

Rule 5: Appointment of the Mediator

- (a) Where both the parties consent to follow BIAC Mediation Rules and agree on nomination of a Mediator from the BIAC's Panel of Mediators or elsewhere, and the proposed Mediator has expressed willingness in writing, the party/ parties will notify BIAC. The mediation shall then proceed in accordance with these Rules
- (b) Where the parties have selected a Mediator who is not on the Panel of Mediators of BIAC, the selected Mediator has to agree, in writing, to observe the BIAC Mediation Rules, *mutatis mutandis*, as well as the BIAC Code of Conduct for Mediators.
- (c) If the parties fail to agree to appoint a Mediator within the time stipulated in Rule 4, and inform BIAC accordingly, or where the Court directs that the Mediation be conducted under the BIAC Mediation Rules with a Mediator to be selected by BIAC, the Chief Executive of BIAC shall appoint a Mediator who is prepared to serve and is not disqualified under Rule 7.
- (d) For appointment of a Mediator by the Chief Executive of BIAC, the following procedure shall be followed:
 - (i) the Chief Executive of BIAC shall select and communicate to the parties a list of three names from the BIAC Panel of Mediators, along with their addresses, nationalities and a description of qualifications and experience;
 - (ii) within 7 days following the receipt of the list, a party may strike off the names to which it objects, and return the list to BIAC;
 - (iii) on receipt of the lists returned by the parties, the Chief Executive of BIAC, shall appoint the Mediator from among those in the list whose names have not been struck off by either party.
 - (iv) if, for any reason, the appointment cannot be made according to the above procedure, the Chief Executive of BIAC shall call the parties to a meeting and through

discussions with them appoint the Mediator from the Panel of Mediators failing which she/he shall appoint a Mediator excluding the persons who have been indicated to be unacceptable to either party.

- (e) Upon receipt of the information for appointment of a Mediator, the Chief Executive of BIAC shall make the appointment of the Mediator as promptly as possible having regard to:
 - (i) any qualifications and/or attributes required of the Mediator specified in the contract or other agreement between the parties;
 - (ii) appropriate professional or business experience and ability of the Mediator;
 - (iii) such other considerations as are likely to secure the appointment of an independent and impartial Mediator;
 - (iv) availability of the Mediator for prompt and efficient determination of the dispute.
- (f) A decision by the Chief Executive of BIAC with respect to the appointment of a Mediator shall be treated as final and binding on the parties.
- (g) The parties by agreement may nominate more than one Mediator request BIAC to appoint more than one Mediator, in or accordance with the Rules. In appropriate circumstances BIAC may propose that there be more than one Mediator, and, if so agreed by the Parties, appoint more than one Mediator.
- (h) A Mediator, if required to be substituted/replaced, will be appointed in the same manner in which his/her predecessor had been appointed.
- (i) Unless otherwise agreed by the parties, a person of any nationality may be appointed as a Mediator.