

coia

court of innovative
arbitration

User Guide

1 July 2015
Version

1. Introduction

The aim of this User Guide is merely to give an overview of COIA arbitral proceedings. Reading this User Guide, which is non-binding and designed for information purposes only, does not obviate the need for each party (or its counsel, respectively) to familiarize itself with the COIA Arbitration Rules.

"Articles" referred to below are those of the COIA Arbitration Rules.

2. What is the prerequisite for using COIA?

Anyone can use COIA. The only prerequisite is that the parties to the dispute have agreed for the dispute to be adjudicated under the COIA Arbitration Rules. Such agreement may be concluded before or after the dispute has arisen, but in any case needs to be in written form. This includes, in accordance with Swiss Arbitration Law, any means of communication which permits the agreement to be evidenced by a text (Article 1.1), i.e. inter alia by fax.

It is recommended that parties wishing to refer disputes to COIA use the model arbitration clause available on the COIA Website.

3. How is a COIA arbitration initiated?

In order for a COIA Arbitration to be initiated, a Request for Arbitration must be filed with the COIA Secretariat (Article 5.1) and the applicable non-reimbursable handling fee must be paid into the COIA bank account (Article 18.1).

A time-saving, but non-mandatory template Request for Arbitration is available for download on the COIA website. When filing a Request for Arbitration (as with any other written submission), parties are required to follow the COIA Guidelines on Written Submissions published on the COIA website. Those Guidelines help to streamline the process and thus to make it more efficient.

Once a Request for Arbitration has been filed in accordance with the COIA Arbitration Rules and the applicable handling fee has been paid, the COIA Secretariat will determine whether, prima facie, there is a written arbitration agreement in favour of COIA between the parties. If so (Articles 11.3), the COIA Secretariat will fix an Advance on Costs payable by the parties, will communicate the Request for Arbitration to the Respondent and will set time limits for the Answer and for payment of the Advance on Costs.

4. How is the Arbitrator appointed?

COIA arbitrations are conducted before a sole arbitrator who is chosen from the arbitrators listed on the COIA website at the time the Request for Arbitration is filed (Article 7.1).

Once the COIA Secretariat has determined that the arbitration can be initiated, it will grant the parties a time limit to agree on one of those arbitrators, unless the parties have already communicated such agreement to the COIA Secretariat (Article 11.3).

If the parties agree on an arbitrator (from the outset or within the time limit set by the COIA Secretariat), the COIA Secretariat will appoint this arbitrator. If there is no such agreement, the COIA Secretariat will select and appoint one of the Arbitrators by taking into account, in particular, the arbitrator's working languages, fields of expertise, docket of cases and apparent conflicts of interest (Article 7.1).

Once the Arbitrator so appointed has accepted his appointment, he/she takes charge of the proceedings.

5. How do the proceedings continue?

After the Advance on Costs has been paid and the Respondent has filed its Answer, or has failed to do so within the relevant time limit, the Arbitrator will decide on how to proceed (Article 13.3). Depending on the circumstances, he/she might well close the proceedings already at this stage, ask for the parties' costs and issue an award. Alternatively, he/she might direct specific questions to the parties, order a full second round of submission or decide that a hearing (not necessarily in person) is necessary (Article 14).

6. What can the parties expect with respect to the arbitral award?

The award will be made according to the rules of law chosen by the parties. In the absence of such choice, it will be made according to general consideration of justice and fairness (*ex aequo et bono*), unless the Arbitrator deems it more appropriate to apply rules of law that he/she deems most closely connected to the dispute (Article 16).

The Arbitrator will endeavour to render the final award as soon as possible but, in principle, no later than six months after payment of the initial Advance on Costs (Article 17.4).

The award will be reasoned except in one of the two following scenarios (Article 17.1):

- The parties have agreed that the award shall be without reasons.
- A party has failed to pay its share of the Advance on Costs and the Arbitrator grants the other party's request for an award without reasons (Article 17.3).

The award will be enforceable in most countries across the world because it falls within the scope of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

If none of the parties objects within 30 days of receiving the award, it may be published in anonymized form after the anonymized version has been circulated to the parties for any comments.