

# Rules of Documents Only Arbitration of the European Court of Arbitration

(Corte Arbitrale Europea, Cour Européenne d'Arbitrage,  
Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof).

## Article 1 - *REQUIREMENTS AND CONSEQUENCES OF THE APPLICATION OF THESE RULES*

These Rules apply to arbitral proceedings arising from disputes of a domestic or international nature (as defined by the Internal Rules of the Court) submitted by the parties to the European Court of Arbitration and meeting all the following conditions:

- a value in dispute not exceeding € 5,000, unless expressly agreed otherwise by the parties,
- a dispute of a nature and complexity which allows an appropriate solution by arbitration based on documents only, as assessed in accordance with article 5 below by the appointed arbitrator.

By deferring to the Rules of Documents Only Arbitration of the Court, the parties acknowledge adoption of the Rules of Documents Only Arbitration and the Internal Rules of the Court in effect at the time the application for arbitration is made to the Court.

The adoption by the parties of the Rules of Documents Only Arbitration shall constitute a waiver to being heard orally, to have witnesses heard and to address the arbitrator orally, for the purposes of allowing the resolution of the dispute prospectively within a reduced time period and at a much reduced cost with respect to that which might be incurred by arbitral proceedings involving meetings of the parties, the hearing of evidence and oral argument.

For a particular arbitration, should any provision of these rules conflict with the international public policy of the place of arbitration, such provisions will be replaced by the Court by embodying the said public policy unless to do so disrupts the Rules of the Court.

Where a such replacement becomes necessary, the most appropriate replacement provision will be suggested to the parties for their consent to adoption.

## Article 2 - *REQUEST FOR ARBITRATION*

All parties who wish to have recourse to Documents Only Arbitration shall, after the dispute has arisen submit their Request for Arbitration together with an express confirmation, after the dispute has arisen, of their agreement to have recourse to these Rules. Such request shall be forwarded, by registered letter with return receipt to the Secretariat of the Court. If the Court considers the dispute to be domestic, it will forward the Request to the National Delegation in the State concerned, where such Delegation exists.

The term "Secretariat" as provided in the Rules will mean the Secretariat of the National Delegation if the dispute is within the jurisdiction of a National Delegation, otherwise the Secretariat in Strasbourg.

The Request for Arbitration shall be forwarded by registered letter with return receipt to the other parties to the arbitration agreement.

The Request shall contain a brief statement of the facts alleged and of the arguments of the Claimant in support together with a statement agreeing to waive the right to be heard personally, to call witness evidence, to the appointment of experts and to oral address, on condition that Defendant or Defendants also agree that the dispute be decided under these Rules.

In the absence of agreement of all of the parties to be bound by these Rules, the dispute will be determined in accordance with the general Arbitration Rules of the Court.

### Article 3 - *DOCUMENTS AND PAYMENT OF THE COSTS OF THE PROCEEDINGS*

The claimant shall attach to his Request for Arbitration all documents which it deems necessary for the settlement of the dispute, together with proof of payment of 50% of the costs of Documents Only Arbitration in accordance with the Schedule of the Court in effect at the time the Request is made. The Secretariat shall provide to the parties information related to the Schedule.

Within 5 working days of receipt of the Request, the Secretariat shall send to the other party/ies a copy of the Request for Arbitration and of the documents attached to it.

### Article 4 - *ANSWER TO THE REQUEST*

Within 15 days of receipt of the Request, the Defendant shall submit to the Secretariat and to the Claimant by special delivery, courier or by registered mail with return receipt its Answer which must contain a brief statement of all the facts and arguments relied upon and all relevant documents together with the proof of payment to the Court of 50% of the costs of the proceedings in accordance with the fees and costs stated by the Secretariat of the Court based on the Schedule in force at the relevant time.

The Defendant shall declare its acceptance that the dispute be resolved under the Documents Only Arbitration Rules expressly waiving the right to be heard, to have witnesses heard, that experts be appointed and to oral argument. A draft of the form of declaration forms part of these Rules as Enclosure 1. Within 5 working days after receipt of the Answer, the Secretariat of the Court will send the Answer and annexed documents to the Claimant.

In default of the declaration by the parties respectively in the Request and in the Answer that they waive the right to be heard, to have heard witnesses heard, to the appointment of experts and to oral argument, the dispute will be resolved by applying the general Arbitration Rules of the Court.

### Article 5 - *APPOINTMENT OF THE ARBITRATOR AND COMMENCEMENT OF THE PROCEEDINGS*

Save where there is prima facie a lack of agreement for Documents Only Arbitration, or one or more of the parties has failed to make the statement waiving rights as provided in Art. 2 and Art. 4 hereof, and within 5 working days of receipt by the Court of the Answer to the Request for Arbitration, the Court shall select and appoint a sole arbitrator to determine the dispute acting in accordance with the law, with the power to mitigate it should it be too strict.

The Court shall inform the arbitrator and the parties of his appointment by fax or telegram.

and shall transmit to him the file, also informing the parties by fax or by cable. The place of arbitration will be determined by the Court with preference to the arbitrator's place of business.

The arbitrator shall notify the Court of his acceptance of appointment by fax or telegram within 2 working days of receipt of notice of appointment. Failure of the arbitrator to respond in this time period shall be taken as refusal of the proposed appointment.

The appointed arbitrator may be replaced by the Court at any time, for objective reasons such as non-compliance with his duties or non-availability.

If, in the opinion of the arbitrator, the nature of the dispute is such that it cannot be reasonably and appropriately resolved without hearing witnesses and/or the parties or without the intervention of experts, or without oral argument, or if it appears too complex for a Documents Only Arbitration, the arbitrator will communicate this to the parties and to the Secretariat by fax or by telegram cable within 7 working days of receipt by the arbitrator of the file.

If so, the Court shall return to the parties 70% of the sums paid by them under these Rules retaining 30% to cover its administrative costs and the arbitrator's fees.

The parties may however request that the Court apply its general Arbitration Rules to the dispute, and this shall occur when all parties consent in writing.

#### Article 6 - *PROCEDURAL RULES AND TIMETABLE*

The arbitrator shall be free to choose the procedural rules applicable to the dispute, subject to compliance with these Rules and with any applicable mandatory provisions and affording to the parties due process.

The arbitrator may in his discretion issue directions to regulate the proceedings.

By submitting to these Rules, the parties are reminded that they waive their right to be personally heard, to hear witnesses, to all enquiries, expertise and to oral argument and that they undertake to develop all their arguments in writing.

The arbitrator will follow the timetable set forth in Appendix 2 in so far as it is possible to do so.

#### Article 7 - *PLEADINGS*

Any party may ask that the arbitrator authorize it to file a pleading. Such authorized pleading shall be sent to all other parties and to the Secretariat, within 15 working days of the receipt of such authorisation.

If such authorisation is given, the other party may lodge a pleading within 15 days of being notified of the authorisation having been given to the other party/ies.

Each party may ask the arbitrator to authorize the giving of a succinct reply to be lodged within 5 working days of receipt of the opposing party's pleading and responding to the arguments or facts stated in that pleading.

All pleadings shall be sent to the arbitrator and to the other parties, with a copy to the Secretariat, by courier or by recorded delivery with return receipt.

#### Article 8 - *WITNESS STATEMENTS*

The arbitrator will not hear witnesses and shall not appoint experts.

Within the time limits set for the lodging of pleadings the parties may produce to the arbitrator, together with a copy to the Secretariat and the other party/ies, statements drawn up by witnesses concerning the facts of the dispute.

Such a witness statement must incorporate, at its conclusion, a declaration by the witness as signatory certifying that the statement contains the whole truth and that the witness is aware that the statement will be produced before the arbitrator. The declaration shall further acknowledge that the witness is conscious that he will incur liability in the case of a false statement and that this may amount to a criminal offence.

A photocopy of an identity document of the signatory, bearing his signature, must be attached to the statement.

#### Article 9 - *TIME-LIMIT FOR ISSUE OF THE AWARD*

The arbitrator must make his award within 30 days from receipt of the last above pleading and of any possible reply authorized by the arbitrator but in all cases within 90 days of acceptance of his appointment as arbitrator.

In exceptional circumstances, the Court may grant the arbitrator one extension only up to a maximum of one month. The award of the arbitrator shall be final.

The parties undertake to give effect to it without delay and waive the right to all challenges which they may have in accordance with the law of the place of the arbitral proceedings and of the place where the award is to be enforced and which may be waived.

#### Article 10 - *FILING OF THE AWARD*

Additional to any filing of the award which is mandatory under the law of the place of arbitration, the award will be filed in three originals with the Secretariat of the Court within the time-limit specified in article 9 for the issue of the award. The Secretariat will notify the parties of the filing by registered letter with return receipt within 5 working days of the filing of the award.

The parties acknowledge that the Secretariat will not deliver the award until the fees of the arbitrator and the administrative dues of the Court have been fully paid.

#### Article 11 - *ISSUES NOT COVERED BY THESE RULES*

For matters which are not covered by these Rules, the arbitrator shall adopt such measures as he may deem appropriate, consistent with the need for speed and efficiency which characterize these Rules.

## Appendix 1

### *STANDARD DECLARATION TO BE ANNEXED TO THE REQUEST AND TO THE ANSWER*

Confirmation of reference to Documents Only Arbitration

Sirs

With the following we confirm that we wish to refer to your Court for determination, in accordance with your Documents Only Arbitration Rules as in force at the time when our Request for arbitration is addressed to you the dispute which has arisen between us and \_\_\_\_\_ within the framework of the agreement entered into on \_\_\_\_\_.

Due to its simplicity and to the small value in dispute, this dispute can be resolved without recourse to full arbitral proceedings, the costs and duration of which would be inappropriate. Having carefully considered the nature and specific features of this dispute, it appears desirable and possible that our arguments be expressed only in writing and that the facts which support them be proven only by the production of documents and possibly of witness statements.

We hereby waive, in full awareness, the right to be personally heard, to have witnesses heard, to any request for the appointment of experts and to oral argument.

This letter constitutes a request to the Court and coincidentally acceptance that the dispute be resolved solely by documents in compliance with the Court's Rules for Documents Only Arbitration.

## Appendix 2

### *STANDARD TIMETABLE FOR DOCUMENTS ONLY ARBITRAL PROCEEDINGS*

For receipt of the Request for Arbitration	5	working days
For the Answer to the Request and confirmation of adoption of the Rules	15	working days
For receipt of the Answer and of the confirmation of the adoption of the Rules	5	working days
For appointment of the arbitrator and transferral of the file	5	working days
For acceptance by the arbitrator	2	working days

For possible Directions by the arbitrator	10	working days
For receipt of the Directions by the parties	5	working days
For the drawing up of a possible Reply	15	working days
For receipt of the Reply	5	working days
For a possible Rebuttal	5	working days
For receipt of the Rebuttal	5	working days
For the filing of the award with the Secretariat	30	working days
For sending to the parties the award or a request to complete their payment of the fees and administrative dues	8	working days
Total	115	working days.

## *SCHEDULE OF FEES AND ADMINISTRATIVE DUES OF THE COURT*

### DOCUMENTS ONLY ARBITRATION

Value in dispute	Fees of the arbitrator (to be divided among the parties)	Administrative dues (to be divided among the parties)
Up to € 5,000	Euro 500	Euro 200