

## **DECLARATION ON THE ESTABLISHMENT OF RUSSIAN ARBITRATION ASSOCIATION**

This Declaration is a preliminary and general position paper presenting the ideas, approaches, and principles proposed at this phase by the initiators of a Russian Arbitration Association (the "RAA" or the "Association") to be institutionalized in its constituent documents and followed in its subsequent activities.

### **1. MISSION**

1. The principal mission of the Association will be to promote arbitration (including both arbitration in general and international commercial arbitration in particular) in the Russian Federation and other CIS countries, to make Russia a popular place for arbitration, and to support Russian arbitrators at national and international levels within the context of arbitration, as well as foreign arbitrators having an interest in arbitration related directly or indirectly to Russia.

### **2. MEMBERSHIP**

- 2.1 The collective members of the RAA may include law firms and other Russian and foreign entities interested in the advancement of arbitration. Although in the most occasions law firms represent their clients in arbitration and not themselves law firms objectively have the greatest vested interest in existence of an independent, transparent, and efficient mechanism for resolving disputes via arbitration. Relying on their domestic and international experience, law firms and other collective members of the Association will create a mechanism for resolving disputes matching the standards of internationally recognized arbitration centers.
- 2.2 Collective members will have an authority to take decisions on the most important matters concerned with RAA activities, including, in particular, the following:
  - 2.2.1 approval of the RAA Charter and other documents;
  - 2.2.2 elections to the governing bodies of the RAA, among them the Arbitrator Nominating Committee; and
  - 2.2.3 issues relating to RAA strategic planning and development.
- 2.3 Membership is open to law firms and the other entities specified in Clause 2.1 above. Any law firm or other entity may join the RAA as a collective member if it recognizes the purposes and objectives of the Association and has paid its membership fee.
- 2.4 Any individuals, including both Russian and foreign, may join the RAA as associated members.
- 2.5 The associated members of the RAA will be entitled to receive information about its activities, to enjoy discounts on fees for participation in RAA-sponsored conferences and other events, to have information about themselves posted on the RAA website, and to enjoy such other benefits as may be granted by the Board.
- 2.6 Admission fees for would-be members are suggested to be set in the following amounts:
  - a. for collective members: RUR 15,000 [USD 500, 00];
  - b. for associated members: RUR 1,500; [USD 50, 00] and
  - c. for students and post-graduate students: no fee.
- 2.7 The RAA Board will determine the amount of annual membership fee.

### **3. RAA ARBITRATION RULES AND FUNCTIONS**

- 3.1 One of the primary goals of the RAA will be to create an up-to-date and efficient mechanism for resolving disputes via arbitration.
- 3.2 It is proposed to administer arbitrations on the basis of the UNCITRAL Arbitration Rules, with certain modifications as will be provided by RAA Rules for Administration of Disputes under the UNCITRAL Arbitration Rules (the "RAA Rules on Administration of Disputes").
- 3.3 Based on an arbitration agreement of the parties, the RAA will perform the following functions of a competent authority as specified by Article 6 of the UNCITRAL Arbitration Rules :
  - 3.4.1 assist the parties in constituting of an arbitral tribunal;
  - 3.4.2 consider challenges filed; and
  - 3.4.3 administer financial part of arbitration (arbitrators' fees and RAA administrative costs)..
- 3.4 The arbitral proceedings themselves, including, without limitation, taking decision as to the choice of the place for arbitration and the venue for the hearings, the resolution of other procedural matters, exchanges of correspondence, and the making of awards, thus will fall within the competence of a particular arbitral tribunal elected (or appointed).
- 3.5 The RAA will also provide the parties and the arbitrators with administrative support in organizing the arbitral proceedings, including, in particular, the maintenance of a relevant database and providing information about premises for hearings, experts, interpreters, stenographers, etc. (see the UNCITRAL Notes on Organizing Arbitral Proceedings - New York, May 28, 1996 - June 14, 1996).

### **4. ARBITRATOR DATABASE**

- 4.1 One function of the RAA will be keeping a public database of arbitrators.
- 4.2 The database of arbitrators will be created by a decision of the Board on the basis of appropriate requests filed by collective or associated members of the RAA and matching the applicable criteria established by the RAA Board.
- 4.3 The arbitrator database will enable any interested person to find arbitrators potentially available based on the criteria specified.
- 4.4 The database of arbitrators will not be binding on the parties or the Nominating Committee; they will be entitled to nominate or appoint as arbitrators persons that are not in the RAA arbitrator database.

### **5. ARBITRATOR APPOINTMENT BY RAA**

- 5.1 Experience shows that parties to the dispute, in most cases, themselves constitute the arbitral tribunal.
- 5.2 Where they are unable to do so (by failing to choose the sole arbitrator or the arbitral tribunal's presiding arbitrator), the arbitrators will be appointed by the RAA in accordance with the procedure to be laid down in the RAA Rules on Administration of Disputes.
- 5.3 Appointment also may be done on behalf of the party that failed to appoint an arbitrator.

### **6. ARBITRATOR NOMINATING COMMITTEE**

6.1 The committee for nominating arbitrators (the "Nominating Committee") will be elected for a term of three years by the collective members of the RAA to consist of seven members in accordance with the voting procedure established in the RAA Charter.

## **7. BOARD**

8. The RAA Board will be elected for a term of four years from among representatives of the RAA collective members to consist of eleven members in accordance with the voting procedure established in the RAA Charter.

7.1 The Board will elect the Chairman of the Board and two Deputy Chairmen of the RAA from among the Board's own members.

7.2 No Board member may serve on the Nominating Committee.

## **9. GENERAL SECRETARY**

8.1 The General Secretary of the Association will be appointed by the Board to serve for a term of four years.

8.2 The General Secretary of the Association will be its chief executive officer, will exercise direction over its day-to-day work, and will represent the RAA in its relations with third persons.

8.3 The General Secretary will be paid a fee in the amount to be determined by the Board proceeding from the Association's budget.

## **10. AVOIDING CONFLICT OF INTEREST**

9.1 The Nominating Committee may not nominate (or appoint as an arbitrator) any Board member, its own member, or the General Secretary of the Association.

9.2 The General Secretary of the Association may not participate in any RAA-administered arbitrations in any capacity, except for the performance of General Secretary's functions in accordance with the RAA Charter and the Rules on Administration of Disputes.

9.3 Neither any member of the Nominating Committee nor any member of the Board will be entitled to receive any information and make any decision within their authority provided by this Declaration, the RAA Charter, and the RAA Rules on Administration of Disputes in any cases in which such persons themselves or their law firms are involved in any capacity or in which such persons' own clients or their law firms' clients (or those clients' affiliates) have any participation.

9.4 Members of the Nominating Committee and members of the Board will be under the obligation to promptly advise the General Secretary of the RAA of their possible interest in or dependence on any party to an RAA-administered dispute.