pointed out an inconsistency in the wording of the Provisional Rules of Arbitration where Rules 14(1) and 15(1) refer to Rule 4(3) while no such rule is contained in the text adopted by the Assembly in decision A/3/DC/7. Accordingly, it would be appropriate to make a technical amendment to Rules 14(1) and 15(1) to the effect of removing such cross-reference.

6. Pursuant to Rule 33(2), amendments to the Provisional Rules of Arbitration require the approval of the Assembly. Therefore, the Director-General submits to the Council for the consideration of the Assembly a proposal to amend Rules 14(1) and 15(1) as follows (proposed amendments in bold and strikethrough):

Rule 14(1)

~~“Unless the claimant has elected to treat the notice of arbitration as a statement of claim pursuant to Rule 4.3, he or she~~**The claimant** shall transmit a statement of claim in writing to the Secretary within the period of time defined by the timetable established by the arbitrator in accordance with rule 13.2.”

Rule 15(1)

~~“Within 30 days of the receipt of the statement of claim or notice from claimant that the notice of arbitration is to be treated as a statement of claim pursuant to Rule 4.3, the respondent shall~~ communicate its answer in writing to the Secretary.”

7. Based on the above, the Council may wish to:

- a. consider the present report;
- b. recommend to the Assembly that it approves the amendments proposed to Rules 14(1) and 15(1) of the Provisional Rules of Arbitration; and
- c. recommend to the Assembly that it requests the Director-General, after consultation with the staff representative body, to submit to the Assembly at its seventh session a report on the operation of the system and recommendations to address issues or concerns that may have been found in the process, including any recommendation or comment by an arbitrator on the need for amendment of the Rules.