

CCIG Arbitration Rules 1992

Model Clause

Any disputes arising with respect to or in connection with this Agreement shall be finally decided by one or more arbitrators in accordance with the Rules of Arbitration of the Chamber of Commerce and Industry of Geneva.

Introduction to the Arbitration Rules

With the present Arbitration Rules, the Chamber of Commerce and Industry of Geneva offers an effective dispute resolution procedure adapted to the needs of the business community.

Arbitration has become the best means of ensuring security in commercial dealings, particularly in international commerce. By virtue of its traditions and favourable statutory framework, Switzerland hosts a large number of arbitrations.

The Chamber of Commerce and Industry of Geneva is a Swiss private law association having long experience as an arbitral institution. In order better to fulfill this role, it has established an Arbitration Committee composed of experienced specialists who take care to nominate and confirm arbitrators who are qualified, independent, and available for the task. In addition, the Committee oversees the progress of the arbitration and controls the costs.

The Chamber offers its services in order to organize as best as possible the arbitral procedure. In addition, the arbitrators and the parties have available in Geneva all of the communication facilities and infrastructure of an international city.

A. General Provisions

1. Scope of the Rules

1.1 These Rules apply whenever the parties have agreed to submit their disputes to CCIG arbitration.

1.2 Arbitration agreements referring to the Arbitration Directives of the CCIG of June 1, 1980 are considered as referring to the present Rules unless one of the parties objects.

2. Arbitration Committee

2.1 The CCIG shall provide all necessary assistance to the parties for the organization of the arbitration pursuant to these Rules.

2.2 For this purpose, the CCIG shall appoint an Arbitration Committee which shall perform the functions of the CCIG according to these Rules. The Arbitration Committee shall consist of three to five members, one of which shall be an officer

or employee of the CCIG. The members of the Arbitration Committee shall be appointed by the CCIG for three years. Such members may not serve as arbitrators or counsel in CCIG arbitrations.

3. Place of Arbitration

Unless otherwise agreed, the place of arbitration shall be Geneva.

4. Confidentiality

CCIG arbitration is confidential. The parties, the arbitrators and the CCIG undertake not to disclose to third parties any facts or other information relating to the dispute or the arbitral proceedings. The parties, the arbitrators and the CCIG shall refrain from publishing or causing others to publish the award, unless the parties to the arbitration agree to such publication.

5. Notifications

The awards and orders of the arbitral tribunal as well as other decisions of the arbitral tribunal and those of the CCIG shall be notified to the parties at the address shown in the request for arbitration, or at any other address subsequently specified, by any means of communication permitting proof of receipt.

6. Time-Limits

The CCIG may extend the time-limits provided in the present Rules if the circumstances so justify.

B. Commencing the Arbitration Proceedings

7. Request for Arbitration

7.1 The party wishing to initiate an arbitration under these Rules shall deliver its request to the CCIG. Such request shall contain:

- (a) the names, capacities and addresses of the parties, including telephone and telefax or telex numbers;
- (b) a copy of the contract containing the arbitration agreement or any other document showing that the arbitration is governed by these Rules;
- (c) a statement of the facts and legal argument on which the claimant's case is based, together with supporting documents;
- (d) the claimant's prayer for relief, i.e. a brief and precise description of each claim;
- (e) an estimate of the amount in dispute, if no definite sum of money is claimed;
- (f) relevant information regarding the number and choice of the arbitrators within the meaning of Articles 10 and 11.

7.2 The request shall be delivered in as many copies as there are other parties, together with an additional copy for each arbitrator and for the CCIG. The CCIG shall send the request to the respondent.

8. Answer

8.1 The respondent shall communicate its answer to the CCIG within thirty days from the receipt of the request. The answer shall contain:

- (a) a statement of the defenses, together with supporting documents, including any objection concerning the arbitration agreement;
- (b) any counterclaim, together with the information provided in Article 7.1 (d)–(e);
- (c) relevant information regarding the number and choice of the arbitrators within the meaning of Articles 10 and 11.

8.2 The answer shall be delivered in as many copies as there are other parties, together with an additional copy for each arbitrator and for the CCIG. The CCIG shall send the answer to the claimant.

8.3 The provisions of this Article are subject to Article 18 with respect to the participation of a third party.

C. Formation of the Arbitral Tribunal

9. Agreement to Arbitrate

The CCIG shall proceed with the formation of the arbitral tribunal, unless it is apparent from the outset that there is manifestly no agreement to arbitrate referring to the CCIG.

10. Independence and Qualifications of the Arbitrators

10.1 Every arbitrator, whether a sole arbitrator, chairperson or a co-arbitrator, shall be and remain independent from the parties and has the obligation to disclose immediately any circumstances likely to affect independence with respect to the parties or any one of them.

10.2 Every arbitrator shall have the qualifications agreed by the parties and the availability required to conduct the arbitration to an expeditious completion.

10.3 The sole arbitrator or the chairperson may not have the same nationality as one of the parties unless the parties agree otherwise or have the same nationality.

11. Number of Arbitrators

11.1 The parties are free to agree that the arbitral tribunal shall consist of a sole arbitrator or of three arbitrators.

11.2 In the absence of such an agreement, the tribunal shall consist of a sole arbitrator, unless the CCIG decides to form a tribunal of three arbitrators on account of the amount in dispute, of the nature and of the complexity of the dispute.

12. Appointment of the Arbitrators

12.1 Sole arbitrator

The parties may select the sole arbitrator by mutual agreement. In the absence of such a selection within a thirty-day time-limit set by the CCIG, the CCIG shall appoint the sole arbitrator.

12.2 Tribunal of three arbitrators

If the agreement to arbitrate provides for a tribunal of three arbitrators, each party shall select a co-arbitrator respectively in the request for arbitration and in the answer. In the absence of a selection by a party, the CCIG shall appoint the co-arbitrator.

If the CCIG decides to form a tribunal of three arbitrators pursuant to Article 11.2, each party shall select a co-arbitrator upon the request of the CCIG. Failing such a selection by a party within a thirty-day time-limit set by the CCIG, the CCIG shall appoint the co-arbitrator.

Within a thirty-day time-limit starting from the date when the co-arbitrators learned from the CCIG of their appointment, the co-arbitrators shall select a chairperson. Failing such selection of a chairperson, the CCIG shall appoint the chairperson.

12.3 Confirmation of the arbitrators

Every arbitrator selected by the parties, either separately or jointly, or by the co-arbitrators, shall be deemed to be appointed only upon confirmation by the CCIG. The CCIG may refuse the confirmation, without indicating any reasons, if it considers that the arbitrator does not fulfill the requirements of Article 10.

13. Challenge

13.1 An arbitrator may be challenged upon the ground that he or she does not fulfill the requirements of Article 10.1, that he or she does not possess the qualifications agreed by the parties, or that he or she manifestly does not have the availability required to conduct the arbitration to an expeditious completion.

13.2 Challenges are within the exclusive jurisdiction of the CCIG. The challenge petition shall be submitted to the CCIG immediately after the party making such challenge becomes aware of the relevant facts. It shall specify the facts and circumstances upon which the challenge is based.

13.3 The CCIG shall ask the other parties, the challenged arbitrator and the other arbitrators to submit written observations and shall render a decision in summary form stating reasons.

13.4 In domestic arbitrations, the mandatory provisions of the Swiss Intercantonal Arbitration Convention of 27 March 1969 are reserved.

14. Removal

14.1 An arbitrator may be removed by written agreement of the parties.

14.2 An arbitrator can also be removed by the CCIG if he or she refuses to carry out his or her functions or is manifestly unable to do so. The CCIG invites the parties, the contested arbitrator and the other arbitrators to submit written observations and shall render a short, reasoned decision.

14.3 In domestic arbitrations, the mandatory provisions of the Swiss Inter cantonal Arbitration Convention of 27 March 1969 are reserved.

15. Replacement

15.1 In case of death, removal, successful challenge or resignation of an arbitrator, such arbitrator shall be replaced pursuant to the provisions of Article 12.

15.2 Unless otherwise agreed by the parties or otherwise decided by the arbitral tribunal, the proceeding shall continue with the new arbitrator from the point where the previous arbitrator ceased to perform his or her duties.

D. Multiple Requests for Arbitration, Multi-Party Arbitration

16. Multiple Requests

16.1 If an arbitration is initiated between parties already involved in another arbitration governed by these Rules, the CCIG may assign the second case to the arbitral tribunal appointed to decide the first case, in which case the parties shall be deemed to have waived their right to select an arbitrator in the second case.

16.2 In order to decide upon such assignment, the CCIG shall take into account all the circumstances, including the links between the two cases and the progress already made in the first case.

17. Multi-party Arbitration in General

17.1 In arbitration proceedings comprising more than two parties, including in case of participation of a third party within the meaning of Article 18, the number of arbitrators shall be determined in accordance with Article 11.

17.2 The parties may agree on a method of selection of the co-arbitrators. In the absence of such an agreement, the co-arbitrators shall be appointed by the CCIG, which shall take into account any proposals by the parties.

17.3 The chairperson or the sole arbitrator shall be appointed in accordance with Article 12.

18. Participation of a Third Party

18.1 If a respondent intends to cause a third party to participate in the arbitration, it shall so state in its answer and shall state the reasons for such participation. The respondent shall deliver to the CCIG an additional copy of its answer.

18.2 The CCIG shall send the answer to the third party whose participation is sought, the provisions of Articles 8 and 9 being applicable by analogy.

18.3 Upon receipt of the third party's answer, the CCIG shall decide on the participation of the third party in the already pending proceeding, taking into account all of the circumstances. If the CCIG accepts the participation of the third party, it shall proceed with the formation of the arbitral tribunal in accordance with Article 17; if it does not accept the participation, it shall proceed according to Article 12.

18.4 The decision of the CCIG regarding the participation of third parties shall not prejudice the decision of the arbitrators on the same subject. Regardless of the decision of the arbitrators on such participation, the formation of the arbitral tribunal cannot be challenged.

E. Procedure before the Arbitral Tribunal

19. Applicable Rules

Unless otherwise agreed by the parties, the procedure before the arbitral tribunal shall be governed by the provisions in this chapter and any additional rules established by the parties or, if none, by the arbitrators.

20. Communications

Subject to Article 5 of these Rules, the arbitral tribunal shall determine the means of communication between itself and the parties.

21. Conciliation

The arbitral tribunal may at any time seek to conciliate the parties. Any settlement may be embodied in an arbitral award rendered by consent of the parties.

22. Assistance

Each party has the right to be assisted by the counsel of its choice, regardless of the nationality or residence of such counsel.

23. Provisional or Conservatory Measures

23.1 Each party may request provisional or conservatory measures from a state authority having jurisdiction or from the arbitral tribunal.

23.2 The arbitral tribunal shall request the respondent party to state its position and shall render an order based on an adversarial proceeding within a short time.

23.3 In case of utmost urgency, the arbitral tribunal may order provisional or conservatory measures upon mere presentation of the request, provided that the other party shall be heard subsequently.

23.4 In domestic arbitrations, the mandatory provisions of the Swiss Inter cantonal Arbitration Convention of 27 March 1969 are reserved.

24. Additional Briefs

At the request of a party or upon its own initiative, the arbitral tribunal shall order the exchange of additional briefs if the circumstances so justify.

25. Documents

25.1 Each party shall produce the documents upon which it relies in conjunction with the written pleadings provided in Articles 7, 8 and 24.

25.2 Exceptionally, the arbitral tribunal may permit the production of new documents if the parties so agree, if the party wishing to produce the new document could not do so within the applicable time-limit, or if the relevance of the document did not become apparent until after expiry of the time-limit.

25.3 Each party may request in due course the production of documents in the custody of the opponent. If the parties disagree, the arbitral tribunal may order production of the documents, on condition that the requesting party demonstrates the likely existence and relevance of such documents.

26. Witnesses

26.1 The party wishing to have a witness heard shall deliver a preliminary statement signed by such witness, unless the witness refuses. Unless otherwise decided by the arbitral tribunal, the preliminary statements shall be delivered, at the latest, fifteen days before the hearing at which evidence is to be taken.

26.2 At the hearing at which evidence is taken, each party shall examine its witnesses, if it deems it necessary in order to complete the preliminary statements. The opponent shall thereafter ask the questions that it deems relevant. The arbitrators may ask their own questions at any time.

27. Experts

27.1 Each party may consult and present one or more experts of its choice to be heard by the arbitral tribunal. The provisions regarding the examination of witnesses shall apply by analogy.

27.2 The arbitral tribunal may, of its own motion or at the request of a party, appoint one or more experts. The arbitral tribunal shall consult the parties with respect to the appointment and terms of reference of such experts.

28. Records

The examination of witnesses, experts and parties shall be recorded by a stenographer. At the request of the parties or if it deems it appropriate, the arbitral tribunal may substitute any process permitting the preservation of the entire statements or of their essential elements.

F. Award

29. Reasons

Unless otherwise agreed by the parties, the award shall state reasons in a concise manner. It shall confirm the undertaking of confidentiality contained in Article 4 of these Rules.

30. Notification

The CCIG shall notify the award to the parties provided that all the costs of arbitration have been paid. The CCIG shall keep a copy of the award for ten years.

G. Expedited Procedure

31. Special Provisions

If the parties so agree, the arbitration shall be conducted according to an expedited procedure. Such arbitrations shall be governed by the foregoing provisions, subject to the following changes:

- (a) the CCIG may shorten the time-limits for the appointment of arbitrators;
- (b) upon deposit of the request for Arbitration, each party may state its position only once in writing on the claims asserted against it;
- (c) unless the parties authorize the arbitral tribunal to decide on the basis of the documentary evidence only, the arbitral tribunal shall hold a single hearing for the examination of the parties, witnesses and expert witnesses as well as for oral argument;
- (d) the award shall be rendered within six months from the date when the CCIG hands the file over to the arbitrators;
- (e) the award shall state reasons, in summary form, unless the parties waive the requirement of reasons.

H. Costs of Arbitration

32. Definition of Costs

The costs of arbitration include the fees and disbursements of the CCIG as well as the fees and expenses of the arbitral tribunal.

33. Fees and Disbursements of the CCIG

33.1 The fees of the CCIG shall be four thousand Swiss francs for arbitrations where the amount in dispute does not exceed two million Swiss francs and six thousand Swiss francs for arbitrations involving a higher amount. The CCIG may amend these charges should the cost of administering arbitrations so require.

33.2 The fees of the CCIG shall be paid at the time of filing the request for arbitration, failing which the CCIG shall not proceed with the case.

33.3 The CCIG shall assess an additional charge when an arbitrator is challenged.

33.4 The disbursements of the CCIG include the actual costs incurred by the CCIG, such as telephone, telefax, photocopies and courier services.

34. Fees and Expenses of the Arbitral Tribunal

34.1 The fees of the arbitrators shall, in principle, be computed according to the time reasonably spent on the resolution of the dispute at an hourly rate subject to limits established in proportion to the amount in dispute. The CCIG schedule in force at the time of the filing of the request shall apply.

34.2 The expenses of the arbitral tribunal include the actual expenses incurred by the arbitral tribunal, such as the costs of travel, meeting room rental, the remuneration of interpreters, the recording and transcribing of hearings, telephone, telefax, photocopies and courier services.

35. Advance

35.1 When the arbitral tribunal is being formed, the CCIG shall determine the amount of the advance towards the costs of arbitration, subject to possible changes during the arbitration. The filing of a counterclaim or a new claim shall result in the determinations of separate advances.

35.2 The advance shall be paid in two instalments of 50 per cent each. The first instalment shall be paid at the beginning of the proceeding or following the filing of a new claim within the time-limits set by the CCIG. The CCIG shall hand over the file to the arbitral tribunal as soon as the first instalment is paid. The second instalment shall be paid during the proceeding at a date to be set by the CCIG in agreement with the arbitrators.

35.3 Each instalment shall be payable in equal shares by the claimant and the respondent. If a party does not pay its share, the other party may substitute for it; if the share is not paid, the claim to which such share relates, after notice, shall be deemed to be withdrawn.

35.4 Any supplementary advance fixed by the CCIG in agreement with the arbitrators shall be paid in a single instalment in conformity with Article 35.3.

35.5 The advance shall bear interest at a usual rate. Such interest is included in the final computation of the arbitration costs in favour of the parties having advanced the amounts bearing interest.

35.6 If the arbitral tribunal orders an expert report, the expert shall commence work only after payment by the parties, or by one of them, of an advance determined by the arbitral tribunal and intended to cover the costs of the expertise.

36. Assessment of the Costs of Arbitration in the Award

36.1 At the end of the proceeding, the CCIG shall determine the final amount of the costs of arbitration. Such costs shall be stated in the arbitral award, which

shall also determine which party shall bear such costs or in which proportion the parties shall share them.

36.2 In addition, the arbitral tribunal shall, in principle, adjudge that the losing party contribute towards the attorney's fees of the other party.

Schedule for Arbitrator's Fees

1. Pursuant to article 34.1 of the Arbitration Rules, the fees of the arbitrators shall, in principle, be computed according to the time reasonably spent on the resolution of the dispute at an hourly rate established on the basis of the amount in dispute, as follows:

Amount in dispute		Hourly rate
Travel time is counted at one-half value.		
—up to Sfr.	500,000.-	200.-
—from Sfr.	500,000.- to 1,000,000.-	250.-
—from Sfr.	1,000,000.- to 2,000,000.-	300.-
—more than Sfr.	2,000,000.-	350.-

2. In any one case, the total amount of arbitrator's fees shall not exceed a certain percentage of the amount in dispute, as follows:

Amount in dispute		Maximum Fee Percentage	
		sole arbitrator	three arbitrators
—up to Sfr.	500,000.-	10%	16%
—from Sfr.	500,001.- to 1,000,000.-	6%	10%
—from Sfr.	1,000,001.- to 2,000,000.-	5%	7.5%

Amount in dispute		Maximum Fee Percentage	
		sole arbitrator	three arbitrators
—from Sfr.	2,000,001.- to 5,000,000.-	3%	6%
—more than Sfr.	5,000,001.-	2%	3%