**Preparation Tool for Resolution Facilitation**

[ ] ***Did you know?*** *Almost a third of disputes appealed to the Sport Dispute Resolution Centre of Canada are resolved before arbitration, by mutual consent of the parties who often find a “win-win” solution, simply by discussing openly in a setting that is confidential and without prejudice.*

**General Procedure:**

Resolution Facilitation at the Sport Dispute Resolution Centre of Canada normally takes place via telephone conference. The Resolution Facilitator (RF) will conduct the session with the aim of helping the parties to clarify the nature of their dispute, to identify solution pathways, and to discuss the various options available to them. The RF has no authority to rule on the dispute, nor to determine who is right and who is wrong. In order to accomplish this task, the RF may ask to have private conversations with one or more of the parties. These private discussions are called caucuses. These private meetings are excellent opportunities to share with the Facilitator any feelings, worries, or information that you may not be comfortable (at least at this point in the process) sharing with the other parties.

**Preliminary Brainwork**

In order to properly prepare for the Resolution Facilitation session, we invite you to reflect upon the questions in the table below, and to write out the information which could become helpful to have on hand during your participation in the session.

**The Aftermath of the Facilitation**

Confidentiality in the Resolution Facilitation is essential so that the parties can be open and honest during the session. You and the other parties agree not to disclose any information obtained during the discussions to any persons not involved in the session, unless given express consent by the party whose information is being disclosed. By way of taking part, you commit to respect that confidentiality.

The non-prejudicial nature of the Resolution Facilitation means that the information that is disclosed by a party during the session, including any settlement offers made by that party, cannot be used against that party in any subsequent arbitration proceedings, in the event that parties failed to reach a mutual agreement.

As an alternative to providing the possibility to settle the dispute completely, the Resolution Facilitation affords the parties the opportunity to come to an agreement on a set of facts. This accelerates the arbitration by allowing the arbitrator to focus purely on the aspects of the dispute that still divide the parties.

[ ]  ***Note: This tool may be equally useful for parties preparing for a mediation process.***

**Resolution Facilitation Preparation Grid**

In the grid below, record as much information as comes to mind before the session. Keep this grid on hand during the session to fill in any missing information especially in the right-hand column which refers to information about the other party(ies). During the session, do not hesitate to also add on your side of the grid any ideas or thoughts, as they may arise while in caucus with the RF or while listening to what the other party has to say.

| **Me** |  | **Other Party(ies):**  |
| --- | --- | --- |
| **Expectations:** What do I hope to get from the other party?           |  | **Expectations:** What do I think the other party hopes to get from me?       |
| **Motives:** Why is it important for me to meet my expectations?      |  | **Motives:** Why is the other party reluctant to meet my expectations?       |
| **Alternatives to arbitration**: To the extent that arbitration does not guarantee my desired outcome, are there other ways for me to fulfil at least some of my expectations?     Can any of my expectations be addressed by other means that do not require consent from the other party?     Am I seeking any benefits that even an arbitrator could not award?       |  | **Alternatives to arbitration**: Does the other party have the power to grant me any advantages or privileges that could satisfy some of my expectations?     Does the other party have the power or authority to take measures that will be unfavorable to me and against which I would have no recourse?     Are there any possible consequences to the arbitration that the other party would want to avoid?      |
| **Priorities**: Among the expectations, solutions or alternatives considered above, which are the most important to me if I cannot obtain everything I hope to get?      |  | **Priorities**: In my opinion, what are the priorities of the other party in the resolution of this matter?      |
| **Relationship with the other party:** What are the possible consequences for me if my relationship with the other party deteriorates?      |  | **Relationship with the other party:** What are the possible consequences for the other party if its relationship with me deteriorates?      |
| **Common goals:** Which of my objectives am I convinced that the other party would support (if they were aware of them)?      |  | **Common goals**: Of the other party’s objectives, which do I agree with or which also meet my goals?      |
| **Undisputed facts:** Are there any other statements or declarations which I have not made until now but with which the other party would certainly agree?      |  | **Undisputed facts:** In documents or communications provided by the other party, what are the statements or declarations with which I agree?      |

|  |  |
| --- | --- |
| consultation on policies | TIPS DURING THE SESSION:* Avoid expressing or making judgements against the other party;
* Do not interrupt (take notes to remember your thoughts until it is your turn to speak);
* Pay particular attention to what the other party says;
* Without being forced to agree with the other party, at least try to understand its position;
* Request a caucus with the RF when you are unsure, have a question or wonder whether or not you can or should share certain information;
* Confirm any elements or statements brought up by the other party with which you agree;
* Have the relevant and necessary documents on hand;
* Be aware of the difference between your wants and your real needs;
* Be open to negotiate, rather than to argue.
 |

**Search for Realistic and Sustainable Solutions**

|  |  |  |
| --- | --- | --- |
| **Possible solutions:** What could the other party offer me that would satisfy my most important needs?      |  | **Objective assessment:** Is it realistic / fair for me to expect that the other party will give me everything I ask for?      Does the other party have the means to do so?     Do these solutions have any undesirable side effects that I may not have considered?      |
| **My chances of success:** Do I have all the evidence the arbitrator needs to decide in my favor?      Is it wise for me to accept a settlement that addresses only some of my expectations, rather than risk losing everything in arbitration?      |  | **Counterpart:** What am I willing to concede to the other party to increase my chances that one or more of my proposed solutions will be accepted?      |

**Others:** Use the space below to record any other thoughts that did not fit in the grid, such as questions you want to remember to ask of the other party or the RF.