

UNCITRAL Conciliation Rules, 1980

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UNCITRAL Conciliation Rules, 1980**Article 1 - Application of the Rules**

1. These Rules apply to conciliation of disputes arising out of or relating to a contractual or other legal relationship where the parties seeking an amicable settlement of their dispute have agreed that the UNCITRAL Conciliation Rules apply.

2. The parties may agree to exclude or vary any of these Rules at any time.

3. Where any of these Rules is in conflict with a provision of law from which the parties cannot derogate, that provision prevails.

Article 2 - Commencement of conciliation proceedings

1. The party initiating conciliation sends to the other party a written invitation to conciliate under these Rules, briefly identifying the subject of the dispute.

2. Conciliation proceedings commence when the other party accepts the invitation to conciliate. If the acceptance is made orally, it is advisable that it be confirmed in writing.

3. If the other party rejects the invitation, there will be no conciliation proceedings.

4. If the party initiating conciliation does not receive a reply within thirty days from the date on which he sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate. If he so elects, he informs the other party accordingly.

Article 3 - Number of conciliators

There shall be one conciliator unless the parties agree that there shall be two or three conciliators. Where there is more than one conciliator, they ought, as a general rule, to act jointly.

Article 4 - Appointment of conciliators

1.

(a) In conciliation proceedings with one conciliator, the parties shall endeavour to reach agreement on the name of a sole conciliator;

(b) In conciliation proceedings with two conciliators, each party appoints one conciliator;

(c) In conciliation proceedings with three conciliators, each party appoints one conciliator. The parties shall endeavour to reach agreement on the name of the third conciliator.

2. Parties may enlist the assistance of an appropriate institution or person in connexion with the appointment of conciliators. In particular,

(a) A party may request such an institution or person to recommend the names of suitable individuals to act as conciliator; or

(b) The parties may agree that the appointment of one or more conciliators be made directly by such an institution or person.

In recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

22 **Article 5 - Submission of statements to conciliator**

- 23 1. The conciliator , upon his appointment, requests each party to
submit to him a brief written statement describing the general na-
24 ture of the dispute and the points at issue. Each party sends a copy
of his statement to the other party.
- 25 2. The conciliator may request each party to submit to him a further
written statement of his position and the facts and grounds in sup-
port thereof, supplemented by any documents and other evidence
that such party deems appropriate. The party sends a copy of his
statement to the other party.
- 26 3. At any stage of the conciliation proceedings the conciliator may
request a party to submit to him such additional information as he
deems appropriate.

26 **Article 6 - Representation and assistance**

27 The parties may be represented or assisted by persons of their
choice. The names and addresses of such persons are to be com-
municated in writing to the other party and to the conciliator; such
communication is to specify whether the appointment is made for
purposes of representation or of assistance.

28 **Article 7 - Role of conciliator**

- 29 1. The conciliator assists the parties in an independent and impar-
tial manner in their attempt to reach an amicable settlement of their
dispute.
- 30 2. The conciliator will be guided by principles of objectivity, fair-
ness and justice, giving consideration to, among other things, the
rights and obligations of the parties, the usages of the trade con-

cerned and the circumstances surrounding the dispute, including
any previous business practices between the parties.

- 31 3. The conciliator may conduct the conciliation proceedings in such
a manner as he considers appropriate, taking into account the cir-
cumstances of the case, the wishes the parties may express, in-
cluding any request by a party that the conciliator hear oral state-
ments, and the need for a speedy settlement of the dispute.
- 32 4. The conciliator may, at any stage of the conciliation proceedings,
make proposals for a settlement of the dispute. Such proposals
need not be in writing and need not be accompanied by a statement
of the reasons therefor.

Article 8 - Administrative assistance

33 In order to facilitate the conduct of the conciliation proceedings, the
parties or the conciliator with the consent of the parties, may ar-
range for administrative assistance by a suitable institution or per-
son.

Article 9 - Communication between conciliator and parties

- 35 1. The conciliator may invite the parties to meet with him or
may communicate with them orally or in writing. He may meet
or communicate with the parties together or with each of them
separately.
- 36 2. Unless the parties have agreed upon the place where meetings
with the conciliator are to be held, such place will be determined by
the conciliator, after consultation with the parties, having regard to
the circumstances of the conciliation proceedings.

38 **Article 10 - Disclosure of information**

39 When the conciliator receives factual information concerning the
 40 dispute from a party, he discloses the substance of that information
 41 to the other party in order that the other party may have the oppor-
 42 tunity to present any explanation which he considers appropriate.
 43 However, when a party gives any information to the conciliator sub-
 44 ject to a specific condition that it be kept confidential, the conciliator
 45 does not disclose that information to the other party.

40 **Article 11 - Co-operation of parties with conciliator**

41 The parties will in good faith co-operate with the conciliator and, in
 42 particular, will endeavour to comply with requests by the concilia-
 43 tor to submit written materials, provide evidence and attend meet-
 44 ings.

42 **Article 12 - Suggestions by parties for settlement of
 43 dispute**

43 Each party may, on his own initiative or at the invitation of the con-
 44 ciliator, submit to the conciliator suggestions for the settlement of
 45 the dispute.

44 **Article 13 - Settlement agreement**

45 1. When it appears to the conciliator that there exist elements of
 a settlement which would be acceptable to the parties, he formu-
 lates the terms of a possible settlement and submits them to the
 parties for their observations. After receiving the observations of
 the parties, the conciliator may reformulate the terms of a possible
 settlement in the light of such observations.

2. If the parties reach agreement on a settlement of the dispute, 46
 they draw up and sign a written settlement agreement. If requested
 by the parties, the conciliator draws up, or assists the parties in
 drawing up, the settlement agreement.

3. The parties by signing the settlement agreement put an end to 47
 the dispute and are bound by the agreement.

Article 14 - Confidentiality 48

The conciliator and the parties must keep confidential all matters re- 49
 lating to the conciliation proceedings. Confidentiality extends also
 to the settlement agreement, except where its disclosure is neces-
 sary for puposes of implementation and enforcement.

Article 15 - Termination of conciliation proceedings 50

The conciliation proceedings are terminated: 51

(a) By the signing of the settlement agreement by the parties, on 52
 the date of the agreement; or

(b) By a written declaration of the conciliator, after consultation with 53
 the parties, to the effect that further efforts at conciliation are no
 longer justified, on the date of the declaration; or

(c) By a written declaration of the parties addressed to the concil- 54
 iator to the effect that the conciliation proceedings are terminated,
 on the date of the declaration; or

(d) By a written declaration of a party to the other party and the con- 55
 ciliator if appointed, to the effect that the conciliation proceedings
 are terminated. on the date of the declaration.

Article 16 - Resort to arbitral or judicial proceedings

57 The parties undertake not to initiate, during the conciliation proceedings any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings, except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

Article 17 - Costs

59 1. Upon termination of the conciliation proceedings, the conciliator fixes the costs of the conciliation and gives written notice thereof to the parties. The term “costs” includes only:

- 60 (a) The fee of the conciliator which shall be reasonable in amount;
- 61 (b) The travel and other expenses of the conciliator;
- 62 (c) The travel and other expenses of witnesses requested by the conciliator with the consent of the parties;
- 63 (d) The cost of any expert advice requested by the conciliator with the consent of the parties;
- 64 (e) The cost of any assistance provided pursuant to articles 4, paragraph (2) (b), and 8 of these Rules;

65 2. The costs, as defined above, are borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party are borne by that party.

Article 18 - Deposits

67 1. The conciliator, upon his appointment, may request each party

56 to deposit an equal amount as an advance for the costs referred to in article 17, paragraph (1) which he expects will be incurred.

2. During the course of the conciliation proceedings the conciliator may request supplementary deposits in an equal amount from each party.

3. If the required deposits under paragraphs (1) and (2) of this article are not paid in full by both parties within thirty days, the conciliator may suspend the proceedings or may make a written declaration of termination to the parties, effective on the date of that declaration.

4. Upon termination of the conciliation proceedings, the conciliator renders an accounting to the parties of the deposits received and returns any unexpended balance to the parties.

Article 19 - Role of conciliator in other proceedings

The parties and the conciliator undertake that the conciliator will not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings. The parties also undertake that they will not present the conciliator as a witness in any such proceedings.

Article 20 - Admissibility of evidence in other proceedings

The parties undertake not to rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings:

- (a) Views expressed or suggestions made by the other party in

respect of a possible settlement of the dispute;

76 (b) Admission made by the other party in the course of the conciliation proceedings;

77 (c) Proposals made by the conciliator;

78 (d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator.

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