

COMMONWEALTH SECRETARIAT ARBITRAL TRIBUNAL

FAQs:

NOMINATION & SELECTION FOR MEMBERSHIP OF THE COMMONWEALTH SECRETARIAT ARBITRAL TRIBUNAL (CSAT)

1. Is there information about CSAT online?

Yes. The Tribunal has its own webpage: <https://thecommonwealth.org/tribunal> Here you can find the governing Statute and Rules of the Tribunal, together with information about its current composition and all the judgments the Tribunal has issued, since its inception in 1995.

2. What is the eligibility criteria to be nominated and selected for membership of CSAT?

The formal eligibility criteria is set out by the Statute governing CSAT. Article IV of the Statute states, (at paragraph 1) that Tribunal Members shall be Commonwealth nationals, and (at paragraph 2) that no two Members may be of the same nationality. Paragraph 3 states: ‘The members of the Tribunal shall be of high moral character and must: (a) have held, hold or be qualified to hold high judicial office in a Commonwealth country; or (b) be jurisconsults of recognised competence with experience as such for a period of not less than ten years.’ Added to this are considerations of regionality and gender balance, under paragraph 4(a).

3. Does CSAT issue ‘arbitral awards’ within the meaning of the New York Convention?

No. CSAT is not engaged in international arbitration in the sense of the New York Convention. The Tribunal is inaccessible to third parties and its chief purpose is not the adjudication of commercial disputes. Instead, CSAT is an ‘international administrative tribunal’—comparable to the [International Labour Organization Administrative Tribunal](#)—established to resolve employment-related disputes brought against the Commonwealth Secretariat by its employees. Since the Commonwealth Secretariat has jurisdictional immunity in the UK, Commonwealth Secretariat officials do not have access to UK employment tribunals.

4. What legal speciality is it useful for CSAT Members to possess?

In almost all cases, the Tribunal is ‘bound by the principles of international administrative law which shall apply to the exclusion of the national laws of individual member countries’ (Article XII, paragraph 1 of the CSAT Statute). This refers to the employment law of international organizations which governs employees of the

Commonwealth Secretariat, as international civil servants. A background in this legal speciality would be highly advantageous. However, this is not a common speciality. Jurists with expertise of employment and administrative law within national jurisdictions, or general international law, or international arbitration would also be favourably situated in approaching the work of CSAT.

5. Are CSAT Members employees of the Commonwealth Secretariat?

No. The Members of CSAT are officeholders selected by the Commonwealth Governments (through the Board of Governors of the Commonwealth Secretariat) rather than employees of the Commonwealth Secretariat. It is primarily an honorary appointment and a modest annual gratuity is paid Members of CSAT in order for them to make themselves available to fulfil the obligations of their office.

6. Are the expenses of CSAT Members paid?

Yes. Members of CSAT are paid a daily allowance when engaged on CSAT business and if they are put to travel expenses, these are met in alignment with the travel policy of the Commonwealth Secretariat.

7. What annual time commitment is required of CSAT Members?

The time commitment required of CSAT Members is largely influenced by the caseload of the Tribunal. Whilst in some years there are no active cases, in other years there may be several. The judgements posted to the Tribunal's website, give a sense of this. However, Tribunal Members may reasonably expect to work for five days each year on a case together with several additional days for other judicial activities.

8. Does CSAT sit at Marlborough House, London or work remotely?

The Statute of CSAT, at Article VII, paragraph 3, establishes the London headquarters of the Commonwealth Secretariat, Marlborough House, as the default place of sessions of the Tribunal. But the Statute does not necessitate oral hearings (Article VIII, paragraph 1) or physical meetings of the Tribunal. Generally, the Statute allows for considerable flexibility in this regard, at the discretion of the President of CSAT. In practice, the Tribunal is moving towards hybrid working. Some business of the Tribunal may be held physically at its seat, with interlocutory decisions and some judicial meetings handled on a remote basis, through email and video-conferencing.

9. What is the procedure for nominating and selecting CSAT Members?

This is governed by Annex B of the CSAT Statute which is reproduced, below:

1. When a vacancy is about to occur in the Tribunal, the Commonwealth Secretariat shall notify Member Governments in the Region(s) concerned and the Commonwealth Secretariat Staff Association of the impending vacancy and invite

nominations of suitable candidates from Member Governments within the time period specified.

2. The Commonwealth Secretariat shall also notify the recognised representatives of the Commonwealth legal fraternity of the impending vacancy and invite them to express any views they may have either directly or through their regional branches to the relevant Member Governments concerning their nomination of candidates.

3. At the end of the specified time period the Commonwealth Secretariat shall compile a list of the nominees proposed by Member Governments and shall circulate the list to Member Governments for their consideration. The Commonwealth Secretariat shall also send a copy of the list to the Commonwealth Secretariat Staff Association for its information.

4. Member Governments shall meet to select the President and the other members of the Tribunal. Member Governments shall select the members of the Tribunal on a regionally representative basis taking into account the need for continuity and the maintenance of an appropriate gender balance in the Tribunal. In selecting or re-selecting members of the Tribunal, Member Governments may take into account any views expressed by the Commonwealth Secretary General and the Commonwealth Secretariat Staff Association.

5. In the interests of continuity of Tribunal membership, where possible, selection of Tribunal members should be so structured that no more than four members of the Tribunal conclude their four year term within the same year.

6. Thereafter, the Commonwealth Secretary General shall formally appoint the President and the other members of the Tribunal, selected or re-selected by Member Governments to serve for such period not exceeding four years as determined by Member Governments, by a letter of appointment signed by him or her or by a duly authorised representative.

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