Milan Chamber of Commerce - International Arbitration Rules

Contents

Milan Chamber of Commerce - International Arbitration Rules 1

Standard Arbitration Clauses 1
  Clause for Sole Arbitrator ........................................ 1
  Clause for Arbitral Tribunal ...................................... 1
  Clause for Multi-Party Arbitration .............................. 1
  Submission Agreement(3) ........................................ 1

PREAMBLE-The Bodies 2
  The Chamber of Arbitration ...................................... 2
  The Arbitral Council ............................................. 2
  The Secretariat ................................................... 3

TITLE I - Commencement of the Preceedings 3

TITLE II - The Arbitrator 5

TITLE III-The Proceedings 7

TITLE IV-The Award and Costs 10

TITLE V-General Provisions 11

Document Information 13
  MetaData ......................................................... 13

Information on this document copy and an unofficial List of Some web related information and sources 14
  Information on this document copy ............................. 14
  Links that may be of interest .................................. 14
MILAN CHAMBER OF COMMERCE - INTERNATIONAL ARBITRATION RULES

STANDARD ARBITRATION CLAUSES

Clause for Sole Arbitrator

All disputes arising out of the present contract (1), including those concerning its validity, interpretation, performance and termination, shall be referred to a sole arbitrator according to the International Arbitration Rules of the Chamber of National and International Arbitration of Milan, which the parties declare that they know and accept in their entirety.

The sole arbitrator shall decide according to the norms ... (2).

The language of the arbitration shall be ...

Clause for Arbitral Tribunal

All disputes arising out of the present contract (1), including those concerning its validity, interpretation, performance and termination, shall be referred to an arbitral tribunal consisting of three arbitrators, one being the President, according to the International Arbitration Rules of the Chamber of National and International Arbitration of Milan, which the parties declare that they know and accept in their entirety.

The arbitrators shall decide according to the norms ... (2).

The language of the arbitration shall be ...

Clause for Multi-Party Arbitration

All disputes arising out of the present contract (1), including those concerning its validity, interpretation, performance and termination, shall be settled, independent of the number of the parties, by an arbitral tribunal consisting of three arbitrators, one being the President, directly appointed by the Chamber of National and International Arbitration of Milan, the International Arbitration Rules of which the parties declare that they know and accept in their entirety.

The arbitrators shall decide according to the norms ... (2).

The language of the arbitration shall be ...

Submission Agreement(3)

The undersigned (4) .......... and .........., considering that a dispute has arisen between them concerning (5) ...........

agree to refer this dispute to the decision of (6) ... , according to the International Arbitration Rules of the Chamber of National and International Arbitration of Milan, which the parties declare that they know and accept in their entirety.

The arbitrator(s) shall decide according to the norms ... (2).

The language of the arbitration shall be ...
(Date)............
(Signature).......................... (Signature)..............................

notes

(1) Where the arbitration clause is contained in a document other than the contract to which it pertains, the contract referred to shall be indicated.

(2) The parties may indicate the norms applicable to the merits of the dispute; alternatively, they may provide that the arbitrator decide ex eaquo et bono.

(3) The submission agreement is an agreement concluded where the dispute has already arisen between the parties and no arbitration clause has been previously concluded.

(4) Indicate the name and domicile (seat, if a company) of the parties.

(5) Indicate (in a general manner) the subject matter of the dispute, referring if necessary to the contract out of which the dispute arises.

(6) Indicate the number of the arbitrators (one or three).

PREAMBLE-THE BODIES

The Chamber of Arbitration

1. The Chamber of National and International Arbitration of Milan, an entity of the Chamber of Commerce of Milan, does not adjudicate disputes: it administers arbitral proceedings under these Rules through its bodies.

The Chamber of Arbitration also provides technical and contractual expertise and conciliation services on national and international contracts.

Upon request, the Chamber of Arbitration appoints arbitrators and experts in arbitral proceedings not administered according to these Rules.

2. The Chamber of Arbitration applies these Rules through its Arbitral Council and Secretariat.


At the request of the parties, the Chamber of Arbitration administers arbitral proceedings according to the UNCITRAL Rules.

The Arbitral Council

1. The Arbitral Council is composed of a Honorary President, an Executive President and five members appointed for three years by the Board of the Chamber of Commerce of Milan.

A maximum of two foreign members may be co-opted and appointed by the Board of the Chamber of Commerce of Milan.

The members of the Arbitral Council may not be appointed as arbitrators in proceedings administered by the Chamber of Arbitration.
2. The Arbitral Council administers the arbitral proceedings held under these Rules. In particular, it may:

- exercise a preliminary control on the existence and validity of the arbitration agreement and take measures on jurisdiction and connected proceedings where the arbitral body has not yet been formed;
- appoint, replace and decide on the challenge of arbitrators;
- extend the time limit for filing the arbitral award;
- determine the costs of the proceedings.

3. The meetings of the Arbitral Council are valid where half of its members plus one are present; the Council deliberates by majority of the members present. In case of deadlock, the vote of the Honorary President or his deputy shall prevail.

The Secretariat

The Secretariat assists the Arbitral Council and performs the administrative tasks indicated in these Rules. In particular:

- it receives the Request for Arbitration and ascertains whether it meets all requirements;
- it receives all procedural acts, ascertains their regularity and forwards them, in full compliance with the principle of adversarial proceedings;
- it gives logistical support in the proceedings to the arbitrator;
- it may request deposits on the costs of the proceedings, which are finally determined by the Arbitral Council.

TITLE I - COMMENCEMENT OF THE PROCEEDINGS

Art. 1 - Arbitration Agreement

1. The arbitral procedure laid down in these Rules shall apply where the parties have concluded an arbitration agreement referring to the Chamber of Commerce of Milan or the Chamber of Arbitration of Milan or its Rules.

2. Where a party raises an objection as to the existence or validity of the arbitration agreement before the arbitral body has been formed, the Arbitral Council shall decide on the matter and declare whether the arbitration may proceed.

If the arbitration proceeds, the arbitrator shall decide on his jurisdiction at the first hearing.

3. Where there is no arbitration agreement or the arbitration agreement does not contain at least one of the indications under para. 1 of this Article, the party wishing nonetheless to commence arbitration according to the Rules of the Chamber of Arbitration of Milan may request to do so by filing a Request for Arbitration with the Chamber of Arbitration according to Art. 2 of these Rules.
If the other party does not agree with this request within thirty days of receiving the Request for Arbitration, the Secretariat informs the requesting party that the arbitration cannot take place.

Art. 2 - Request for Arbitration

1. The party wishing to commence proceedings shall file a signed Request for Arbitration with the Chamber of Arbitration, containing:
   a) the name and address of the parties and their domicile for the proceedings, if any;
   b) the document containing the clause or submission, or, in the case indicated under Art. 1.3 of these Rules, the request to the other party to accept arbitration before the Chamber of Arbitration of Milan;
   c) all indications, if any, as to the language of the arbitration, the norms applicable to the merits of the dispute or the ex aequo et bono decision;
   d) a description of the facts and claims and a (summary) indication of the economic value of the dispute, if possible;
   e) the evidence, if any, in support of its claim and any document which the party deems appropriate to enclose;
   f) the designation of the arbitrator or all indications necessary for selecting him;
   g) the original power of attorney to counsel, if any.

2. The Request for Arbitration shall be filed with the Chamber of Arbitration as follows: one original for the Chamber of Arbitration and one for each defendant, plus as many copies as the arbitrators.

When filing the Request, claimant shall pay the registration fee indicated in the annexed Schedule.

3. Where the document under b) is lacking or the other party does not accept arbitration in the case under Art. 1.3 of these Rules, the Secretariat shall declare that the arbitration cannot take place.

4. The Secretariat shall forward the Request for Arbitration to the other party through a bailiff, by registered mail with advice of receipt or by any other means allowing for a proof that the notice has been received.

Art. 3 - Statement of Defence and Counterclaim by Defendant

1. Within thirty days of receiving the Request, defendant shall file its signed Statement of Defence with the Chamber of Arbitration, containing:
   a) the name and address of defendant and its domicile for the proceedings, if any;
   b) all indications, if any, as to the language of the arbitration, the norms applicable to the merits of the dispute or the ex aequo et bono decision;
   c) its defence and all counterclaims, if any, with a (summary) indication of their economic value;
   d) the evidence, if any, in support of its defence and counterclaim and any document which the...
party deems appropriate to enclose;
e) the designation of the arbitrator or all necessary indications for selecting him;
f) the original power of attorney to counsel, if any.

2. The Statement of Defence by defendant shall be filed with the Chamber of Arbitration as follows: one original for the Chamber of Arbitration and one for each opposing party, plus as many copies as are the arbitrators.

When filing its Statement, defendant shall pay the registration fee indicated in the annexed Schedule.

3. In case of counterclaim by defendant, claimant may file a Reply within thirty days of receiving notice of the counterclaim.

4. The Secretariat shall forward the Statement of Defence by defendant to the other party through a bailiff, by registered mail with advice of receipt or by any other means allowing for a proof that the notice has been received.

Art. 4 - Deposit on the Costs of the Proceedings

1. The Secretariat shall give a provisional estimate of the economic value of the dispute on the basis of the documents mentioned in Arts. 2 and 3, and request the parties to pay an equal part of the deposit on the costs of the proceedings as indicated in Art. 22 of the Rules.

The economic value of the dispute shall be estimated on the basis of all the claims presented by all the parties and their economic value.

2. Where one or more counterclaims have been filed, the Secretariat may request the parties to pay separate deposits for the main claim and the counterclaim.

3. Where the value of the dispute is initially undetermined, the deposit on the costs of the proceedings to be paid by the parties shall be determined by the Secretariat.

TITLE II - THE ARBITRATOR

Art. 5 - Appointment of the Arbitrator

1. Disputes under these Rules shall be settled by a sole arbitrator or by a Tribunal of three arbitrators or more, provided their number is uneven. In the absence of a specific provision by the parties as to the number of arbitrators, the dispute shall be settled by a sole arbitrator appointed by the Arbitral Council, unless the Arbitral Council deems that the dispute, because of its characteristics, is to be referred to a Tribunal of three arbitrators.

2. Sole Arbitrator

Unless otherwise agreed, the sole arbitrator shall be appointed by the Arbitral Council.

Where the parties have provided for the common designation of the sole arbitrator, such designation shall be made within fifteen days of the filing of the Statement of Defence by defendant.

If the parties cannot reach an agreement, the arbitrator shall be appointed by the Council.
3. Arbitral Tribunal

Unless otherwise agreed, the Tribunal shall be formed in the following manner:

a) each party shall designate an arbitrator in the Request for Arbitration and the Statement of Defence, respectively; if a party fails to do so, the arbitrator shall be appointed by the Arbitral Council;

b) the third arbitrator, being the President of the Tribunal, shall be appointed by the Arbitral Council. The parties may, however, provide that the third arbitrator be designated by common agreement of the two arbitrators designated by the parties. In this case, if the two arbitrators fail to reach an agreement within the time limit indicated by the parties, or set by the Chamber of Arbitration where the parties have not indicated it, the third arbitrator shall be appointed by the Arbitral Council;

c) all the arbitrators who have not been directly appointed by the Arbitral Council (i.e., those designated by the parties and the third arbitrator designated by common agreement by the two arbitrators) shall be confirmed by the Arbitral Council; if the arbitrator is not confirmed, the new arbitrator shall again be designated by the party or by the two arbitrators.

4. Where it appoints the sole arbitrator or the President of the Tribunal, the Arbitral Council shall appoint a person of a nationality other than that of the parties, where they do not have the same nationality.

5. Plurality of parties

Where there are more than two parties to the arbitration and their interests contrast and cannot be reduced to two opposing interests, in the absence of a specific provision in the arbitration clause as to the number or manner of appointment of the arbitrators, the Arbitral Council shall directly appoint a Tribunal of three arbitrators, one being the President of the Tribunal.

In the presence of a specific provision in the arbitration clause or a factual situation leading to a Tribunal of more than three arbitrators, the Arbitral Council shall appoint as many arbitrators as are needed to obtain in any case an uneven number of arbitrators.

Art. 6 - Acceptance and Statement of Independence by the Arbitrator

1. Within ten days of receiving notice of his appointment from the Chamber of Arbitration, the arbitrator shall give notice of his acceptance to the Chamber.

2. When giving notice of his acceptance, the arbitrator shall state in writing:

- any relationship with the parties or their counsel which may affect his independence and impartiality;

- any personal or economic interest, either direct or indirect, in the subject matter of the dispute;

- any prejudice or reservation as to the subject matter of the dispute which may affect his impartiality.

Where necessary, due to supervening facts, this Statement shall be repeated in the course of the arbitral proceedings until the award is filed.
3. A new arbitrator, replacing the party-designated arbitrator who has not accepted the mandate shall again be designated by the party, within ten days of the notification of non-acceptance.

Art. 7 - Replacement of the Arbitrator in Case of Challenge, Resignation, Impossibility or Obstructive Behaviour

1. Within ten days of receiving notice of the Statement of the Arbitrator provided for in Art. 6, or of becoming aware of a new ground, each party may, under pain of expiry, file a reasoned challenge against the arbitrator with the Secretariat.

The Arbitral Council shall render a final decision on the challenge, after having heard the arbitrator, which may also be only in writing.

The Arbitral Council may remove the arbitrator on its own initiative.

2. The arbitrator may resign in the course of the proceedings for serious reasons, by giving written notice thereof to the Arbitral Council.

3. The arbitrator shall be replaced in case of death or supervening impossibility.

4. In case of obstructive behaviour by the arbitrator, such as inactivity, unjustified delay or negligence in performing his tasks, the Arbitral Council shall issue a first warning in writing. If the arbitrator still does not fulfil his duties, the Council shall remove him and appoint another arbitrator in his place.

5. In all cases of replacement provided for in this Article, the Arbitral Council shall decide on the manner of appointment of the new arbitrator and determine the fees due to the arbitrator who has been replaced, taking into account the work done.

6. In all cases of replacement of the arbitrator provided for in the present Article, the new sole arbitrator or the new Arbitral Tribunal shall decide whether to repeat all or some of the acts in the proceedings. Where all acts are to be repeated, the time limit for rendering the award starts running ex novo from the moment in which the renewal order has been issued.

**TITLE III - THE PROCEEDINGS**

Art. 8 - Transmission of the File to the Arbitrator

The Secretariat shall forward the Request for Arbitration and the Statement of Defence by defendant to the arbitrator, together with all annexed documents, only after the parties have paid the initial deposit provided for in Art. 4.

Art. 9 - Arbitral Jurisdiction

Arbitral jurisdiction is deemed accepted if defendant does not expressly object to it within the time limit provided for in Art. 3.1.

Art. 10 - Connected Disputes

Where more than one proceedings are commenced before the Chamber of Arbitration on connected disputes, the Arbitral Council may, before the first hearing before the arbitral body, suggest to the parties that the proceedings be consolidated and referred to an arbitral body appointed by the Council.
Art. 11 - Seat of the Arbitration

In the absence of an agreement by the parties, the seat of the arbitration is at the seat of the Chamber of Arbitration of Milan, unless the Arbitral Council, taking into account special requests by the parties or the characteristics of the arbitration, determines a different seat before the first hearing before the arbitral body.

The arbitrators may further decide that hearings or single procedural acts take place in a place other than the seat.

Art. 12 - Language of the Arbitration

1. Where the parties have not agreed on a language within the time limit provided for filing the Statement of Defence by defendant, the language in which the arbitration is to be held shall be determined by the arbitrator, taking into account the circumstances of the arbitration, among others, the language of the contract under which the dispute arises and the language of the correspondence between the parties, in such a manner as to guarantee that the interests of all parties are fully protected.

2. The acts in the arbitral proceedings precedent to the determination by the arbitrators shall be drawn up in or translated into the language of the contract.

3. The arbitrator may authorize or request translations or interpretations of single acts of the parties.

Art. 13 - Norms Applicable to the Merits

The parties may, also after commencement of the proceedings, agree on the norms applicable to the merits of the dispute or provide that the arbitrator decide ex aequo et bono.

If the parties are silent, the arbitrator shall apply the law with which the contract has its closest connection. In any case the arbitrator shall take into account the provisions of the contract and trade usages.

Art. 14 - Urgent Measures

1. If this is allowed under the applicable law, the parties may request the arbitrator to issue urgent measures, also in the form of a partial award, in order to prevent events related to the object of the dispute which otherwise could not be avoided.

2. The arbitrator may make the measure conditional upon a bond, guarantee or other security to be given by the requesting party.

3. The parties shall comply with the measure forthwith, or in any case within the time limit set therein.

4. A request by a party to the Judicial Authority to issue an urgent measure is not to be deemed incompatible with the arbitration agreement.

Art. 15 - Rules Governing the Proceedings and the Taking of Evidence

1. The rules applicable to the procedures shall be those established by the parties before the arbitral body is formed, by these Rules or, in the silence of the Rules, by the arbitrator.

2. Where the nature of the dispute allows, the arbitrator shall attempt a conciliation between
the parties at the first hearing. This conciliation attempt may be renewed at any moment during the evidence taking phase.

3. The arbitrator may gather evidence both on his own initiative and at the request of a party, in full compliance with the principle of adversarial proceedings.

4. The arbitrator may hear the parties directly and admit witness evidence, also in writing.

Where witness evidence is admitted, the interested parties shall arrange that the witnesses are present on the day and place of the hearing. The arbitrator may authorize or request interpreters or translators for the hearing of witnesses. If a witness is absent without just reason, he may not be subsequently heard unless the interested party requests so and the arbitrator agrees.

5. The arbitrator may appoint one or more expert witnesses for the arbitral body, define their mission, receive their reports and hear them in adversarial proceedings with any party-appointed expert witness. At the request of the arbitrator, the expert witness for the arbitral body may also be appointed by the Arbitral Council. The provisions of Arts. 6 and 7 on the acceptance by and the replacement of the arbitrator apply, in so far as they are compatible, to the expert witness for the arbitral body. The Chamber of Arbitration shall ascertain that the fees of the expert witness for the arbitral body are determined according to the schedule of his professional association.

6. When the evidence taking phase is concluded, the arbitrator may set a time limit for filing final statements and a last hearing for oral discussion.

7. Where an arbitral tribunal has been appointed, the tribunal may delegate the evidence taking to its President or one of its members.

8. If the parties so request, the arbitrator may decide on the basis of documents only, in full compliance with the principle of adversarial proceedings.

Art. 16 - Hearings and Minutes

1. The date of the hearings shall be determined by the arbitrator and communicated to the parties with adequate notice.

2. The parties may appear at the hearing either in person or through duly empowered representatives, or be assisted by counsel with power of attorney.

If a party does not appear at the hearing without just reason, the arbitrator shall ascertain whether it was duly summoned and may then proceed with the hearing.

Otherwise, he shall arrange that the party is summoned again.

3. The arbitrator shall make minutes of all hearings and evidence taking activity; the Secretariat shall forward a copy of the minutes to the parties.

Art. 17 - Settlement in the Course of the Proceedings

1. If the parties reach a settlement before the arbitral body is formed, they shall give notice thereof to the Secretariat, which terminates the proceedings.

2. If the parties reach a settlement after the arbitral body has been formed, the arbitrator shall make a report signed by the parties, which relieves him from the obligation to render an award.

If the settlement only concerns part of the dispute, the proceedings continue on the issues not
covered by the settlement.

3. The parties may jointly request the arbitrator, who may refuse, to record their settlement in an award.

**TITLE IV - THE AWARD AND COSTS**

Art. 18 - Deliberation and Signing of the Award

1. Where an arbitral tribunal has been appointed, the award shall be deliberated by the arbitrators meeting in personal conference or videoconference, also at a place other than the seat of the arbitration, and shall be set down in writing. The decision shall be taken unanimously or by majority vote or, where no majority is possible, by the President of the arbitral tribunal.

2. The award may be signed by the members of the arbitral tribunal at different times and places, also abroad. Each signature shall indicate its place, day, month and year.

3. The signatures of the members of the arbitral tribunal may result from different copies of the award, as long as the Secretariat declares them to be true copies of the original.

4. Where the award is signed only by the majority of the members or by the President of the arbitral tribunal, it shall be expressly declared that the deliberation has taken place in personal conference of all members and that the members who did not sign could not or did not wish to.

Art. 19 - Contents of the Award

1. The award shall settle all the issues of the dispute, and give reasons therefor.

2. The award shall indicate or refer to the costs of the proceedings provided for in Art. 22 of the Rules and determined by the Arbitral Council of the Chamber.

3. The arbitrator shall apportion the costs of the proceedings and the legal costs between the parties in the award.

Art. 20 - Partial Award

If, for reasons to be stated in the partial award, he deems that he can decide separately on some of the issues of the dispute, the arbitrator shall render a partial award.

A partial award does not affect the time limit for rendering the final award provided for in Art. 21.1, requests for extension excepted.

Art. 21 - Time Limit for Filing the Award: Suspensions and Extensions

1. The arbitrator shall file the award with the Secretariat of the Chamber of Arbitration within six months of the first hearing.

The award shall be filed in as many originals as are the parties plus one.

The Chamber of Arbitration shall forward the award to each party by sending the original award by registered mail with advice of receipt or by any other means allowing for a proof that the notice has been received.

2. The time limit for filing the award shall be suspended in the case provided for in Art. 22.4
of these Rules. The Arbitral Council may, on its own initiative or at the request of a party or the arbitrator, suspend the proceedings on any other just ground.

3. The time limit shall be extended only by the Arbitral Council on just grounds.

Art. 22 - Costs of the Proceedings and Payments

1. The costs of the proceedings shall be determined by the Arbitral Council. They shall include:

a) the registration fees paid by claimant when filing the Request and by defendant together with its Statement of Defence;

b) the administrative fees due to the Secretariat of the Chamber of Arbitration for its activities;

c) the fees (and reimbursement of expenses) of the arbitrator, determined on the basis of the economic value of the dispute and the annexed Schedule, taking into account the complexity of the dispute, the rapidity of the proceedings and the work done by the arbitrator. In case of a tribunal, the Arbitral Council may establish different fees for the members of the arbitral tribunal, in particular for the President with respect to the other members;

d) the fees (and reimbursement of expenses) of the expert witness for the arbitral body.

2. The Secretariat may request to the parties, apart from the initial deposit under Art. 4, further advance payments on the costs to be finally determined by the Arbitral Council.

3. The parties shall make equal payments until the end of the proceedings, with the exception of the case where separate deposits are requested as provided for in Art. 4.2 of these Rules.

Where a party does not make a requested payment within the time limit given therefor, the payment may be made by the other party. In such case, this sum shall be credited in the award to the party which has paid.

4. If any of the payments requested during the proceedings is not made, the Chamber of Arbitration shall suspend the proceedings. The time limit shall start running again when the payment is made. Where a payment is not made within six months of having been requested, the Arbitral Council may declare that the request to which the payment refers has been withdrawn.

5. Where the proceedings end before the award is rendered, the Arbitral Council shall determine the costs of the proceedings, taking into account the moment when the proceedings have ended and the work done.

6. If the dispute or the proceedings are extraordinarily complex, the Arbitral Council may determine the costs of the proceedings in excess of the Schedule.

**TITLE V - GENERAL PROVISIONS**

Art. 23 - Scope and Application of the Rules

These Rules shall apply to all proceedings commenced after 1st May 1996. Where the parties have not indicated which Rules (National or International) apply to the proceedings, the arbitrator shall decide on the matter, on the basis of the national or international nature of the arbitration.
Art. 24 - Notices and Time Limits

1. Notices shall be sent by all means commonly used in business relationships for the sake of rapidity, as long as they allow for a proof of receipt.

2. Notice of an act shall be deemed sent at the place and on the day of delivery to the addressee by the means provided for in the preceding paragraph.

3. The time limits indicated in these Rules shall run from the date on which notice thereof is received by the addressee. The initial day shall be excluded from the calculation of time limits. Where the date of expiry falls on a Saturday or a holiday, it shall be prorogated to the first following working day.

Art. 25 - Filing of Acts and Documents by the Parties

1. The parties shall file with the Chamber of Arbitration: one original of each act for the Chamber of Arbitration and one original for the other party, plus as many copies as there are arbitrators.

2. Photostatic copies of documents may be filed. Where it is disputed that the copies are true copies of the original, the interested party may request the Secretariat to certify them, by showing the original.

3. The Secretariat may send copies of acts and documents, stating that they are true copies of the original.

4. If the parties do not file the requested number of copies, the Secretariat shall make copies at the expense of the failing party.

Art. 26 - Restitution and Keeping of Acts

Each party may, within three months of the conclusion of the proceedings, request the restitution of the acts it has filed. The Secretariat keeps the case file for three years after conclusion of the proceedings.

Art. 27 - Obligation to Preserve Confidentiality

1. The Chamber of Arbitration, the arbitrator, the expert and the parties shall keep all information on the development and outcome of the arbitral proceedings confidential.

2. The parties may expressly authorize the Chamber of Arbitration to publish the award, either in its entirety or in a totally anonymous form as far as the parties and other persons in the proceedings are concerned.

Art. 28 General rule

In all cases not expressly provided for in these Rules, the Arbitral Council and the arbitrators shall act according to the general principles underlying these Rules, in such a manner as to guarantee to the parties correct, transparent and rapid proceedings.
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