

Specimen Redfern schedule and drafting note

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Standard documents | Maintained | International

A specimen Redfern schedule as used to create a record of requests for disclosure of documents in international arbitration.

SPECIMEN REDFERN SCHEDULE

General document notes

The Redfern schedule (originally devised by Alan Redfern) is used to create a record of requests for disclosure of documents in international arbitration. It is a collaborative document, to which the claimant, respondent and tribunal all contribute. The purpose of the schedule is to create a user-friendly record of requests for disclosure, the parties' arguments on those requests, and the tribunal's decision.

It is common practice for a tribunal to order, right at the outset of proceedings (in the first or subsequent procedural orders) that the parties set out their document production requests in the form of a Redfern Schedule. In this example, it is assumed that the tribunal and parties have also agreed to apply the *IBA Rules on the taking of Evidence in International Arbitration 2010* (IBA Rules), to the proceedings. For further discussion, please see *Practice note, Document production in international arbitration*.

The schedule consists of four columns. Different columns of the schedule are completed by the parties at various times. Separate entries are made in each column in respect of every requested document or class of documents. The specimen schedule illustrates the entries for a single request ("request 1").

For further discussion of document production, see *Practice note, Document production in international arbitration*.

Column 1

Column 1 sets out the request for disclosure. Use a separate entry for each document or class of documents. Consider whether broad classes of documents can be divided into sub-classes or single documents.

Column 2

Column 2 contains the requesting party's submissions, both in support of the request and in rebuttal of the opposing party's submissions. The submissions in support of the request should do two things:

- They should identify the paragraph of the written pleading or claim submissions to which the requested document relates. If the claim submissions are formulated in a detailed and focused manner, this will be relatively easy.

- It should explain why the documents sought are relevant. This will usually involve explaining exactly what the documents are, what information they are thought to contain, and how that information is likely to impact on the issues that the tribunal has to decide.

Column 2 should also contain a statement, in accordance with Articles 3(3)(c)(i) and (ii) of the IBA Rules, that the documents requested are not in the possession, custody or control of the requesting party or a statement of the reasons why it would be unreasonably burdensome for the requesting party to produce such documents, as well as a statement on the reasons why the requesting party assumes the documents requested are in the possession, custody or control of another party.

Column 2 may also contain the requesting party's submissions in rebuttal of the opposing party's objections. This section will be completed at later date.

Column 3

Column 3 contains the objecting party's submissions. Of course, if the objecting party is happy to produce a specified document or class of documents, then this should be stated. Otherwise, the reasons for resisting production should be set out concisely. Typical grounds for resisting production include irrelevance, the request being too broad in its scope, immunity or privilege, or that the cost of producing the documents is disproportionate. The party objecting may wish to rely on the ground set out in Article 9 of the IBA Rules.

The requesting party will then respond by entering rebuttal submissions in column 2.

Column 4

Column 4 summarises the tribunal's decision on each request, and sets out, in brief, the reasons for that decision.

Request	Reason for request & rebuttal to objection	Objection	Tribunal's decision
<p>REQUEST 1</p> <p>All documents relating to the steps taken to establish and appoint members to the ABC Association.</p>	<p>Relevance to pleading</p> <p>Relevant to paragraph 10 of the Request for Arbitration.</p> <p>Reason for request</p> <p>The documents are not in the possession, custody or control of the claimant and</p>	<p>1. As set out in Article 9(2)(c) of the IBA Rules, the request is unduly burdensome as it relates to "all" documents "relating to" the subject matter of the request and no time limit is specified.</p> <p>2. The respondent also objects (in accordance with</p>	<p>Although the documents requested are relevant, their production is unduly burdensome insofar as the request relates to "all" documents "relating to" the subject matter of the request.</p> <p>The respondent should</p>

	<p>the claimant has been informed by the respondent that these documents are in its possession.</p> <p>This category of document is relevant to the claimant's claim for breach of the respondent's obligation to create favourable conditions for investment and to accord the claimant fair and equitable treatment.</p> <p>Rebuttal to respondent's objection</p> <ol style="list-style-type: none">1. The request relates to all documents within a specific and clearly identified category of documents which are material and relevant.2. The respondent must establish the application of this exemption to particular documents.	<p>Rule 9(2)(f) of the IBA Rules) insofar as the request calls for documents reflecting government deliberations which are subject to public interest immunity.</p>	<p>produce to the claimant documents relating to the appointment of members to the ABC Association between 1 June 2008 and 31 December 2008.</p> <p>If the claimant does not consider the documents supplied sufficient, the claimant will have an opportunity to file a request for additional specific documents on the second round of requests for document production.</p>
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