The Geneva Chamber of Commerce and Industry adopts revised arbitration rules

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On 1 January 1992, the revised rules of arbitration (the Rules) of the Chamber of Commerce and Industry of Geneva (the CCIG) entered into force. The English version of the Rules is attached as Annex 1 to this article. The Rules are also available in French and German.

The purpose of this brief contribution is, first, to offer an introduction to the general philosophy of the Rules and, second, to set forth some of the Rules’ main characteristics.

I. GENERAL PHILOSOPHY: AS MUCH INSTITUTIONAL INVOLVEMENT AS NECESSARY AND AS LITTLE AS POSSIBLE

(a) ALTERNATIVE BETWEEN ADMINISTERED AND AD HOC ARBITRATION

The former Arbitration Directives of the CCIG only provided for the CCIG’s function as an appointing authority. The Rules extend the scope of the CCIG’s functions in order to better service the needs of the users. Such increased functions do not, however, amount to administered arbitration.

The purpose of the Rules is to offer an alternative between, on the one hand, fully administered arbitration and, on the other hand, pure ad hoc arbitration. Administered arbitration can prove cumbersome and thus unsatisfactory in terms both of time and cost, whereas ad hoc arbitration, which lacks any regulatory framework, is sometimes fraught with uncertainty and unpredictability.

The need for this alternative arose, in particular, as a result of the entry into force of the new Swiss Act on Private International Law (the PIL Act) in 1989, which deals with international arbitration in Chapter 12. In keeping with the general trend prevailing in international arbitration today, the PIL Act provides a legal framework for international arbitrations in Switzerland, which leaves broad freedom to the parties in shaping the arbitral process. The Rules aim at putting that freedom to good use.

(b) SCOPE OF THE CCIG’S FUNCTIONS

In more practical terms, the CCIG’s functions under the Rules include the following tasks:

*Member of the Geneva and New York Bars; partner Etienne Blum Stëhlé Manfrini & Partners, Geneva. The author bears sole responsibility for the views expressed in this article.
Monitoring the process for the appointment of the arbitrators, which includes appointing and confirming arbitrators under certain circumstances (see section II(a) below);

—ruling on challenges against arbitrators (see section II(b) below);

—consolidating arbitrations and setting multi-party arbitrations in motion when appropriate (see section II(c) below);

—setting and controlling the cost of arbitration (see section II(f) below).

As opposed to the functions so listed, the CCIG does not carry out the following tasks:

—it does not receive copies of all pleadings and communications between the parties and the arbitral tribunal (it does however contact the arbitrators on a regular basis to verify the progress of the proceedings);

—it neither requires nor approves terms of reference;

—it neither reviews nor approves arbitral awards.

It is believed that these tasks are best performed by competent arbitrators and that additional institutional involvement is neither cost- nor time-effective.

The CCIG carries out its tasks under the Rules through a committee of five persons appointed for such purpose. As a result of its limited size, the committee is able to move quickly and avoid bureaucratic delays.

(c) DETAILED RULES ON PROCEDURE BEFORE THE ARBITRAL TRIBUNAL

In addition to the description of the functions of the CCIG set forth in the foregoing paragraphs, the Rules contain provisions on the procedure applicable before the arbitral tribunal (see section II(d) below). The parties are free to amend such procedural provisions by consent either in the arbitration clause or during the arbitration. In the absence of such consent, the arbitrators, however, may not modify the procedure.

The rationale for including procedural rules is primarily to enhance the predictability of the arbitration process and to avoid divergent expectations of the parties (and sometimes also of the arbitrators) arising from their possibly quite different cultural and legal backgrounds.

Among the provisions on the procedure before the arbitrators, there are also rules on expedited proceedings (see section II(e) below).

II. MAIN CHARACTERISTICS OF THE RULES

(a) APPOINTMENT OF THE ARBITRATORS

It is a basic policy of the Rules to involve the parties in the appointment. A party is more likely to trust an arbitral tribunal when it took part in the selection of its members; and trust is an important element in a well-conducted arbitration.

1 At present the arbitration committee includes Ms Janine Urani-Spira, General Counsel of the CCIG; Mr Andreas Bucher, Professor of Law, Geneva University; Mr Louis Gaillard, Presiding Justice, Geneva Court of First Instance; Mr Pierre-Yves Tschauz, member of the Geneva and New York Bars, former consul juridique in Paris, practicing attorney in Geneva; Ms Gabrielle Kaufmann, Doctor of Laws, member of the Geneva and New York Bars, practicing attorney in Geneva.
The parties may choose the number of arbitrators (Article 11.1). In the absence of a choice being specified, a sole arbitrator is the rule for obvious cost reasons, with an exception for large and complex cases (Article 11.2). The parties select the arbitrators either jointly for the sole arbitrator, or separately for the co-arbitrators; and indirectly the chairman who is selected by the co-arbitrators. Only if the parties or the co-arbitrators cannot agree, or if a party defaults, will the CCIG proceed with the appointment (Article 12.1 and 12.2).

What requirements must an arbitrator meet to be selected? Obviously he must be independent (as must the co-arbitrators) and is under an ongoing duty of disclosure. He must also have the necessary availability to conduct the arbitration efficiently so as to avoid the drawbacks of the “busy arbitrator” phenomenon. Further, he must fulfil the qualifications agreed upon by the parties (Article 10).

The search for the “right” arbitrator is a delicate assignment which requires a careful and thorough assessment of the case and the candidates. One of the reasons for which the Rules provide for extensive initial written submissions (Articles 7 and 8) is precisely to allow a meaningful choice. As one member of the arbitration committee put it, the selection should not be limited to “rounding up the usual suspects”. It should go further, and in particular not be restricted to Swiss nationals or domiciliaries (except possibly where absolutely required for cost reasons).

When the CCIG itself makes the appointment, it will be in a position to ascertain whether the potential arbitrator meets all the requirements. What about when the parties appoint the arbitrators? In this event their choice is subject to the CCIG’s confirmation (Article 12.3). Confirmation is not a mere formality. Consistent with the approach adopted when selecting an arbitrator itself, the CCIG will verify that a selected arbitrator satisfies the tests of independence, availability and agreed qualifications. If he does not, the CCIG will refuse confirmation. However, the CCIG will not interfere in the parties’ choice to the extent of assessing the arbitrator’s adequacy to do the job beyond such tests. That is the parties’ responsibility.

(b) CHALLENGES AGAINST ARBITRATORS

If, despite the care used in the arbitrator selection and the confirmation procedure, an arbitrator turns out to lack independence, availability or agreed qualifications, he may be challenged before the CCIG (Article 13). The CCIG has sole jurisdiction over the challenge to the exclusion of national courts. The CCIG may also remove an arbitrator sua sponte if he refuses or is manifestly unable to perform his duties (Article 14).

In all cases, the CCIG requests written submissions from all involved and issues a decision which states reasons, although in a summary fashion (Articles 13.3 and 14.2). The fact that reasons are stated will favour the development of a consistent practice in a very sensitive area of arbitration.
Multi-party arbitration

Under this convenient heading are also included third-party practice and multiple arbitrations between the same parties.

Most arbitration rules are silent about these complex situations. Furthermore, in the major European arbitration centres at least, court-ordered consolidation is not available. This unsatisfactory situation may cause substantial difficulties, ranging from the duplication of costs to conduct parallel proceedings to conflicting awards on the same matter. It also places arbitration at a disadvantage compared to court litigation.

The Rules attempt to remedy these problems to the extent possible by a set of explicit, straightforward provisions. In a nutshell, the Rules deal with three situations: first, the case of multiple arbitration requests between the same parties (Article 16); second, the case of an arbitration which from the outset features several parties on either or both sides (Article 17); third, the case in which a defendant intends to join a third party (Article 18).

(i) Multiple requests between the same parties

In the first situation, that of multiple requests between the same parties, the CCIG may consolidate the two arbitrations (i.e. assign the second arbitration request to the tribunal entrusted with the resolution of the first one). When deciding upon consolidation, the CCIG will take into account the connection between the disputes and the progress of the first arbitration.

(ii) Requests by and/or against several parties

For the second case, that of an arbitration request filed by and/or against several parties, the Rules include specific provisions on the formation of the arbitral tribunal (Article 17). The parties are free to choose between a tribunal of one or three arbitrators and are entitled to decide upon the method of selection of the co-arbitrators. For instance, they may choose a tribunal of three and agree that all the plaintiffs choose one arbitrator, all the defendants another, and they jointly select the third.

If the parties fail to agree on a method of selection, the CCIG appoints the co-arbitrators. This express provision is intended to defeat procedural challenges such as the one which succeeded in January 1992 before the French Cour de cassation in the Dutco case.² In Dutco, the ICC, whose rules are silent on this issue, had held that the two defendants, BKMI and Siemens, were under an obligation to appoint the same arbitrator.

(iii) Third-party joinder

The third case refers to third-party practice. If, upon being served with the

arbitration request (but not later in the proceedings), the defendant wishes to join a third party to the arbitration, it is entitled to give notice of such intent in its answer (Article 18). On purpose, the Rules do not specify in what capacity the third party’s participation may be sought. It could, for instance, be a co-debtor of the defendant; or a surety; or a joint-venture partner of the claimant against which the defendant intends to raise a counterclaim.

On the basis of written submissions from the plaintiff, the defendant and the third party, the CCIG rules upon the joinder. In doing so, it takes into account the prima facie existence of an arbitration agreement as well as the practical and legal advisability of conducting joint proceedings. (Will the evidence be more effectively taken in one proceeding? Are the legal issues the same? etc.) The factual and legal situations in which multi-party arbitrations may arise are so variable that in numerous instances the advisability of a joinder cannot be determined in advance by a hard-and-fast rule. This is the reason for which the decision regarding a joinder needs to be taken on a case-by-case basis by the CCIG.

If the CCIG accepts the joinder, the third party is involved in setting up the tribunal in the same manner as in the second situation referred to above. However, the CCIG’s acceptance of the joinder, and in particular of the prima facie jurisdiction over the third party, does not prejudice the arbitrators’ own decision on the same issue. If, contrary to the CCIG, the arbitrators decide against a joinder, the arbitration proceeds without the third party but with the same tribunal. It is expressly provided that the formation of the tribunal in which the third party took part cannot be challenged.

(d) Procedure before the arbitral tribunal

The rationale for including these rules (Articles 19 to 28) is to add predictability to the arbitration. The Rules answer questions often asked by counsel such as: may the arbitrators grant ex-parte provisional remedies (Article 23)? To what extent is discovery allowed (Article 25.3)? Are written witness statements filed in advance of the hearing (Article 26.1)? Under what circumstances may documents be accepted in evidence after expiration of the time-limit for production of documentary evidence (Article 25.2)? How are witnesses examined (Article 26.2)? Are there verbatim hearing transcripts (Article 28)? Do the parties appoint their own expert or will the arbitrators do so (Article 27)?

The answers embodied in the Rules are meant to reflect increasingly common practice in present-day arbitration and should, therefore, be generally acceptable to parties and arbitrators.

(e) Expedited procedure

In the interest of a rapid resolution of the dispute, the parties may agree on a special expedited procedure (Article 31). If they do so, the time-limit for the appointment of the arbitrators may be shortened; the opportunity to file written
submissions is limited; the arbitral tribunal will only hold one hearing, unless it rules on documentary evidence; the award will state no or only summary reasons.

Expedited proceedings may be a helpful tool in all cases in which the parties are particularly concerned about time and cost. They are likely to be especially suited for smaller cases. If the parties wish to resort to such proceedings, they should best already agree in the arbitration clause. Later, when a dispute has arisen, one of the parties may have lost its interest in speed . . .

(f) Costs

(i) Flat CCIG fee

In addition to its actual disbursements (Article 33.4), the CCIG charges a fee of Swiss francs 4,000 (approximately US$ 2,700 at current rates) for arbitrations below Swiss francs 2 million (approximately US$ 1.33 million) and Swiss francs 6,000 (approximately US$ 4,000) for arbitrations in excess of such amount (Article 33.1). The fee is in no other way proportionate to the amount in dispute. Only if an arbitrator is challenged will the CCIG assess an additional charge (Article 33.3).

(ii) Arbitrator’s fees

In legal practice, compensation by time spent is by far the most common method of remuneration. The Rules take this fact into account and provide that the arbitrator’s fees are computed on the basis of time spent (Article 34.1) at a relatively moderate hourly rate (compared to a practitioner’s current market rate). These rates are progressive according to the amount in dispute and range from Swiss francs 200 to 350 (approximately US$ 130–230) (Schedule for Arbitrator’s Fees, Article 1).

If compensation by time spent reflects the general practice, it also has some drawbacks. There are slow and fast workers, there are individuals who leave no stone unturned and others who proceed in a more expeditious fashion. Moreover, the open-ended nature of the computation on the basis of time spent does not allow counsel to assess a party’s maximum exposure, which may be an important factor when deciding whether to start an arbitration. To overcome these difficulties, the Rules provide for a cap on arbitrator’s fees, which is proportionate to the amount in dispute and may not be exceeded even if the time computation were higher (Schedule for Arbitrator’s Fees, Article 2).

(iii) Advances

Cost advances are payable in two instalments. The first instalment is due at the outset and the second one during the course of the proceedings. Counterclaims will give rise to separate advances (Article 35.1 and 35.2), thus protecting the plaintiff from sharing in the financing of inflated counterclaims.
Advances will bear interest, which will be credited to the party that made the advance (Article 35.5).

In conclusion, one may venture two comments on the cost aspect. First, quality has its price—and so does qualitatively good legal adjudication. Second, the CCIG’s approach is nevertheless highly cost-conscious. It attempts to strike a balance between the price of good adjudication, which requires decently paid arbitrators, and the parties’ concern with costs and especially with cost returns.
ANNEX I

CHAMBER OF COMMERCE AND INDUSTRY OF GENEVA (CCIG) ARBITRATION RULES
In force as of 1 January 1992

Tel: (022) 311 53 33 Fax: (022) 310 03 63.

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 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.
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 Intercantonal 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 Intercantonal 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, of 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 determination 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:

<table>
<thead>
<tr>
<th>Amount in dispute</th>
<th>Hourly rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to Sfr. 500,000.-</td>
<td>200.-</td>
</tr>
<tr>
<td>from Sfr. 500,001.- to 1,000,000.-</td>
<td>250.-</td>
</tr>
<tr>
<td>from Sfr. 1,000,001.- to 2,000,000.-</td>
<td>300.-</td>
</tr>
<tr>
<td>more than Sfr. 2,000,001.-</td>
<td>350.-</td>
</tr>
</tbody>
</table>

Travel time is counted at one-half value.

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:

<table>
<thead>
<tr>
<th>Amount in dispute</th>
<th>Maximum Fee Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>sole arbitrator</td>
<td>three arbitrators</td>
</tr>
<tr>
<td>up to Sfr. 500,000.-</td>
<td>10%</td>
</tr>
<tr>
<td>from Sfr. 500,001.- to 1,000,000.-</td>
<td>6%</td>
</tr>
<tr>
<td>from Sfr. 1,000,001.- to 2,000,000.-</td>
<td>5%</td>
</tr>
<tr>
<td>from Sfr. 2,000,001.- to 5,000,000.-</td>
<td>3%</td>
</tr>
<tr>
<td>more than Sfr. 5,000,001.-</td>
<td>2%</td>
</tr>
</tbody>
</table>