

ARTICLE 24

DISPUTE RESOLUTION PROCESS

- 24.1 The following matters shall be arbitrated pursuant to this Article:
- (a) matters specifically designated in other articles of this Agreement for resolution by arbitration under this Article; and
 - (b) where Makivik and Government agree to be bound by an arbitration decision, any other matters arising from this Agreement including, without limiting the generality of the foregoing, any matter concerning the interpretation, application or implementation of this Agreement.
- 24.2 No arbitration decision made pursuant to this Article may alter, amend, delete or substitute any provision of this Agreement in any manner.
- 24.3 An arbitration shall be initiated by a party to a dispute serving written notice to the other party to the dispute, which notice shall set out the nature of the dispute, a summary of the facts, describe the issue to be arbitrated, name an arbitrator and describe the relief sought.
- 24.4 Within 30 days of receipt of a notice referred to in section 24.3, the other party to the dispute shall reply to the notice, naming its arbitrator and describing any relief sought.
- 24.5 The two arbitrators named under sections 24.3 and 24.4 shall agree upon a third arbitrator. Failing such agreement, the third arbitrator shall be appointed by a judge pursuant to the *Arbitration Act*, R.S.N.W.T. 1988, c. A-5 as duplicated for Nunavut by s.29 of the *Nunavut Act*, S.C. 1993, c.28, and in such case the judge may appoint any person as the judge thinks fit.
- 24.6 The arbitrators may, on application, allow any person to participate, on such terms as the arbitrators in their discretion may order, in an arbitration as an intervener, if in their opinion the interest of that person may be affected by the arbitration.
- 24.7 The arbitrators shall have jurisdiction, after hearing the parties to the arbitration, to determine all questions of fact and procedure, including the method of giving evidence, and to make an award, including interim relief, payment of interest, and costs; but no costs shall be awarded against Makivik in any arbitration within paragraph 24.1 (b) where the arbitrators uphold the position of Makivik.
- 24.8 It is intended that the process of arbitration established by this Article will resolve disputes submitted to it in an informal and expeditious manner.

- 24.9 The arbitrators shall proceed to arbitrate a dispute within 45 days of the agreement on, or the appointment of, the third arbitrator or within such longer period as the parties to the arbitration may agree.
- 24.10 If the arbitrators make no decision as to costs, each party to an arbitration shall bear its own costs and its proportionate share of the other costs of the arbitration, including the remuneration and expenses of the arbitrators.
- 24.11 In the absence of a majority decision, the decision of the third arbitrator referred to in section 24.5 shall prevail.
- 24.12 The decision of the arbitrators shall be final and binding on the parties to the arbitration and shall not be subject to appeal or review in any court except that the decision may be reviewed by the Nunavut Court of Justice on the grounds that the arbitrators erred in law or exceeded or refused to exercise their jurisdiction.
- 24.13 The *Arbitration Act*, R.S.N.W.T. 1988, c. A-5 as duplicated for Nunavut by s.29 of the *Nunavut Act*, S.C. 1993, c.28 shall apply to any arbitration to the extent that it is not inconsistent with this Article.
- 24.14 Makivik and Government shall maintain a public record of arbitration decisions.
- 24.15 Where a party to an arbitration has failed to comply with any of the terms of an arbitration decision, any party to the arbitration may file in the office of the Registrar of the Nunavut Court of Justice, a copy of the decision, exclusive of the reasons therefore, in the prescribed form, whereupon the decision shall be entered in the same way as a judgement or order of that court and is enforceable as such.
- 24.16 A party to an arbitration may request from the Nunavut Court of Justice, either before or during arbitral proceedings, an interim measure of protection and the Court may grant such a measure.
- 24.17 Unless otherwise specified in an arbitration decision, the effective date of the decision is the date on which it is released in writing. The decision shall be released with reasons.
- 24.18 Except in respect of disputes arbitrated under these provisions, nothing in these provisions affects the jurisdiction of any court.