



THE CAIRO REGIONAL
CENTRE FOR INTERNATIONAL
COMMERCIAL ARBITRATION
مركز القاهرة الإقليمي
للتحكيم التجاري الدولي

CRCICA

Practice Notes

Regarding the Centre's Decisions
under the Arbitration Rules
in force since 1 March 2011

JUNE 2014

INTRODUCTION

1. The present practice notes (the “Practice Notes”) of the Cairo Regional Centre for International Commercial Arbitration (the “Centre” or “CRCICA”) shall govern the Centre’s policies regarding the following decisions under CRCICA’s Arbitration Rules in force since 1 March 2011 (the “Rules”):
 - I. **The Centre’s decision not to proceed with arbitral proceedings in accordance with Article 6 of the Rules**
 - II. **The appointment of the Arbitral Tribunal by the Centre in multiparty arbitrations, where the parties have not agreed otherwise in light of Articles 9 (2) and 10 of the Rules ⁽¹⁾**
 - III. **The notification to the parties and the arbitral tribunals of the submissions deposited by the parties, in light of Article 17(4) &(5) and Article 48 of the Rules**
 - IV. **The termination of already suspended arbitral proceedings due to failure of payment of the costs of the arbitration**
 - V. **The determination of the fees of the arbitral tribunal based on sums in dispute exceeding three million US Dollars in accordance with the scales set out in Table (3) annexed to the Rules**
 - VI. **The determination of the costs of the arbitration according to Article 42(5) of the Rules in the case of the arbitral tribunal’s decision to terminate the proceedings before the issuance of a final award according to Article 36 of the Rules**
 - VII. **The partial payment of fees to the resigning arbitrators**
 - VIII. **The Advance partial payment of the arbitrators’ fees after the oral hearing under Article 45(8) of the Rules**
2. The present Practice Notes shall apply where the parties have agreed to refer their disputes to arbitration under the Rules.
3. The discretion and role of the Centre in the above-mentioned matters shall be determined pursuant to its Rules and its decisions, as explained in the following procedures.
4. The present Practice Notes have been approved by the Centre’s Advisory Committee (“AC”) in its meeting dated 23 June 2014 and shall apply to all currently pending CRCICA cases.

(1) Amended by virtue of CRCICA Advisory Committee Decision dated 8 June 2017

Practice Notes

I. The Centre's decision not to proceed with arbitral proceedings in accordance with Article 6 of the Rules

5. **Article 6** of the Rules stipulates:

"The Centre may, upon the approval of the Advisory Committee, decide not to proceed with the arbitral proceedings if it manifestly lacks jurisdiction over the dispute."

6. A question has arisen as to whether the Centre should always refer the matter to its AC regardless of its decision.
7. The practice of the Centre under Article 6 of the Rules is that the matter should be referred to the AC only when the Centre intends to decide not to proceed with the arbitral proceedings. In such a case, the Centre should seek the approval of the AC before making any such decision; otherwise, in case the Centre intends to proceed with the arbitral proceedings, it is not required to seek the approval of the AC before taking such decision.

II. The appointment of the Arbitral Tribunal by the Centre in multiparty arbitrations, where the parties have not agreed otherwise in light of Articles 9 (2) and 10 of the Rules: ⁽²⁾

8. **Article 10 (1)** of the Rules stipulates:

"For the purposes of article 9, paragraph 1, where three arbitrators are to be appointed and there are multiple parties as claimant or as respondent, unless the parties have agreed to another method of appointment of arbitrators, the multiple parties jointly, whether as claimant or as respondent, shall appoint an arbitrator".

9. **Article 10(3)** of the Rules stipulates:

"In the event of any failure to constitute the arbitral tribunal under this article, the Centre shall, at the request of any party, constitute the arbitral tribunal, and in doing so, may revoke any appointment already made, and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator."

(2) Amended by virtue of CRCICA Advisory Committee Decision dated 8 June 2017

10. Article 9 (2) of the Rules stipulates:

"If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the second arbitrator shall, at the request of the first party, be appointed by the Centre."

11. The application of these two Articles gave rise to three cases:

(1) The case where the multiple respondents have not made any appointment.

In this case, the Centre shall appoint an arbitrator on behalf of the defaulting respondents upon the request of the claimant(s) pursuant to Article 9.2 of the Rules.

(2) The case where multiple respondents appoint more than one arbitrator instead of jointly appointing one.

(3) The case where one or more respondents appoint an arbitrator or more than one arbitrator, while the remaining respondent(s) fail to make an appointment or do not participate in the proceedings.

The Centre's practice is to consider that cases (2) and (3) amount to a failure to constitute the arbitral tribunal under Article 10, and therefore, the Centre shall constitute the tribunal upon the request of any party, and in doing so, may revoke any appointment already made, and appoint or reappoint each of the arbitrators and designate one of them as the presiding arbitrator.

III. The notification to the parties and the arbitral tribunals of the submissions deposited by the parties, in light of Article 17(4) &(5) and Article 48 of the Rules

12. Paragraphs 4 and 5 of Article 17 of the Rules stipulate:

"4. Any notice, pleadings or other communication sent or filed by a party, as well as all documents annexed thereto, shall be submitted in a number of copies equal to the number required to provide one copy for each arbitrator, one copy for each of the remaining parties and two copies for the Centre.

5. Except as otherwise permitted by the arbitral tribunal, all communications addressed to the arbitral tribunal by a party shall be filed with the Centre for notification to the arbitral tribunal and the other party(s). All communications

addressed from the arbitral tribunal to a party shall be filed with the Centre for notification to the other party(s)."

13. Article 48 of the Rules stipulates that:

"In addition to the administrative and arbitrators' fees, the Centre shall fix an amount to cover any reasonable travel and other expenses referred to in article 42, paragraphs 2 (d), (e), (f) and (h)."

14. Many international arbitrations are conducted under the auspices of CRCICA, which often entails the communication of large amount of documents outside of Egypt.
15. The practice of the Centre regarding the communication of the parties' submissions deposited at the Centre by one of the parties is to always communicate such submissions to the other party and to the arbitrators, while distinguishing in this respect between communications taking place within Egypt, which should be made by the Centre regardless of the size of the documents, and those taking place outside of Egypt, which shall also be made by the Centre with relevant costs to be incurred by the sender unless they are reasonable.

IV. The termination of already suspended arbitral proceedings due to failure of payment of the costs of the arbitration

16. Article 47 of the Rules stipulates:

"1. The parties shall deposit at the Centre the determined administrative and arbitrators' fees before the commencement of the arbitral proceedings. Unless otherwise agreed upon by the parties or decided by the arbitral tribunal, the costs and expenses, save for the registration fee, are payable in equal shares by the claimant and the respondent.

2. If the required deposits are not paid in full within 15 days after the receipt of the request, the Centre shall so inform the parties in order that one or more of them may make the required payment. If such payment is not made, the Centre may suspend or terminate the arbitral proceedings if the arbitral tribunal has not yet been completely composed (...)"

17. According to the practice of the Centre under the above provision, three months after the date of their suspension due to non-payment of the costs of the arbitration, the Centre is entitled to terminate the arbitral proceedings; provided that the letter suspending the proceedings

refers to the possibility of them being terminated if payment is not made within three months.

18. However, the proceedings shall resume in case of payment of the outstanding arbitration costs during the suspension period and before the issuance of the Centre's letter terminating the proceedings.

V. The determination of the fees of the arbitral tribunal based on sums in dispute exceeding three million US Dollars in accordance with the scales set out in Table (3) annexed to the Rules

19. **Article 45(5)** of the Rules stipulates:

"Where the sum in dispute exceeds 3000 000 (three million) US Dollars, the fees of the arbitrator shall be finally determined in accordance with the scales set out in Table (3) annexed to these Rules."

20. The practice of the Centre under the above provision is, as a general rule, to determine the fees of the arbitral tribunal in accordance with the minimum scale of fees set out in Table (3) annexed to the Rules, unless a different determination of such fees, according to any of the average or maximum scales set out in the said Table, is required due to the complexity of the dispute, the high sum in dispute or the seniority of the arbitrators. After thus determining the fees of the arbitral tribunal, any change in such fees within the scales of fees shall be upon a reasoned request from the arbitral tribunal that shall be decided by the Centre according to its discretion, having regard to the above criteria.

VI. The determination of the costs of the arbitration according to Article 42(5) of the Rules in the case of the arbitral tribunal's decision to terminate the proceedings before the issuance of a final award according to Article 36 of the Rules

21. **Article 42(5)** of the Rules stipulates:

"In case an order is issued by the arbitral tribunal, before the final award is made, to terminate the proceedings pursuant

to article 36 of the Rules, the Centre shall finally determine the costs of the arbitration having regard to when the arbitral tribunal has terminated the proceedings, the work performed by the arbitral tribunal and other relevant circumstances."

22. The practice of the Centre in case of issuing an order terminating the arbitral proceedings or rendering an award on agreed terms is to finally determine the costs of the arbitration including the arbitrators' fees on a case-by-case basis, having regard to when the arbitral tribunal has terminated the proceedings, the work performed by the arbitral tribunal and other relevant circumstances.

VII. The partial payment of fees to the resigning arbitrators

23. As a general rule, the arbitrator who resigns shall not be entitled to any fees, unless the Centre decides, after consulting the reconstituted arbitral tribunal, to deduct an amount out its fees for the said arbitrator, having regard to the work performed before his/her resignation and other relevant circumstances.

VIII. The Advance partial payment of the arbitrators' fees after the oral hearing under Article 45(8) of the Rules

- 24. Article 45(8)** of the Rules stipulates:

"The fees shall be paid to the arbitral tribunal upon rendering its final award signed by the arbitrators. An advance not exceeding half of the deposited arbitrators' fees, may be paid before rendering the final award at the request of the arbitral tribunal, but not before the oral hearing referred to in article 28 of the Rules."

25. The practice of the Centre under the above provision is that it has the entire discretion to accept or reject any request made by the arbitral tribunal in this respect, having regard to whether the arbitral tribunal has declared the closure of the hearings and fixed a date for rendering its final award as well as any other relevant circumstances.



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