

FIATA

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ORGANIZATION

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Arbitration Court Rules of FIATA for Individual Members

1. Applicability, Jurisdiction

These Arbitration Rules are applicable to disputes between Individual Members provided the parties have agreed in writing to submit these to arbitration and therewith have waived seeking recourse in the ordinary courts.

The arbitration court is domiciled in Zurich/Switzerland. The proceedings may take place in another location provided the parties and the members of the arbitration court agree on this location.

2. Arbitrators

2.1 Arbitrators for disputes below US\$ 10,000

For a dispute below US\$ 10,000, the arbitration court shall have only one arbitrator. He will be appointed by the President of FIATA (if he is prevented from doing this, by the Secretary General of FIATA). The arbitrator is to be chosen from the members of the Advisory Body Legal Matters or from the Extended Board of FIATA.

2.2 Arbitrators for disputes above US\$ 10,000

For a dispute above US\$ 10,000, the arbitration court shall consist of three members. It is formed out of arbitrators nominated by each of the parties and a third arbitrator appointed by the President of FIATA (if he is prevented from doing this, by the Secretary General of FIATA) as head arbitrator. The arbitrators are to be chosen from among the members of the Advisory Body Legal Matters or from the Extended Board of FIATA.

Should a party not appoint the arbitrator to be designated by it, the President of FIATA (if he is prevented from doing this, the Secretary General of FIATA) shall make the appointment upon request of a party.

3. General Proceedings

Before commencement of the proceedings, the arbitration court shall examine whether an arbitration agreement has been executed between the parties and whether advances for costs and the deposit of the amount in dispute has been received by the secretariat of FIATA. In default of this, the proceedings shall be suspended.

The proceedings shall be in writing and in English unless the parties agree on another language with the arbitration court.

3.1 Proceedings for disputes below US\$ 10,000

The proceedings for disputes below US\$ 10,000 consist of a simple exchange of complaint and answer or counterclaim. All evidence must be submitted with these. The arbitrator shall himself determine whether additional exchanges of petitions are admissible.

The arbitrator shall decide based on the submitted proof and petitions. He is free in his weighing of the evidence.

His arbitration award shall be in writing with a brief reasoning.

3.2 Proceedings for disputes above US\$ 10,000

The proceedings for a dispute above US\$ 10,000 shall consist of an exchange of complaint and answer or counterclaim as well as a reply and rejoinder. All evidence must be submitted with these. The arbitration court shall itself decide whether additional exchanges of documents shall be admitted and/or whether the parties are summoned for oral debate.

In the event oral debate shall take place, the arbitration court shall determine the cost advances to be provided before it commences. Should these not be provided, the proceedings shall be suspended.

The arbitration court shall decide based on the proof, petitions and oral statements. It is free in its weighing of the evidence.

All arbitrators must participate in the consultations and voting. The arbitration award shall be made by a majority of the votes, prepared in writing and briefly substantiated.

4. Deposit of amount in dispute

Before commencement of the proceedings, the defendant as well as also the counterclaim defendant must deposit the amount in dispute at the domicile of the FIATA secretariat in a special account designed for this purpose with the right of disposal with the arbitration court.

In the event there is a decision, the FIATA secretariat shall pay the amounts out, resp. back, to the parties entitled to them based on the written decision.

Should no decision be arrived at, the deposited amount in dispute shall be paid back.

5. Costs

5.1 Costs of the parties

Each party shall pay its own costs (e.g. its own travel costs, its own hotel accommodation, its own costs for legal advice, etc.).

5.2 Costs of arbitration court for proceedings for disputes below US\$ 10,000

For proceedings for disputes below US\$ 10,000, the costs of the arbitration court shall equal US\$ 500. Each party is responsible for half of these costs and it must be paid in as a cost advance before the commencement of the proceedings at the domicile of the FIATA secretariat.

The arbitrator shall decide concerning a partial repayment in the event the proceedings are suspended.

5.3 Costs of arbitration court for proceedings for disputes above US\$ 10,000

For proceedings for disputes above US\$ 10,000, the costs of the arbitration court shall equal 10 % of the amount in dispute but a maximum of US\$ 3,000.

Should an oral debate take place, the costs of the arbitration court shall consist in addition of:

- travel expenses from the residence of the arbitrator to the place of the proceedings (Air: Business Class)
- hotel and food for the arbitrators at the place of the proceedings during the period of the proceedings including the night before and after
- US\$ 3,000 as lump sum for the entire arbitration court per oral proceedings date.

The costs are to be paid half and half by the parties and must be paid in as cost advances before commencement, resp. continuation, of the proceedings at the domicile of the FIATA secretariat.

The arbitration court shall decide concerning a partial repayment in the event the proceedings are suspended.

Zurich - May 2000

Martin Oeschger
Secretary General