

Note: The Council approved the following Staff Rules on 3 November 2022, with the exception of Rule 8, which text is omitted. The Parties have committed to continue to consultations with a view to advancing consensus and finalizing Rule 8 as soon as feasible.

**AGREEMENT
ON ENVIRONMENTAL COOPERATION
COMMISSION FOR ENVIRONMENTAL COOPERATION
STAFF RULES**

SECTION I: GENERAL PROVISIONS

Rule 1: Definitions

In these Rules:

"Agreement" or **"ECA"** means the Agreement on Environmental Cooperation among the Governments of Canada, the United Mexican States, and the United States of America, which entered into force on 1 July 2020, and superseded the North American Agreement on Environmental Cooperation ("NAAEC");

"Commission" means the Commission for Environmental Cooperation, referred to in Article 2 of the ECA;

"Council" means the Council of the Commission, referred to in Article 3 of the ECA;

"Director" means a member of the Secretariat staff whose position is so designated by the Executive Director;

"Employees" means the staff and the Executive Director of the Secretariat of the Commission;

"General Staff" means members of the Commission staff who provide administrative, secretarial, clerical and technical support, as well as specialized technical functions such as project coordination and meeting services;

"Headquarters Agreement" means the Headquarters Agreement Between the Government of Canada and the Commission for Environmental Cooperation, dated 5 October 2020;

"Parties" means the Parties to the ECA;

"Professional staff" means members of the Commission staff whose positions are so designated by the Executive Director based on an accepted and formal methodology such as the United Nations list of professions.

"Secretariat" means the Secretariat of the Commission, as referred to Article 5 of the ECA; and

"Staff" means all employees of the Secretariat including regular, temporary, and interim staff, but does not include the Executive Director.

"Trade Agreement" means the Agreement between the United States of America, the United Mexican States, and Canada, commonly referred to as USMCA, CUSMA, T-MEC or ACEUM in force as of 1 July 2020.

Rule 2: Scope

- 2.1 These Rules apply to the staff of the Commission. The Commission was originally established under the 1994 North American Agreement on Environmental Cooperation (NAAEC) and continues to operate under the Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America (ECA), which entered into force on 1 July 2020.
- 2.2 Upon adoption by the Council, these Rules will replace any former version. All existing and future terms and conditions of employment, working relationships, and rights and responsibilities of the employees in the service of the Commission will be governed by these Rules.
- 2.3 These Rules also apply to the Executive Director and will be read in conjunction with his or her terms and conditions of employment as established by the Council. In the event of any inconsistency, the terms and conditions established by the Council will prevail to the extent of the inconsistency.

SECTION II: DUTIES, OBLIGATIONS AND PRIVILEGES

Rule 3: Authority of the Executive Director

- 3.1 Staff will be supervised by and accountable to, and have their powers and duties regulated by, the Executive Director, who has the authority to appoint and supervise the staff, regulate their powers and duties, fix their remuneration and set out the terms and conditions of staff employment contracts as set forth in Rule 12. The Executive Director may also delegate some of these functions following managerial and delegation practices.
- 3.2 The Executive Director may designate a member of the staff to act on his or her behalf when necessary. Likewise, the Executive Director may also designate a representative to represent the Commission in legal proceedings.

- 3.3 In the event the position of Executive Director is vacant, or the Executive Director is unable to appoint a member of staff to serve on his or her behalf pursuant to Rule 3.2, the Council shall designate a member of the staff to serve as acting Executive Director.

Rule 4: Accountability of Executive Director

The Executive Director is accountable only to the Council.

Rule 5: Standards of Conduct

- 5.1 The responsibilities of employees are international in character. Employees will carry out their duties and regulate their conduct bearing in mind the interests of the Commission. Employees will at all times conduct themselves in a manner befitting the international nature of their responsibilities. They will exercise loyalty, discretion, and tact in the performance of their duties. They will avoid any action, and in particular any kind of public statement, which may adversely reflect on the Commission or their status as employees, or on the integrity, independence, and impartiality required by that status.
- 5.2 Employees will not seek or receive instructions from any government or any other authority external to the Council.
- 5.3 The Secretariat will provide an equal opportunity working environment free of discrimination and harassment and ensure that the workplace complies with the Secretariat's Policy and Procedures on a Respectful and Discrimination/Harassment-Free Work Environment initially adopted on 30 April 2020. Every employee has the responsibility to maintain appropriate conduct and ensure that harassment or disrespectful behavior do not occur. All employees will exhibit respect, integrity, cooperation, and attentiveness when working with others. If any employee witnesses behavior which they feel violates this policy, they should report it in accordance with the Secretariat's Policy and Procedures on a Respectful and Discrimination/Harassment-Free Work Environment. A staff member alleging discrimination or harassment must report this behavior pursuant to Section 6 of the above-mentioned policy. Any other alleged unjust or improper action must be resolved in accordance with Section 36.
- 5.4 Employees may not accept or solicit gifts that are given because of their official positions or that come from certain interested sources that are either seeking to do business with the Commission or are affected by the employees' official duties or by the Commission's decisions. These include:
- (a) any money; or
 - (b) any gift, honorarium, commission, reward, advantage or benefit, not including those accepted or offered occasionally of a value of less than 50 Canadian dollars or its equivalent in US dollars or Mexican pesos.

Gifts, honoraria, commissions, rewards, advantages or benefits include goods or services, alcohol, reduced prices for goods or services, work done gratuitously with respect to personal

property, preferred treatment of any sort in a business enterprise, and loans of money, material or equipment of any kind.

- 5.5 Employees will have no employment other than with the Commission during their term of employment, except as provided under this Rule. When duly authorized by the Executive Director in the case of the staff, and by the Council in the case of the Executive Director, an employee may undertake other employment, volunteering, or work, provided that it does not interfere or conflict with the work of the Commission or the employee's duties and responsibilities.
- 5.6 Employees will not engage in any activity of any business, governmental entity, labor union, environmental or conservation or other nongovernmental organization, or other entity that presents a conflict of interest with respect to their duties and responsibilities.
 - 5.6.1 Employees will not be associated in the management of, have a financial interest in, or seek employment with any entity if, by virtue of their employment with the Commission, they may benefit from such association or interest.
 - 5.6.2 Staff will advise the Executive Director in writing of any real or potential conflict between their official duties and any outside activity, association, or interest. Failure to do so may constitute grounds for disciplinary action, including dismissal. The Executive Director will define the appropriate actions, ensuring impartiality of its decision and without causing harm to the Commission.
 - 5.6.3 Where an employee has a real or potential conflict related to such activity, association or interest, the employee will discontinue the activity or association, and dispose of the interest, unless the Executive Director decides otherwise.
 - 5.6.4 The Executive Director will advise the Council in writing of any real or potential conflict between his or her official duties and any outside activity, association, or interest. The Council shall determine the appropriate actions, guaranteeing impartiality and without prejudice to the Commission, in the case of the Executive Director.
- 5.7. Employees will be careful with the content they share on their social media accounts where they identify themselves as an employee of the CEC and which are focused primarily on professional activities. Employees will be particularly careful not to engage in communications that may not be consistent with CEC positions or work or engage on topics which may undermine the CEC's work or the Parties' positions on matters in which the CEC is involved. Employees will act in a manner consistent with the CEC digital media policy.
- 5.8 Employees are responsible for maintaining a safe and healthy workplace for everyone by following health and safety rules and practices as well as reporting accidents, injuries, unsafe equipment, practices, or conditions.

Rule 6: Confidentiality

- 6.1 As per ECA Articles 15.3 and 16.1, employees shall protect from disclosure any information that could identify a person making a submission (the submitter) under Article 24.27 of the Trade Agreement if that person so requests or the Secretariat otherwise considers it appropriate. Employees shall also protect from disclosure: any information that the submitter has identified as confidential; any it receives from any person where the information is designated by the person as confidential or proprietary; any information it receives from a Party, including in connection with the Submissions on Enforcement Matters process under the Environment Chapter of the Trade Agreement, if the Party has determined that disclosure of the information would impede its law enforcement, compromise personal privacy, or reveal confidential business or proprietary information or the confidentiality of governmental decision-making; any other information that should be safeguarded in accordance with the Council or Joint Public Advisory Committee (JPAC) Rules of Procedure; and any information so designated by the Executive Director or by the Secretariat internal procedures. (“Confidential Information”).
- 6.2 Employees shall not disclose or use Confidential Information acquired in the course of their employment during their period of employment or at any time thereafter, unless duly authorized or unless such information is in the public domain at the time of such disclosure or use. Authorization to disclose or use confidential information shall only be granted by the Executive Director in the case of the staff and by the Council in the case of the Executive Director.
- 6.3 Employees shall comply with such rules and procedures as the Council may adopt regarding the disclosure and use of Confidential Information and materials of the Commission.
- 6.4 Employees shall sign a declaration regarding disclosure and use of Confidential Information prior to the commencement of employment with the Commission.

Rule 7: Intellectual Property of the Commission

All rights, including title, copyright and patent rights, in any work produced by employees in the course of their employment will be vested in or assigned to the Commission. Such rights may be waived or released by the Executive Director in the case of a staff member and by the Council in the case of the Executive Director.

Rule 8: Privileges and Immunities

[The final text of Rule 8 was still subject to negotiations by the Parties at the time of approval of these Staff Rules].

SECTION III: RECRUITMENT AND APPOINTMENT

Rule 9: Executive Director

In accordance with ECA Article 5, the Secretariat shall be headed by an Executive Director, chosen by the Council for a three-year term, which may be renewed by the Council. The Parties will endeavor to rotate the position of Executive Director consecutively between the nationals of each Party.

Rule 10: Staff

In accordance with ECA Article 5, the Executive Director shall appoint and supervise the staff and regulate their powers and duties, and fix their remuneration in accordance with these Rules, including the following general standards:

- (a) Staff shall be appointed and retained, and their conditions of employment shall be determined, strictly on the basis of efficiency, competence, and integrity;
- (b) due regard shall be paid to the importance of recruiting a diverse pool of applicants, including with respect to gender balance, and an equitable proportion of the professional staff from among the nationals of each Party; and
- (c) any further general standards such as salary scales established by the Council.

Rule 11: Council Oversight of Staff Appointments

The Executive Director will inform the Council of all staff appointments two weeks prior to making a formal offer of employment, excluding internal general staff reassignments, staff promotions and staff interim and temporary positions. The Council may decide, by a two-thirds vote, to reject any appointment that does not meet the general standards set out in Rule 10. Any such decision will be made and held in confidence.

Rule 12: Offer of Employment

Each prospective staff member will receive an offer of employment stating:

- (a) the nature of the appointment, including the duties of the position and its title;
- (b) the date of appointment;
- (c) the duration of appointment, either on a fixed term or a continuing basis;
- (d) the relevant category, level, initial salary, scale of increments, any allowances and provision for relocation expenses, if applicable;

- (e) any special terms and conditions;
- (f) that appointment and employment are subject to these Rules as amended from time to time; and
- (g) that the appointment is only valid if accepted within a specified period.

Rule 13: Rules to be Issued to the Staff

With the offer of employment, prospective staff members will receive a copy of these Rules. On acceptance of the offer, they must indicate in writing to the Executive Director that they are familiar with these Rules and agree to abide by them.

Rule 14: Temporary Staff

The Executive Director may hire temporary staff as necessary, provided the number of temporary and regular staff, excluding those on leave, do not exceed the number of staff positions approved by the Council. Temporary staff will be subject to the terms and conditions of their employment contract in accordance with these Rules, as applicable.

SECTION IV: HOURS OF WORK

Rule 15: Work Week

- 15.1 The normal work week for staff will be 37 1/2 hours Monday through Friday and the normal workday will be 7 1/2 hours, exclusive of a lunch period. The Executive Director may grant a compressed or flexible work schedule when compatible with the operational requirements of the Secretariat.
- 15.2 The Executive Director may allow teleworking in accordance with internal policies, provided there is no conflict with the employee's duties and that the employee establishes an appropriate environment for the purposes of work. In extraordinary circumstances the Executive Director may require and enable the staff to telework.

Rule 16: Overtime and Compensatory Leave

Compensatory leave for staff may be approved if the Executive Director, or his or her designee, determines that staff members are required to work beyond the normal workday to carry out their duties. In such cases, staff are entitled to compensatory leave at a rate of 1.5 hours for every pre-approved additional hour worked. In unusual circumstances, the Executive Director may approve overtime pay for general staff in lieu of compensatory leave for time beyond the normal work week at a rate of 150% of regular pay.

SECTION V: SALARIES AND REMUNERATION

Rule 17: Salary Scale and Remuneration

The Executive Director shall fix the remuneration of the staff in accordance with the general standards set out in Rule 10, the salary scale approved by the Council, and the budget. The remuneration of the staff will be paid in Canadian dollars.

Rule 18: Adjustments and Increments

The Council may approve an updated salary scale after a review on its own initiative or on the recommendation of the Executive Director. As part of the budgeting process, the salary scale may be adjusted annually following the Consumer Price Index as established by Statistics Canada. Increments within the salary scale for a position may be awarded on the basis of satisfactory annual performance and the Consumer Price Index, but no more than once a year and in accordance with the approved annual budget.

Rule 19: Performance Appraisal

The Executive Director is responsible for ensuring that all staff receive annual performance appraisals, which will help determine in an objective and integral manner, the professional behavior, competencies, performance, and productivity of staff.

Rule 20: Promotions

Subject to Rule 19, the Executive Director may authorize the promotion of staff on the basis of a significantly increased level of responsibility and the results of annual performance appraisals.

SECTION VI: LEAVE

Rule 21: Vacation Leave

- 21.1 Employees will earn vacation leave at the rate of 20 days per year of employment, accruing monthly.
- 21.2 Vacation leave is to be taken in the financial year in which it is earned. In other circumstances and with the prior approval of the Executive Director, earned but unused vacation leave may be carried over from one year to another by staff up to a maximum of 10 days. Any unused vacation days will be paid upon employment termination.
- 21.3 The Executive Director, or his or her designee, will authorize vacation leave so as to minimize disruption of normal staff operations and the functioning of the Secretariat and take into account the personal circumstances, needs and preferences of the staff.

21.4 Vacation leave may be taken in one or more periods.

Rule 22: Special Leave

Employees may enjoy three days special leave for marriage or civil union; five days for bereavement purposes; or, following approval of the Executive Director, up to five days annually for emergency situations. The Executive Director may also approve paid or unpaid administrative leave, in appropriate circumstances.

Rule 23: Home Leave

- 23.1 Home leave will be granted once for each full term of appointment for the Executive Director and all professional staff who, at the moment of hiring were not residing at the place of business of the Commission or in a radius of 100 km from that place of business inside Canada, provided the term is for at least 24 months and that at least one year of the full term has been served. This rule will apply for no more than three contract terms.
- 23.2 The schedule for home leave for professional staff will be subject to the approval of the Executive Director.
- 23.3 Transportation expenses will be paid for the Executive Director, Secretariat professional staff and their spouses and dependent children at rates limited to the least expensive fare in Economy Class.
- 23.4 Official time will be provided to employees for travel related to home leave but only in an amount not to exceed the time required for direct travel from Commission to home.
- 23.5 For the purpose of this Rule, “home” means the place within Canada, the United Mexican States, or the United States of America that the incumbent designates as their home with a significant connection within their country of origin before being hired or appointed.

Rule 24: Sick Leave

- 24.1 Employees will earn sick leave credits at the rate of 1 1/4 days per calendar month during the period of employment and will be granted paid sick leave not exceeding their sick leave credits. Unused sick leave credits will accumulate from year to year.
- 24.2 Staff must submit medical certificates for any period of sick leave in excess of three consecutive working days or in excess of 5 days in a period of 30 days.

Rule 25: Maternity, Paternity, and Parental Leave

Human Resources will administer maternity, paternity, and parental leave requests for every staff member in accordance with the following:

- 25.1.1 An employee is entitled to maternity leave which shall begin no earlier than sixteen (16) weeks before the expected date of delivery and will terminate no later than twenty (20) weeks after the week of the delivery. The maximum length of a maternity leave is eighteen (18) weeks, and it can start either before or after the child is born. A medical certificate and a written application must be submitted to Human Resources at least six (6) weeks before the expected delivery date or as soon as possible. The employee will also have to advise Human Resources in writing at least three weeks before they stop working.
- 25.1.2 An employee is entitled to a paternity leave for a maximum of five (5) consecutive weeks after the birth of the child. The leave may not begin before the week of the birth of the child and may not end later than seventy-eight (78) weeks after the birth of the child. A paternity leave application must be submitted to Human Resources six (6) weeks before such leave will commence or as soon as possible.
- 25.1.3 An employee is entitled to parental leave which will take place for a maximum of sixty-five (65) continuous weeks in the year following either (a) the day the child is born, or (b) the day the child comes into the employee's actual care and custody. Under the Quebec Parental Insurance Plan (*Régime québécois d'assurance parentale*, QPIP), either one parent may take all the parental leave or both parents may share the parental leave. A parental leave cannot exceed sixty-five (65) weeks within seven-eight (78) weeks after the birth or adoption of the child. A parental leave application must be submitted to Human Resources six (6) weeks before such leave will commence.
- 25.2 The Secretariat will pay staff a maternity and/or paternity and/or parental allowance equivalent to ninety (90) per cent of net salary. If staff is enrolled in the QPIP the gross amount of QPIP benefits will be deducted from this allowance. During maternity, paternity, or parental leave, staff must continue to pay for selected group insurance coverage (medical, dental, life, and long-term disability). Maternity, paternity, and parental benefits are conditioned on staff remaining in the Secretariat's employment for a period of at least six (6) months after returning to work. Should staff fail to return to work for the required six (6) month period, staff will be indebted to the Secretariat for the amounts received as maternity, paternity, or parental leave allowances. At the expiration of the leave, the employee will be reinstated to the position prior to the commencement of the leave or where this is not possible, to a comparable position with the same wages, benefits, and level of responsibility.
- 25.3 An employee who has experienced a miscarriage or abortion is entitled to the following:
- (a) If a termination of pregnancy occurs before the start of the 20th week of pregnancy, the employee has the right to be absent for up to 3 weeks, without pay. The absence can be extended if a medical certificate justifies it;
 - (b) If a termination of pregnancy occurs from the 20th week of pregnancy or later, the employee is entitled to maternity leave of eighteen (18) weeks in accordance with 25.1.1;
 - (c) The employee must provide a medical certificate regarding the miscarriage or abortion.

Rule 26: Family Responsibility Leave

The Executive Director will approve unpaid family responsibility leave for serious illness or serious accident of a family member of up to twelve (12) months and up to 104 weeks in case of serious illness or potentially fatal illness of minor child, for all staff who have completed at least six (6) months of continuous employment. At the expiration of the leave, the employee will be reinstated to the position prior to the commencement of the leave or where this is not possible, to a comparable position with the same wages, benefits and level of responsibility.

Rule 27: Holidays

The Executive Director, or his or her designee, will designate 11 days in a financial year as paid holidays.

Rule 28: Benefits During Leave

- 28.1 Paid leave will not interrupt continuity of service for the purpose of calculating vacation leave and severance pay. Time spent on such leave will be counted for pay increment purposes. During such leave, the Commission and the staff member will continue to pay their respective shares of pension and benefit plans.
- 28.2 The Commission and the employee may continue their respective contributions to employee benefit plans as appropriate during periods of unpaid leave. In exceptional circumstances, staff members may accrue other credits or benefits during periods of unpaid leave at the discretion of the Executive Director .

SECTION VII: SOCIAL SECURITY**Rule 29: Health Care Expenses**

The Executive Director will facilitate arrangements for health care insurance for all employees, their spouses, and dependents. The Executive Director will ensure that provision is made in the budget for the payment of the Commission's share of the costs of such insurance. Employees must pay their share and any additional costs for extra benefits. Should an employee decline coverage offered by the Commission insurer, they must offer proof of other coverage

Rule 30: Retirement and Insurance Benefits

The Executive Director will make arrangements to ensure that eligible employees are covered by appropriate retirement savings, life insurance, medical expenses, and long-term disability plans.

SECTION VIII: TRAVEL

Rule 31: Official Travel

- 31.1 Official travel will be undertaken only if authorized in advance by the Executive Director, or his or her designee, and only for activities directly related to the Commission's work.
- 31.2 Payment for official travel expenses will be based on documented expenditures for accommodation, meals, economy class transport fares and related expenditures.

SECTION IX: SEPARATION FROM SERVICE

Rule 32: Resignation

Employees should provide in writing at least four (4) weeks' notice of their effective date of resignation. Notice of lesser length may be approved by the Executive Director in the case of staff, and by the Council in the case of the Executive Director.

Rule 33: Termination of Appointments

In accordance with Rules 3 and 10, if the Executive Director decides to terminate an employment contract for reasons other than for cause, he or she will advise the Council no less than two weeks prior to providing the staff member with at least four (4) weeks' notice of their termination in writing. The Council may decide by a two-thirds vote to reject any such termination.

Rule 34: Discipline and Failure to Perform

- 34.1 Employees must conduct themselves in accordance with these Staff Rules. Any failure to adhere to these rules could result in a disciplinary action, including reprimand, suspension, or termination. Discipline is generally imposed in a progressive manner, but a particularly egregious action which violates any of these rules could result in immediate suspension or termination. Any disciplinary action must be taken in writing with notice to staff and an opportunity to respond, if appropriate.
- 34.2 In accordance with Rule 19, if at any time the Executive Director or the person responsible for supervising considers that a staff member is not providing satisfactory performance, the staff member will receive a progressive series of warnings that performance must improve to a satisfactory level. The first is oral counselling, followed by a formal written warning if performance does not improve to a satisfactory level. If performance continues at an unacceptable level, a staff member will receive a second formal written warning. If after the second formal written warning, the staff member's performance does not improve to a satisfactory standard, the Executive Director may terminate the appointment of the staff

member by providing four (4) weeks' notice of their termination in writing, subject to prior notification to the Council.

34.3 The Council may remove the Executive Director solely for cause.

34.4 Any Council decision under this Rule will be made and held in confidence.

Rule 35: Severance Pay

35.1 In the event of termination of service for reasons other than cause, staff members will have a minimum compensation of two (2) weeks of current salary for every year of service with the Secretariat, net of statutory deductions, and limited to a maximum of twelve (12) weeks.

35.2 Severance pay in the event of dismissal of staff solely for cause will be provided at the discretion of the Executive Director on a case-by-case basis and in any event is not to exceed twelve (12) weeks of current salary.

SECTION X: AVENUES FOR CONFLICT RESOLUTION

Rule 36: Procedures

36.1 Subject to 36.1.2, in the event of a report of an alleged unjust or improper action arising out of or in relation to an interpretation, application or administration of these Staff Rules, the parties involved will first attempt to resolve the matter in good faith through collaboration. Any proceeding under this section will be confidential.

36.1.1 A report under Rule 36.1 must be brought to the attention of the Human Resources coordinator, or other designated official, within thirty (30) days of the circumstances giving rise to the report. If a solution cannot be reached within fifteen (15) working days from the date on which a staff member has first provided notification of the claim, and the Human Resources coordinator provides written notice to the staff member that a resolution has not been reached, the matter will be referred to the mediation stage under Rule 36.2.

36.1.2 Any behavior described under the Policy and Procedures on a Respectful and Discrimination/Harassment-Free Work Environment, initially adopted on 30 April 2020, will be addressed under its Reporting and Resolution Process. A report filed by an employee under the above-cited policy must occur within 30 days of the circumstances that have given rise to the report, but the Secretariat will give due consideration to any reasonable argument if an employee could not comply with this requirement. If the process does not lead to a mutually acceptable resolution of the matter, an employee may seek redress by proceeding to the mediation stage under Rule 36.2.

36.2 Mediation is a process under which the involved persons submit their dispute to an outside mediator consented by both parties and retained by the Secretariat. The mediator will work to

achieve a mutually acceptable resolution of the matter in accordance with these rules. The mediator is not empowered to impose a solution regarding the matter, but all parties agree to engage in the mediation in good faith. The Secretariat will then inform the staff member in writing that a solution has been reached, within ten (10) working days of the mediator's notice. In the event that the mediation does not lead to a resolution of the matter, the mediator will inform the staff member and the Secretariat and provide any other recommendations as appropriate.

- 36.3 If the staff member wishes to continue the process, he or she must prepare a written notice, including the specific basis of the claim and the specific remedy requested, within fifteen (15) working days from the date of the Secretariat's notice under rule 36.2. This written notice must be provided to the Executive Director, who will issue a written decision on the matter based on an administrative review of the claim. If the claim is against the Executive Director, the head of the administrative unit, after notification to the Council, will issue the written decision. If the written decision does not resolve the matter, a staff member may request arbitration under Rule 37 in writing, with notice to the Secretariat, within ten (10) working days of receiving the written decision.

Rule 37: Arbitration

- 37.1 If an employee has requested arbitration under Rule 36.3, both parties will consent to an arbitrator proposed from any list maintained by the Secretariat within 15 working days. The arbitrator will be retained by the Secretariat.
- 37.2 The rules of procedure of the arbitration will be determined by the arbitrator and must meet minimum standards of due process. The arbitrator must promptly schedule a hearing, at which the parties will be given the opportunity to present evidence, including documents and witnesses to support their positions. In cases where there are no facts in dispute, the parties may agree to submit the case to the arbitrator on the basis of written submissions and arguments, without the necessity of a hearing. On request, the Executive Director may provide relevant information to the complainant, taking into account the privacy of others.
- 37.3 The arbitrator will resolve any claim in accordance with the ECA and these Rules, and to the extent it does not conflict with the Headquarters Agreement with Canada, any agreement pursuant to Rule 8.2, the Memorandum of Understanding with Quebec, and international law.
- 37.4 The arbitrator will communicate the decision to the parties to the complaint, the Executive Director and any other individual whose actions are the subject of the complaint within twenty-one (21) days from the last day of the hearing or, if no hearing is held, within twenty-one (21) days after receipt of written submissions. The decision will be in writing and will be final and binding upon the parties to the complaint.
- 37.5 The Commission will bear the expenses of the arbitrator, including any translation needs. Complainants will bear the expenses of their own representation. Complainants will be given reasonable time during working hours to prepare for and attend any hearing.

SECTION XI: FINAL PROVISIONS

Rule 38: Interpretation and Relation to the ECA

These Rules will be read in conjunction with the ECA. In the event of any inconsistency between these Rules and the ECA, the ECA shall prevail to the extent of the inconsistency.

Rule 39: Amendments

The Executive Director may propose amendments to these Rules to the Council. Only the Council may amend these Rules.

Rule 40: Authentic Texts

The English, French, and Spanish texts of these Rules are equally authentic.