

Chinese European Arbitration Centre (CEAC)
中国欧洲仲裁中心



CEAC Hamburg Arbitration Rules
汉堡中欧仲裁中心仲裁规则

Chinese European Arbitration Centre
GmbH

中国欧洲仲裁中心有限责任公司

Hamburg, Germany

汉堡·德国

Index / 目录

Preamble		前言	
<u>Section I. Introductory rules</u>		<u>第一章</u>	<u>总则</u>
Article 1	Scope of application and model arbitration clause	第1条	适用范围与仲裁示范条款
Article 2	Notice, calculation of periods of time	第2条	通知和时间的计算
Article 3-3a	Notice of arbitration	第3-3a条	仲裁通知
Article 4	Representation and assistance	第4条	代表和协助
<u>Section II. Composition of the arbitral tribunal</u>		<u>第二章</u>	<u>仲裁庭的组成</u>
Article 5	Number of arbitrators	第5条	仲裁员人数
Articles 6-8	Appointment of arbitrators	第6-8条	仲裁员的指定
Articles 9-12	Challenge of arbitrators	第9-12条	对仲裁员的异议
Article 13	Replacement of an arbitrator	第13条	更换仲裁员
Article 14	Repetition of hearings in the event of the replacement of an arbitrator	第14条	在更换仲裁员的情况下重新开庭
<u>Section III. Arbitral proceedings</u>		<u>第三章</u>	<u>仲裁程序</u>
Article 15	General provisions	第15条	通则
Article 16	Place of arbitration	第16条	仲裁地点
Article 17	Language	第17条	语言
Article 18	Statement of claim	第18条	申请书
Article 19	Statement of defence	第19条	答辩书
Article 20	Amendments to the claim or defence	第20条	对申请或答辩的修正
Article 21	Pleas as to the jurisdiction of the arbitral tribunal	第21条	对仲裁庭管辖权的抗辩
Article 22	Further written statements	第22条	进一步的书面陈述
Article 23	Periods of time	第23条	期限
Articles 24-25	Evidence and hearings	第24-25条	证据和开庭
Article 26	Interim measures of protection	第26条	临时性保护措施
Article 27	Experts	第27条	专家
Article 28	Default	第28条	不履行责任
Article 29	Closure of hearings	第29条	开庭终结
Article 30	Waiver of rules	第30条	规则放弃
<u>Section IV. The award</u>		<u>第四章</u>	<u>裁决</u>
Article 31-31a	Decisions	第31-31a条	决定
Article 32	Form and effect of the award	第32条	裁决的形式和效力
Article 33	Applicable law, amiable compositeur	第33条	适用的法律, 友好和解人
Article 34	Settlement or other grounds for termination	第34条	和解解决或终止仲裁的其他理由
Article 35	Interpretation of the award	第35条	对裁决的解释
Article 36	Correction of the award	第36条	裁决书的改正
Article 37	Additional award	第37条	追加的裁决
Articles 38-40	Costs	第38-40条	费用
Article 41	Deposit of costs	第41条	费用的交存
<u>Section V. Further provisions</u>		<u>第五章</u>	<u>其他规定</u>
Article 42	Liability of arbitration tribunal, CEAC and others	第42条	仲裁庭、中欧仲裁中心以及其他相关机构的责任

English Version

CEAC HAMBURG ARBITRATION RULES

**Consolidated Version of the
HAMBURG ARBITRATION RULES
FOR THE CHINESE EUROPEAN ARBITRATION CENTRE (CEAC)
IN HAMBURG**

based on the

**UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW
(UNCITRAL)**

UNCITRAL Arbitration Rules

Preamble

Section I. Introductory rules

- Article 1 Scope of application and model arbitration clause
- Article 2 Notice, calculation of periods of time
- Article 3-3a Notice of arbitration
- Article 4 Representation and assistance

Section II. Composition of the arbitral tribunal

- Article 5 Number of arbitrators
- Articles 6-8 Appointment of arbitrators
- Articles 9-12 Challenge of arbitrators
- Article 13 Replacement of an arbitrator
- Article 14 Repetition of hearings in the event of the replacement of an arbitrator

Section III. Arbitral proceedings

- Article 15 General provisions
- Article 16 Place of arbitration
- Article 17 Language
- Article 18 Statement of claim
- Article 19 Statement of defence
- Article 20 Amendments to the claim or defence
- Article 21 Pleas as to the jurisdiction of the arbitral tribunal
- Article 22 Further written statements
- Article 23 Periods of time
- Articles 24-25 Evidence and hearings
- Article 26 Interim measures of protection
- Article 27 Experts
- Article 28 Default
- Article 29 Closure of hearings
- Article 30 Waiver of rules

Section IV. The award

- Article 31-31a Decisions
- Article 32 Form and effect of the award
- Article 33 Applicable law, amiable compositeur
- Article 34 Settlement or other grounds for termination
- Article 35 Interpretation of the award
- Article 36 Correction of the award
- Article 37 Additional award
- Articles 38-40 Costs
- Article 41 Deposit of costs

Section V. Further provisions

- Article 42 Liability of arbitration tribunal, CEAC and others

Preamble

- A. The phenomenon of “globalisation” has brought about a substantial increase of
- trade between China and traders from all over the world including Europe,
 - global investments in China,
 - international investments in China and
 - Chinese investments in the world.
- B. ¹Where international trade takes place, disputes may arise. ²The *Chinese European Arbitration Centre* (“CEAC”) offers a possibility to settle such disputes in an international spirit by institutional arbitration. ³In this context, it is important to note that presently the recognition and enforcement of foreign judgements in China and of Chinese judgements in foreign countries is often difficult or even impossible. ⁴As a result, the recourse to international arbitration is an important tool to enforce rights of the participants in international trade.
- C. For that purpose, the *CHINESE EUROPEAN LEGAL ASSOCIATION e.V.* – a non-profit organisation dedicated to support the interaction and exchange between China, Europe and the world regarding issues of law and legal culture – has established the *Chinese European Arbitration Centre GmbH* which operates the *Chinese European Arbitration Centre* (CEAC) according to its Statutes and these *CEAC Hamburg Arbitration Rules*.
- D. ¹These *CEAC Hamburg Arbitration Rules* have been developed in interaction with experts from numerous jurisdictions from around the globe in a truly international spirit and with special regard to the needs of intercultural arbitrations, in particular in cases in which one party comes from China. ²However, if the parties so explicitly desire, arbitration under the *CEAC Hamburg Arbitration Rules* shall also be open to other international arbitrations.ⁱ
- E. ¹Hamburg, the sister-city of Shanghai, has a longstanding tradition in international trade, including trade with China, and in international arbitration and conciliation. ²Over 20 years ago, in 1987, Chinese and German lawyers have created the *Beijing-Hamburg Conciliation Centre*. ³These *CEAC Hamburg Arbitration Rules* provide, *inter alia*, for a possibility to refer the case to conciliation under the rules of the *Beijing-Hamburg Conciliation Centre*.
- F. In order to tailor these *CEAC Hamburg Arbitration Rules* best to the needs of intercultural arbitration, these *CEAC Hamburg Arbitration Rules* are embedded in an international environment:
- If the parties do not reach an agreement on a Chairman, or if one party is defaulting in appointing an arbitrator, the Appointing Authority shall appoint a Chairman from a neutral jurisdiction whereby it operates in Chambers with international experts from China, Europe and other regions of the world.
 - The *CEAC Hamburg Arbitration Rules* refer the parties, on a voluntary basis, to the possibility to choose neutral lawⁱⁱ or neutral rules of lawⁱⁱⁱ which are known, to different degrees, worldwide and in particular in China.
 - The *CEAC Hamburg Arbitration Rules* contain a number of provisions, e.g. Article 3 paragraph 1, which comply with the special requirements for enforceability of arbitral awards in China.^{iv}

Based on the above, the following Rules have been adopted:

ⁱ The openness, upon explicit request of the parties, to other international arbitrations which is not necessarily or only remotely or indirectly related to China was suggested by a number of supporters. The point was followed: The degree of relation of a case to China-related trade should never become an issue which might endanger the validity of an arbitration proceeding.

ⁱⁱ For example, the United Nations Vienna Convention on the International Sale of Goods (CISG) is part of New York law, part of Chinese law and part of German law.

ⁱⁱⁱ The UNIDROIT Principles have been used as a reference by a number of legislators including, for example, the Chinese and the German legislator.

^{iv} According to Chinese law, it is important that (i) the arbitration concerns a commercial matter and (ii) the parties refer the arbitration to institutional arbitration.

CONSOLIDATED HAMBURG ARBITRATION RULES FOR THE CHINESE EUROPEAN ARBITRATION CENTRE (CEAC) IN HAMBURG (CEAC Hamburg Arbitration Rules) based on the UNCITRAL ARBITRATION RULES

SECTION I. INTRODUCTORY RULES

SCOPE OF APPLICATION AND MODEL ARBITRATION CLAUSE

Article 1

(1) Where the parties to a contract have agreed in writing* that disputes in relation to that contract shall be referred to arbitration under the **CEAC Hamburg Arbitration Rules**, then such disputes shall be settled in accordance with these Rules **as existing at the time of the agreement of the parties**.

**MODEL ARBITRATION CLAUSE*

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in Hamburg (Germany) in accordance with the CEAC Hamburg Arbitration Rules.

- (a) *The number of arbitrators shall be ___ ((i) one or (ii) three or (iii) three unless the amount in dispute is less than € ___ [e.g. 100.000 €] in which case the matter shall be decided by a sole arbitrator) ;*
 - (b) *Regardless of the seat of arbitration, the arbitral tribunal is free to hold hearings in _____ (town or country);*
 - (c) *The language(s) to be used in the arbitral proceedings shall be _____;*
 - (d) *Documents also may be submitted in _____ (language).*
 - (e) *The arbitration shall be confidential. The parties agree that also the mere existence of an arbitration proceeding shall be kept confidential except to the extent disclosure is required by law, regulation or an order of a competent court.*
 - (f) *The arbitral tribunal shall apply the CEAC Hamburg Arbitration Rules as in force at the moment of the commencement of the arbitration unless one of the parties requests the tribunal, within 4 weeks as of the constitution of the arbitral tribunal, to operate according to the CEAC Hamburg Arbitration Rules as in force at the conclusion of this contract.*
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- (1a) Where the parties agree to refer their disputes to arbitration under the “CEAC Hamburg Arbitration Rules”, the “CEAC Rules” or the “Rules of the Chinese European Arbitration Centre” without providing the name of an arbitration institution, they shall be deemed to have agreed to refer the dispute to institutional arbitration by the Chinese European Arbitration Centre in Hamburg (Germany).
- (2) These Rules shall govern the arbitration except that where any of these Rules are in conflict with any provision from which the parties cannot derogate, that provision shall prevail.
- (3) These Rules shall incorporate the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules; see www.uncitral.org) in the version in force at commencement of the arbitral proceedings and as supplemented or amended by the additional rules set out herein which have priority unless provided for differently by the parties.
- (4) ¹Prior to the initiation of an arbitration proceeding under the CEAC Hamburg Arbitration Rules or within 21 days after receipt of the notice of arbitration by the respondent, either party is entitled to request in writing the other party’s express written consent to carry out a conciliation proceeding under the Rules of the *Beijing-Hamburg Conciliation Centre* or any other mediation or conciliation proceeding. ²Upon receipt of such consent, the arbitral proceedings including all deadlines is/are interrupted for
- (a) up to 3 months (or until the termination of the conciliation or mediation proceeding, whatever is earlier); or
 - (b) upon an earlier application provided that the conciliation or mediation proceeding is initiated within a week after receipt of such consent. If the mediation is not finished within the 3 months time period, a further interruption of the arbitral proceedings requires mutual written consent of all parties which may be contained in separate documents.

NOTICE, CALCULATION OF PERIODS OF TIME

Article 2

- (1) ¹For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee’s last-known residence or place of business. ²Notice shall be deemed to have been received on the day it is so delivered.
- (2) ¹For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. ²If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. ³Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

NOTICE OF ARBITRATION

Article 3

- (1) The party initiating recourse to arbitration (hereinafter called the "claimant") shall give to the other party (hereinafter called the "respondent") a notice of arbitration.
- (2) ¹The claimant shall send the notice of arbitration to the Chinese European Arbitration Centre (CEAC) in Hamburg together with a copy of the contract out of or in relation to which the dispute has arisen and a

copy of the arbitration agreement if it is not contained in the contract. ²Upon filing of the notice of arbitration, the claimant shall pay the administration fee determined in accordance with the Schedule of Costs of the CEAC. ³If the administration fee is not paid upon filing of the notice of arbitration, the management of the CEAC shall set a time period within which the claimant is requested to pay the administration fee which will be counted on the advance of costs according to Article 41 of these CEAC Hamburg Arbitration Rules. ⁴If the administration fee is not paid within the time period set, the claim shall be deemed to be withdrawn. ⁵Arbitral proceedings shall be deemed to commence on the date on which the Notice of Arbitration is received by the CEAC.

- (3) The notice of arbitration shall include the following:
- (a) A demand that the dispute be referred to arbitration;
 - (b) The names and addresses of the parties;
 - (c) A reference to the arbitration clause or the separate arbitration agreement that is invoked;
 - (d) A reference to the contract out of or in relation to which the dispute arises;
 - (e) The general nature of the claim and an indication of the amount involved, if any;
 - (f) The relief or remedy sought;
 - (g) A proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon.
- (4) The notice of arbitration may also include:
- (a) The proposals for the appointments of a sole arbitrator referred to in article 6, paragraph 1;
 - (b) The notification of the appointment of an arbitrator referred to in article 7;
 - (c) The statement of claim referred to in article 18.
- (5) **The CEAC may require from either party such information as it deems reasonably necessary to fulfil its function.**

Article 3a

¹When a party initiates recourse to arbitration in connection with a legal relationship in respect of which arbitral proceedings between the same parties are already pending under these Rules, the management of the CEAC may, at the request of a party, ask the other party to consent within a reasonable timeframe to include the claims contained in the initiated recourse to the arbitration in the pending proceedings. ²If no declaration of consent is received within the timeframe, the proceedings shall be kept separately.

REPRESENTATION AND ASSISTANCE

Article 4

¹The parties may be represented or assisted by persons of their choice. ²The names and addresses of such persons must be communicated in writing to the other party; such communication must specify whether the appointment is being made for purposes of representation or assistance.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

NUMBER OF ARBITRATORS

Article 5

If the parties have not previously agreed on the number of arbitrators (i.e. one or three), and if within fifteen days after the receipt by the respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed.

APPOINTMENT OF ARBITRATORS

Article 6

- (1) If a sole arbitrator is to be appointed, either party may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator.
- (2) If within thirty days after receipt by a party of a proposal made in accordance with paragraph 1 the parties have not reached agreement on the choice of a sole arbitrator, the sole arbitrator shall be appointed by the **Appointing Authority of the CEAC (Appointing Authority)**.
- (3) The **Appointing Authority** shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible. In making the appointment the **Appointing Authority** shall use the following list-procedure, unless both parties agree that the list-procedure should not be used or unless the **Appointing Authority** determines in its discretion that the use of the list-procedure is not appropriate for the case:
 - (a) At the request of one of the parties the **Appointing Authority** shall communicate to both parties an identical list containing at least three names;
 - (b) Within fifteen days after the receipt of this list, each party may return the list to the **Appointing Authority** after having deleted the name or names to which he objects and numbered the remaining names on the list in the order of his preference;
 - (c) After the expiration of the above period of time the **Appointing Authority** shall appoint the sole arbitrator from among the names approved on the lists returned to it and in accordance with the order of preference indicated by the parties;
 - (d) If for any reason the appointment cannot be made according to this procedure, the **Appointing Authority** may exercise its discretion in appointing the sole arbitrator.
- (4) In making the appointment, the **Appointing Authority** shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and shall take into account as well the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

Article 6a

- (1) **Unless otherwise agreed by the parties, multiple claimants shall jointly nominate one arbitrator in their statement of claim.**
- (2) **¹If two or more respondents are named in the statement of claim, unless otherwise agreed by the parties, the respondents shall jointly nominate one arbitrator within 21 days after their receipt of the statement of claim. ²If the respondents have received the statement of claim at different times, the time-limit shall be calculated by reference to the time of receipt by the respondent who last received the statement of claim. ³The Appointing**

Authority may extend the time-limit. ⁴If the respondents fail to agree on a joint nomination within the time-limit, the Appointing Authority, after having consulted the parties, nominates two arbitrators, unless the parties agree otherwise. ⁵In that case, the nomination made by the claimant's side is set aside by the Appointing Authority's nomination. ⁶The two arbitrators nominated by the parties or the Appointing Authority shall nominate the Chairman of the arbitral tribunal. ⁷Article 7 paragraph 3 UNCITRAL Arbitration Rules applies *mutatis mutandis*.

Article 7

- (1) If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the tribunal.
- (2) If within thirty 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 he has appointed the first party may request the **Appointing Authority** to appoint the second arbitrator.
- (3) If within thirty days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the **Appointing Authority** in the same way as a sole arbitrator would be appointed under article 6.

Article 8

Where the names of one or more persons are proposed for appointment as arbitrators, their full names, addresses and nationalities shall be indicated, together with a description of their qualifications.

CHALLENGE OF ARBITRATORS

Article 9

¹A prospective arbitrator shall disclose to those who approach him in connexion with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. ²An arbitrator, once appointed or chosen, shall disclose such circumstances to the parties unless they have already been informed by him of these circumstances.

Article 10

- (1) Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
- (2) A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.

Article 11

- (1) A party who intends to challenge an arbitrator shall send notice of his challenge within fifteen days after the appointment of the challenged arbitrator has been notified to the challenging party or within fifteen days after the circumstances mentioned in articles 9 and 10 became known to that party.
- (2) ¹The challenge shall be notified to the other party, to the arbitrator who is challenged, to the other members of the arbitral tribunal **and to the CEAC in Hamburg**. ²The notification shall be in writing and shall state the reasons for the challenge.

- (3) ¹When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. ²In neither case does this imply acceptance of the validity of the grounds for the challenge. ³In both cases the procedure provided in article 6 or 7 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.

Article 12

- (1) If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the **Appointing Authority**.
- (2) If the **Appointing Authority** sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in articles 6 to 9 except that, when this procedure would call for the **intervention** of the **Appointing Authority**, the appointment of the arbitrator shall be made by the **Appointing Authority**.

REPLACEMENT OF AN ARBITRATOR

Article 13

- (1) In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 6 to 9 that was applicable to the appointment or choice of the arbitrator being replaced.
- (2) In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply.

REPETITION OF HEARINGS IN THE EVENT OF THE REPLACEMENT OF AN ARBITRATOR

Article 14

If under articles 11 to 13 the sole or presiding arbitrator is replaced, any hearings held previously shall be repeated; if any other arbitrator is replaced, such prior hearings may be repeated at the discretion of the arbitral tribunal.

SECTION III: ARBITRAL PROCEEDINGS

GENERAL PROVISIONS

Article 15

- (1) Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case.
- (2) ¹If either party so requests at any stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. ²In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.

- (3) All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party.

PLACE OF ARBITRATION

Article 16

- (1) **Regardless of the seat of the arbitration, the parties are free to determine any appropriate place for hearings.**
- (2) ¹The arbitral tribunal may determine the locale of the arbitration within the country agreed upon by the parties. ²It may hear witnesses and hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration.
- (3) ¹The arbitral tribunal may meet at any place it deems appropriate for the inspection of goods, other property or documents. ²The parties shall be given sufficient notice to enable them to be present at such inspection.
- (4) The award shall be made at the place of arbitration.

LANGUAGE

Article 17

- (1) ¹Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings. ²This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.
- (2) The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

STATEMENT OF CLAIM

Article 18

- (1) ¹Unless the statement of claim was contained in the notice of arbitration, within a period of time to be determined by the arbitral tribunal, the claimant shall communicate his statement of claim in writing to the respondent and to each of the arbitrators. ²A copy of the contract, and of the arbitration agreement if not contained in the contract, shall be annexed thereto.
- (2) ¹The statement of claim shall include the following particulars:
- (a) The names and addresses of the parties;
 - (b) A statement of the facts supporting the claim;
 - (c) The points at issue;
 - (d) The relief or remedy sought.

²The claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

STATEMENT OF DEFENCE

Article 19

- (1) Within a period of time to be determined by the arbitral tribunal, the respondent shall communicate his statement of defence in writing to the claimant and to each of the arbitrators.
- (2) ¹The statement of defence shall reply to the particulars (b), (c) and (d) of the statement of claim (article 18, paragraph 2). ²The respondent may annex to his statement the documents on which he relies for his defence or may add a reference to the documents or other evidence he will submit.
- (3) In his statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off.
- (4) The provisions of article 18, paragraph 2, shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

AMENDMENTS TO THE CLAIM OR DEFENCE

Article 20

¹During the course of the arbitral proceedings either party may amend or supplement his claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. ²However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration clause or separate arbitration agreement.

PLEAS AS TO THE JURISDICTION OF THE ARBITRAL TRIBUNAL

Article 21

- (1) The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.
- (2) ¹The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause forms a part. ²For the purposes of article 21, an arbitration clause which forms part of a contract and which provides for arbitration under these Rules shall be treated as an agreement independent of the other terms of the contract. ³A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.
- (3) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defence or, with respect to a counter-claim, in the reply to the counterclaim.
- (4) ¹In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as a preliminary question. ²However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in their final award.

FURTHER WRITTEN STATEMENTS

Article 22

The arbitral tribunal shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

PERIODS OF TIME

Article 23

¹The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed forty-five days. ²However, the arbitral tribunal may extend the time-limits if it concludes that an extension is justified.

EVIDENCE AND HEARINGS

Article 24

- (1) Each party shall have the burden of proving the facts relied on to support his claim or defence.
- (2) The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in his statement of claim or statement of defence.
- (3) At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine.

Article 24a

The arbitral tribunal may decide the case solely on the basis of documents submitted by the parties unless any of the parties requests a hearing.

Article 25

- (1) In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
- (2) If witnesses are to be heard, at least fifteen days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses he intends to present, the subject upon and the languages in which such witnesses will give their testimony.
- (3) The arbitral tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal at least fifteen days before the hearing.
- (4) ¹Hearings shall be held *in camera* unless the parties agree otherwise. ²The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. ³The arbitral tribunal is free to determine the manner in which witnesses are examined.

- (5) Evidence of witnesses may also be presented in the form of written statements signed by them.
- (6) The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

INTERIM MEASURES OF PROTECTION

Article 26

- (1) At the request of either party, the arbitral tribunal may take any interim measures it deems necessary in respect of the subject-matter of the dispute, including measures for the conservation of the goods forming the subject-matter in dispute, such as ordering their deposit with a third person or the sale of perishable goods.
- (2) Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require security for the costs of such measures.
- (3) A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

EXPERTS

Article 27

- (1) ¹The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. ²A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.
- (2) ¹The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. ²Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.
- (3) ¹Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. ²A party shall be entitled to examine any document on which the expert has relied in his report.
- (4) ¹At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. ²At this hearing either party may present expert witnesses in order to testify on the points at issue. ³The provisions of article 25 shall be applicable to such proceedings.

DEFAULT

Article 28

- (1) ¹If, within the period of time fixed by the arbitral tribunal, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings. ²If, within the period of time fixed by the arbitral tribunal, the respondent has failed to communicate his statement of defence without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue.
- (2) If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

- (3) If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

CLOSURE OF HEARINGS

Article 29

- (1) The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
- (2) The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

WAIVER OF RULES

Article 30

A party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance, shall be deemed to have waived his right to object.

SECTION IV: THE AWARD

DECISIONS

Article 31

- (1) When there are three arbitrators, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
- (2) In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide on his own, subject to revision, if any, by the arbitral tribunal.

Article 31a

- (1) **¹Unless otherwise agreed by the parties, the time limit within which the arbitral tribunal must render its final award is nine months. ²Such time limit shall start to run from the date on which the Notice of Arbitration is received by the CEAC.**
- (2) **The management of the CEAC may extend this time limit pursuant to a reasoned request from the arbitral tribunal or on its own initiative if it decides this to be necessary.**

FORM AND EFFECT OF THE AWARD

Article 32

- (1) In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards.
- (2) The award shall be made in writing and shall be final and binding on the parties. The parties undertake to carry out the award without delay.
- (3) The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
- (4) ¹An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. ²Where there are three arbitrators and one of them fails to sign, the award shall state the reason for the absence of the signature.
- (5) The award may be made public only with the consent of both parties.
- (6) Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.
- (7) If the arbitration law of the country where the award is made requires that the award be filed or registered by the arbitral tribunal, the tribunal shall comply with this requirement within the period of time required by law.

APPLICABLE LAW, AMIABLE COMPOSITEUR

Article 33

- (1) **¹The arbitral tribunal shall apply the law or rules of law designated by the parties as applicable to the substance of the dispute. ²The parties may wish to consider the use of this model clause with the following option by marking one of the following boxes:**

³This contract shall be governed by

- a) the law of the jurisdiction of _____ [country to be supplemented], or
- b) the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) without regard to any national reservation, supplemented for matters which are not governed by the CISG, by the UNIDROIT Principles of International Commercial Contracts and these supplemented by the otherwise applicable national law, or
- c) the UNIDROIT Principles of International Commercial Contracts supplemented by the otherwise applicable law.

⁴In the absence of any such agreement, the arbitral tribunal shall apply the rules of law which it determines to be appropriate.

- (2) The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorized the arbitral tribunal to do so and if the law applicable to the arbitral procedure permits such arbitration.
- (3) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

SETTLEMENT OR OTHER GROUNDS FOR TERMINATION

Article 34

- (1) ¹If, before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the tribunal, record the settlement in the form of an arbitral award on agreed terms. ²The arbitral tribunal is not obliged to give reasons for such an award.
- (2) ¹If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. ²The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.
- (3) ¹Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties **and to the CEAC in Hamburg**. ²Where an arbitral award on agreed terms is made, the provisions of article 32, paragraphs 2 and 4 to 7, shall apply.

INTERPRETATION OF THE AWARD

Article 35

- (1) Within thirty days after the receipt of the award, either party, with notice to the other party, may request that the arbitral tribunal give an interpretation of the award.
- (2) ¹The interpretation shall be given in writing within forty-five days after the receipt of the request. ²The interpretation shall form part of the award and the provisions of article 32, paragraphs 2 to 7, shall apply.

CORRECTION OF THE AWARD

Article 36

- (1) ¹Within thirty days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. ²The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.
- (2) Such corrections shall be in writing, and the provisions of article 32, paragraphs 2 to 7, shall apply.

ADDITIONAL AWARD

Article 37

- (1) Within thirty days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.
- (2) If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within sixty days after the receipt of the request.
- (3) When an additional award is made, the provisions of article 32, paragraphs 2 to 7, shall apply.

COSTS

Article 38

The arbitral tribunal shall state the costs of arbitration in its award according to the prior determination of costs by the management of the CEAC. The term "costs" includes only:

- (a) The fees of the arbitral tribunal to be stated separately as to each arbitrator;
- (b) The travel and other expenses incurred by the arbitrators;
- (c) The costs of expert advice and of other assistance required by the arbitral tribunal;
- (d) The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
- (e) The costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable;
- (f) Any fees and expenses of the Chinese European Arbitration Centre.**

Article 39

- (1) **¹Before rendering the final award, the arbitral tribunal shall request the management of the CEAC to finally determine the costs of the arbitral proceedings. ²The fees of the arbitral tribunal and the CEAC shall be calculated according to the Schedule of Costs of the CEAC as in force at the time of commencement of the arbitral proceedings.**
- (2) **If the arbitral proceedings are terminated before the final award is rendered, the management of the CEAC shall finally determine the costs of the arbitral proceedings having regard to when the arbitral proceedings terminate, the work performed by the arbitral tribunal and other relevant circumstances.**
- (3) **The parties are jointly and severally liable to the arbitrator(s) and the CEAC for the costs of the arbitral proceedings.**

Article 40

- (1) ¹Except as provided in paragraph 2, the costs of arbitration shall in principle be borne by the unsuccessful party. ²However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.
- (2) With respect to the costs of legal representation and assistance referred to in article 38, paragraph (e), the arbitral tribunal, taking into account the circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties if it determines that apportionment is reasonable.
- (3) When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred to in article 38 and article 39, paragraph 1, in the text of that order or award.
- (4) No additional fees may be charged by an arbitral tribunal for interpretation or correction or completion of its award under articles 35 to 37.

DEPOSIT OF COSTS

Article 41

- (1) Upon filing of the statement of claim by claimant, the management of the CEAC may request the parties to deposit an amount as an advance for the costs referred to in article 38 and 39 of these Rules.
- (2) ¹Each party shall pay half of the advance on costs, unless separate advances are determined (e.g. in a multi-party arbitration). ²Where counterclaims are submitted, the management of the CEAC may determine separate advances on costs for the claims and the counterclaims and each of the parties shall pay the advances on costs corresponding to its claim. ³Upon request by the arbitral tribunal, the management of the CEAC may order the parties to pay additional advances during the course of the arbitral proceedings.
- (3) ¹If a party fails to make a required payment, the management of the CEAC shall give the other party an opportunity to do so within a specified period of time. ²If the required payment is not made within such period of time, the claim shall be deemed to be withdrawn. ³If the other party makes the required payment, the arbitral tribunal may, at the request of such party, render a separate award for reimbursement of the payment.
- (4) At any stage during the arbitral proceedings or after the award has been rendered, the management of the CEAC may draw on the advance on costs to cover the costs of the arbitral proceedings.
- (5) The management of the CEAC may decide that part of the advance on costs shall be provided in the form of a bank guarantee or other form of security.
- (6) After the award has been issued, the management of the CEAC shall render to the parties an accounting of the deposits received and return the balance, if any, to the parties.

SECTION V. FURTHER PROVISIONS

LIABILITY OF ARBITRATION TRIBUNAL, CEAC AND OTHERS

Article 42

¹No arbitrator, employee or agent of an arbitrator shall be liable to any person for any act or omission in connection with an arbitration unless they are shown to have intentionally caused damage by conscious and deliberate wrongdoing. ²Similarly, the CEAC, its organs (Managers, Advisory Board) and employees are not liable with respect to any act or omission in connection with an arbitration unless they are shown to have intentionally caused damage by conscious and deliberate wrongdoing.

中文版

汉堡中国欧洲仲裁中心仲裁规则

CEAC HAMBURG ARBITRATION RULES

整合版本

《汉堡中国欧洲仲裁中心仲裁规则》以《联合国国际贸易法委员会仲裁规则》为基础，当前整合版本以两份规则加以合并修订后作出。

前言

第一章 总则

- 第1条 适用范围与仲裁示范条款
- 第2条 通知和时间的计算
- 第3-3a条 仲裁通知
- 第4条 代表和协助

第二章 仲裁庭的组成

- 第5条 仲裁员人数
- 第6-8条 仲裁员的指定
- 第9-12条 对仲裁员的异议
- 第13条 更换仲裁员
- 第14条 在更换仲裁员的情况下重新开庭

第三章 仲裁程序

- 第15条 通则
- 第16条 仲裁地点
- 第17条 语言
- 第18条 申请书
- 第19条 答辩书
- 第20条 对申请或答辩的修正
- 第21条 对仲裁庭管辖权的抗辩
- 第22条 进一步的书面陈述
- 第23条 期限
- 第24-25条 证据和开庭
- 第26条 临时性保护措施
- 第27条 专家
- 第28条 不履行责任
- 第29条 开庭终结
- 第30条 规则放弃

第四章 裁决

- 第31-31a条 决定
- 第32条 裁决的形式和效力
- 第33条 适用的法律，友好和解人
- 第34条 和解解决或终止仲裁的其他理由
- 第35条 对裁决的解释
- 第36条 裁决书的改正
- 第37条 追加的裁决
- 第38-40条 费用
- 第41条 费用的交存

第五章 其他规定

- 第42条 仲裁庭、中欧仲裁中心以及其他相关机构的责任

前言

A. “全球化”现象使得

- 中国与全世界（包括欧洲在内）的贸易商之间的贸易额大量增加，
- 全球在中国的投资大量增加，
- 在中国的国际投资大量增加以及
- 中国在全世界的投资大量增加。

B. 在国际贸易存在的地方，就有可能产生争端。*中国欧洲仲裁中心*（简称：中欧仲裁中心）为在国际理念上通过专业仲裁机构来解决此类争端提供了可能性。在此，需要特别注意的是，外国的司法判决在中国的承认与执行以及中国的司法判决在外国的承认与执行经常是非常困难的，有时甚至是不可能的。因此，国际仲裁成为保障国际贸易各方当事人权利的一个重要途径。

C. 基于此目的，*中国欧洲法律协会* – 作为非营利社团，旨在支持中国与欧洲乃至世界其他国家之间法律事务和法律文化的合作与交流 – 设立了*中国欧洲仲裁中心有限责任公司*。该公司按照其规章和《汉堡中欧仲裁中心仲裁规则》运营*中国欧洲仲裁中心*。

D. 《汉堡中欧仲裁中心仲裁规则》是在来自全球不同司法管辖区域的专家相互合作的基础上制定的，体现了国际性，特别关注不同文化背景下仲裁的需要，尤其是在一方当事人来自中国的情况下。然而，如果各方当事人明确希望，根据《汉堡中欧仲裁中心仲裁规则》进行的仲裁也应对其他国际仲裁予以开放。ⁱ

E. 汉堡，作为上海的姊妹城市，在国际贸易（包括与中国的贸易）和国际仲裁及调解方面有着悠久的传统。二十多年前，即 1987 年，中国和德国的律师共同创立了*北京-汉堡调解中心*。《汉堡中欧仲裁中心仲裁规则》特别规定了有关争议交付*北京-汉堡调解中心*予以调解的可能性。

F. 为了使《汉堡中欧仲裁中心仲裁规则》满足不同国家仲裁的需要，《汉堡中欧仲裁中心仲裁规则》的制定特别考虑到了有关国际性：

- 如果各方当事人就仲裁庭主席的人选不能达成一致意见，或者一方当事人不指定仲裁员，任命机构应任命一位来自中立的司法管辖区域的仲裁员为仲裁庭主席，与来自中国、欧洲和其他区域的国际专家共同进行仲裁。

ⁱ 基于当事人的希望，中欧仲裁中心的仲裁也可以接纳那些与中国无关或者关系不紧密的国际仲裁事宜，这来源于中欧仲裁中心项目支持者的提议。理由在于：与中国贸易的相关性程度不应妨碍有关仲裁事宜所需仲裁程序的进行。

- 《汉堡中欧仲裁中心仲裁规则》允许各方当事人在自愿的基础上选择国际上，特别是在中国，在不同程度上予以认可的中立性法律ⁱⁱ或者中立性的法律规则ⁱⁱⁱ。
- 《汉堡中欧仲裁中心仲裁规则》包含了许多专门针对中国的规定，例如第 3 条第 1 款，该款符合中国有关仲裁裁决执行的特殊要求。^{iv}

基于以上理由，以下规定已予以通过：

ⁱⁱ 例如《联合国国际货物销售合同公约》已经融合成为纽约法律、中国法律以及德国法律的认可部分。

ⁱⁱⁱ 例如，国际统一私法协会（UNIDROIT）的《国际商事合同通则》已经获得中国以及德国立法者的认可。

^{iv} 根据中国法律，关键在于(i)仲裁应事关商业事宜；(ii)当事人向仲裁机构提起仲裁。

《汉堡中国欧洲仲裁中心仲裁规则》

整合版本

《汉堡中国欧洲仲裁中心仲裁规则》以《联合国国际贸易法委员会仲裁规则》为基础，当前整合版本以两份规则加以合并修订后作出。

第一章 总则

适用范围与仲裁示范条款

第 1 条

(1) 在合同双方当事人书面同意*凡与该合同有关的争议应按《汉堡中欧仲裁中心仲裁规则》交付仲裁时，该争议应根据本规则（合同成立时当时有效的版本）予以解决。

*仲裁示范条款

由于本合同而发生的或与本合同有关的任何争议、争端或者请求，或有关本合同的违约、终止、无效应按照《汉堡中欧仲裁中心仲裁规则》在德国汉堡予以解决。

- (a) 仲裁员人数应为_____ ((i) 一人 或者 (ii) 三人 或者 (iii) 三人，除非争端标的额低于_____ 欧元[例如：100000 欧元]且争端事宜应由独任仲裁员裁决的。);
 - (b) 不考虑仲裁地点，仲裁庭可在_____ (城镇和国家) 举行听证;
 - (c) 仲裁程序中所用的一种或多种语言应为_____;
 - (d) 所提交文件可使用_____ (语言)。
 - (e) 仲裁应当保密。双方当事人同意，即便是仲裁程序存在这一事实亦应当保密，但是法律、规定或者法院令要求公开的情况除外。
 - (f) 仲裁庭应当适用仲裁程序启动时有效的《汉堡中欧仲裁中心仲裁规则》，除非一方当事人，自仲裁庭组成四周内，向仲裁庭提出请求，要求依据本合同缔结时有效的《汉堡中欧仲裁中心仲裁规则》的。
-

- (1a) 在合同双方当事人同意其争议应按《汉堡中欧仲裁中心仲裁规则》，《中欧仲裁中心仲裁规则》或者《中国欧洲仲裁中心仲裁规则》交付仲裁，但没有指明仲裁机构名称的情况下，应视为双方当事人已一致同意将其争议提交汉堡中国欧洲仲裁中心（德国）予以仲裁。
- (2) 仲裁应受本规则的支配，但本规则的任何规定如与双方当事人必须遵守的法律规定相抵触时，应服从法律的规定。
- (3) 本规则应适用仲裁程序启动时有效的《联合国国际贸易法委员会仲裁规则》（参见www.uncitral.org），但在双方当事人没有异议的情况下，应优先适用本仲裁规则对《联合国国际贸易法委员会仲裁规则》所作的补充与修改。
- (4) 在按照《汉堡中欧仲裁中心仲裁规则》启动仲裁程序之前，或者在被申请人收到仲裁通知书后21日内，任何一方当事人都有权书面请求另一方当事人书面同意依据《北京—汉堡调解中心调解规则》或者其他调解程序来进行调解。如果当事人同意进行调解，仲裁程序包括所有的规定期限将根据下述情况中止：
- (a) 仲裁程序最多中止三个月（或者，如果调解期限少于三个月，调解程序一旦结束，仲裁程序的中止即刻结束。）；或者
- (b) 基于预先申请，如果调解程序在收到书面同意后一周内启动。如果调解程序在三个月内未能结束，仲裁程序的再次中止需要各方当事人共同的书面同意，该书面同意可包含在单独的文件中。

通知和时间的计算

第2条

- (1) 为了实施本规则，一切通知（包括通知书、通告或建议），如经确实送达收件人或已送达其惯常居所、营业所或通讯处，则被认为已经送交，或如经适当调查未能发现上述各处所，则可送交最后所知的收件人居所或营业所。通知应视为于所投递的当天送达。
- (2) 为了计算本规则规定的期限，此项期限应自收到通知书、通知、信函或建议之次日起算。如期限的最后一日在收件人居所或营业所为法定假日或非营业日，则期限将延长到随后的第一个营业日。期限中的法定假日或非营业日应包括在期限计算之内。

仲裁通知

第3条

- (1) 申请仲裁的一方当事人（以下称“申请人”）应将仲裁通知书送交他方当事人（以下称“被申请人”）。
- (2) 申请人应将仲裁通知书送交汉堡中国欧洲仲裁中心，同时还应提交争议所涉及合同的复印件和单独仲裁协议的复印件（仅在合同中没有包含仲裁条款的情况下）。仲裁通知书一经提交，申请人即应按照中欧仲裁中心制定的费用表缴纳相应的管理费。如果仲裁通知书提交时未缴纳管理费，中欧仲裁中心的管理机构应指定期限要求申请人在该期限内缴纳管理费，该费用将按照《汉堡中欧仲裁中心仲裁规则》第41条基于各项费用预先予以计算。如果在指定期限内未缴纳管理费，仲裁请求应视为被撤回。仲裁程序应视为自中欧仲裁中心收到仲裁通知书之日起启动。

(3) 仲裁通知书应包括下列各项内容：

- (a) 将争议提交仲裁的要求；
- (b) 当事人各方的名称和地址；
- (c) 所根据的仲裁条款或另行订定的单独仲裁协议；
- (d) 争议所涉及的合同；
- (e) 请求的一般性质，如涉及金额时，指明其数额；
- (f) 所要求的救济或补偿；
- (g) 如当事人双方事先对仲裁员未有约定时，应就仲裁员的人数（即一人或三人）提出建议。

(4) 仲裁通知书亦可包括下列各点：

- (a) 关于任命第6条第1项所规定的独任仲裁员的建议；
- (b) 关于任命第7条所规定的一名仲裁员的通知；
- (c) 有关第18条所规定的请求的陈述。

(5) 中欧仲裁中心出于履行其职能的合理需要，可以要求任何一方当事人提交相关信息。

第3a条

如果一方当事人就某一争议启动仲裁程序，且该争议与相同当事人之间按照本规则提交仲裁并等待裁决的争议有相关的法律关系，中欧仲裁中心的管理机构可以应一方当事人的请求，要求另外一方当事人在合理的期限内同意将其处于仲裁程序启动阶段的争议合并到处于待裁决阶段的仲裁程序中。如果在该期限内没有收到同意合并仲裁的书面通知，则仲裁程序将分别进行。

代表和协助

第4条

当事人双方得自行选定代理人或辅助人。此项人员的姓名和地址应以书面通知对方，该通知书中应载明所选任的目的是属于代理性质还是属于辅助性质。

第二章 仲裁庭的组成

仲裁员人数

第5条

如当事人双方对于仲裁员的人数（即一人或三人）事先并无约定而在被申请人收到仲裁通知书后十五日内双方又未能同意仲裁员仅为一人时，则应任命三名仲裁员。

仲裁员的指定

第6条

- (1) 如任命一名独任仲裁员时，当事人任何一方得向对方提出一人或数人姓名，其中一人将作为独任仲裁员。
- (2) 如当事人一方收到前款规定的提议三十日内，双方当事人尚未就一名独任仲裁员的选定达成协议时，应由**中欧仲裁中心的任命机构（任命机构）**任命一名独任仲裁员。
- (3) 经当事人任何一方的请求，**任命机构**应尽可能立即任命一名独任仲裁员。除双方当事人同意不使用提名征询办法或**任命机构**根据其自己判断认为对该案不适宜使用提名征询办法外，该**任命机构**作出任命时应使用下列提名征询办法：
 - (a) 经当事人任何一方的请求，**任命机构**应将至少包含三人姓名的相同名单送达双方当事人；
 - (b) 当事人各方在收到名单后十五日内，可在名单中剔除其反对的一人或数人的姓名，并将名单上的剩余人员的姓名按照当事人的优先次序编号，然后将名单送还**任命机构**；
 - (c) 在上述期限届满后，**任命机构**应从送还名单上已经被认可的姓名中按照双方当事人所指出的优先次序任命一名独任仲裁员。
 - (d) 如由于任何原因不能按此办法作出任命时，**任命机构**得自行决定任命一名独任仲裁员。
- (4) 在作出任命中，**任命机构**应尽可能考虑到确保任命一名独立和公正的仲裁员，并应同时注意到任命一名不属于双方当事人国籍的仲裁员的适当性。

第6a条

- (1) 除非当事人另有约定，多方申请人应在其申请书中共同选定一名仲裁员。
- (2) 如果仲裁申请书中列明两个或者两个以上被申请人，除非当事人另有约定，被申请人应在收到仲裁申请书之后21天内共同选定一名仲裁员。如果被申请人分别于不同时间收到申请书，则该期限应根据最后收到仲裁申请书的被申请人的收到日期进行计算。任命机构可以延长该期限。如果被申请人在期限内未能就仲裁员的任命达成一致意见，任命机构经与当事人各方协商之后任命两名仲裁员，除非当事人另有约定。在这种情况下，任命机构所作出的任命将撤销申请人方面所作出的选定。由当事人选定或者任命机构任命的两名仲裁员应选定仲裁庭主席。《联合国国际贸易法委员会仲裁规则》第7条第3款适应具体情况而得以适用。

第7条

- (1) 如果应当任命三名仲裁员，则当事人应各自任命一名仲裁员，并由此两名仲裁员选定充当仲裁庭主席的第三名仲裁员。
- (2) 如在收到一方当事人任命一名仲裁员的通知书后三十天内，对方当事人尚未将其任命的仲裁员通知前一方当事人的，则前一方当事人得请求**任命机构**任命第二名仲裁员。

- (3) 在任命第二名仲裁员后三十天内，如两名仲裁员就选择仲裁庭主席尚未达成协议时，**任命机构**应比照第6条的规定，以任命独任仲裁员的同样方法任命仲裁庭主席。

第8条

在提出一人或数人的姓名作为任命仲裁员的人选时，应载明其全名、地址和国籍，以及有关其资历的说明。

对仲裁员的异议

第9条

预期充任仲裁员的人应向相关方披露任何可能导致对其公正性及独立性产生怀疑的情况。仲裁员一经任命或选定，亦应将此项情况向双方当事人说明，但双方均已于事前被告知时，则不在此限。

第10条

- (1) 对任何仲裁员的公正性或独立性有理由可以怀疑时，得提出异议。
- (2) 当事人对自己所任命的仲裁员，仅得以依据其在任命事后所获悉的事由提出异议。

第11条

- (1) 对仲裁员打算提出异议的一方当事人，应在该仲裁员的任命已被通知后十五日内或在获悉第9条和第10条所述及的情况后十五日内，发出其异议通知书。
- (2) 异议应通知另一方当事人，并通知被提出异议的仲裁员以及仲裁庭其他成员和**汉堡中欧仲裁中心**。通知应以书面为之，并应说明提出异议的理由。
- (3) 当事人一方对仲裁员提出异议时，另一方对该异议得表示同意。仲裁员亦可在被提出异议后离职。上述两种情况都不意味着承认异议所提出的理由的有效性。在这两种情况下，都应充分使用第6条或第7条中规定的程序任命替代的仲裁员，即使在任命被提出异议的仲裁员的过程中一方当事人当时未行使其任命或参与任命的权利。

第12条

- (1) 如另一方当事人不同意该异议且被提出异议的仲裁员亦未离职，则由**任命机构**对异议作出决定。
- (2) 如果**任命机构**支持该异议，则应按照第6条至第9条中适用于任命或选择仲裁员的规定程序任命或选定一名替代仲裁员，但如果此程序要求**任命机构**进行干预时，应由**任命机构**作出仲裁员的任命决定。

更换仲裁员

第13条

- (1) 在仲裁程序进行中，倘发生仲裁员死亡或辞职情况时，应按照第6条至第9条中适用于任命或选择该被替代的仲裁员的规定程序任命或选择一名替代的仲裁员。
- (2) 倘仲裁员未能参加工作或倘由于法律上或事实上的原因未能履行其职务时，应适用上述关于对仲裁员的异议和更换的规定。

在更换仲裁员的情况下重新开庭

第14条

倘按照第11至第13条的规定，独任仲裁员或仲裁庭主席被更换时，以前举行过的任何听证均应重新进行。倘其他仲裁员被更换时，这类此前举行过的听证的再次举行由仲裁庭自行决定。

第三章 仲裁程序

通则

第15条

- (1) 按照本规则的规定，仲裁庭得以它认为适当的方式进行仲裁，但必须对当事人各方给予公平待遇，并在程序进行中的各个阶段给予每一方以陈述其案情的充分机会。
- (2) 在程序进行中的任何阶段，倘任何一方当事人提出请求，则仲裁庭应举行听证，听取证人包括专家证人的证词或进行口头辩论。倘无这一请求，仲裁庭应自行决定是否举行听证或根据文件和其他资料进行仲裁程序。
- (3) 当事人一方提交仲裁庭的一切文件或资料应同时由该方送达对方当事人。

仲裁地点

第16条

- (1) 不考虑仲裁地点，当事人双方可以自由决定举行听证的合适地点。**
- (2) 仲裁庭得在当事人各方已同意的国家内决定仲裁地点。仲裁庭得根据仲裁的案情需要决定在它视为适当的任何地点听取证言或由其成员举行协商会议。
- (3) 仲裁庭得在它认为适当的任何地点举行会议以检验货物、其他财产或文件。当事人各方应获得充分及时的通知以便于届时到场。
- (4) 仲裁裁决应在仲裁地作成。

语言

第17条

- (1) 除当事人双方另有协议外，仲裁庭应在被任命以后立即决定在程序中所使用的语言或几种语言。这一决定适用于申请书、答辩书以及其他任何书面的陈述，如举行口头听证时，也适用于这类听证中所使用的语言或几种语言。
- (2) 仲裁庭对凡附在申请书、答辩书中的各种文件以及在程序进行中提供的补充文件或证件使用原文者，得命令附有当事人各方同意使用的或仲裁庭决定的语言或几种语言的译本。

申请书

第18条

- (1) 除了申请书已包括在仲裁通知书内的情况外，在仲裁庭所决定的期限内，申请人应将其申请写成书面送达被申请人及每一仲裁员。合同副本、仲裁协议副本（如仲裁协议未列入合同以内者），应一并随同附入。
- (2) 申请书应包括下列各点：
 - (a) 有关当事人双方的姓名（名称）和地址；
 - (b) 关于申请所依据事实的陈述；
 - (c) 争议内容；
 - (d) 所寻求的救济或补偿。

申请人得于其申请书中附入他认为有关的一切文件或增列他愿意提供的文件或其他证据的清单。

答辩书

第19条

- (1) 被申请人应在仲裁庭所确定的期限内，将书面答辩送达申请人及每一位仲裁员。
- (2) 答辩书应对第18条第2款第（b）、（c）、（d）项作出回答。被申请人得将其答辩所依据的文件附入答辩书或增列他愿意提供的文件或其他证据的清单。
- (3) 被申请人得在其答辩中，或者，其迟延情由经仲裁庭认为出于合理的理由时，得在其后仲裁程序进行的各阶段中，根据同一合同提出反请求或根据同一合同提出抵销的请求。
- (4) 第18条第2款的规定适用于反请求或以抵销为目的所依据的请求。

对申请或答辩的修正

第20条

在仲裁程序进行中，当事人任何一方得改正或补充其申请或答辩，但仲裁庭考虑到它的迟延提出，或它对其他一方造成的损害或其他情况，认为允许这种修正是不适宜的，则不在此限。但申请的变更不得超出仲裁条款或单独仲裁协议的范围。

对仲裁庭管辖权的抗辩

第21条

- (1) 仲裁庭应有权就该庭管辖权所提出的异议，包括对仲裁条款或单独的仲裁协议的存在和效力所提出的任何异议，进行裁决。
- (2) 仲裁庭应有权决定包括仲裁条款为其组成部分的合同的的存在和效力。在适用第21条的规定时，作为组成部分并规定按本规则进行仲裁的仲裁条款将被视为独立于该合同其他条款的一种协议。仲裁庭所作合同为无效的和作废的裁决并不在法律上影响仲裁条款的效力。
- (3) 对仲裁庭不具有管辖权的抗辩不得迟于在答辩书中，或，在有反请求的情况下，在对反请求的答复中提出。
- (4) 一般地，仲裁庭应将关于其管辖权的抗辩作为先决问题予以裁决。但仲裁庭可以继续仲裁并在最终裁决中对这一抗辩加以裁定。

进一步的书面陈述

第22条

仲裁庭应决定是否需要当事人在申请书和答辩书以外提出其他书状或当事人是否可以提出这类书状，并应确定送达这些书状的限期。

期限

第23条

仲裁庭规定送达书状（包括申请书和答辩书）的限期不得超过四十五天。但仲裁庭认为延期具有正当理由时得延长之。

证据和开庭

第24条

- (1) 当事人各方对其申请或答辩所依据的事实应负举证之责。
- (2) 倘仲裁庭认为适当，其得要求一方当事人在仲裁庭规定的限期内向仲裁庭和对方当事人提交有关其打算提出的支持申请书或答辩书内所陈述的争议事实的有关文件的摘要及其他证据。
- (3) 在仲裁程序进行中的任何时间，仲裁庭得要求当事人在该庭规定的期限内提供书证、物证或其他证据。

第24a条

仲裁庭可以仅依据双方当事人提交的有关书面文件作出仲裁裁决，除非一方当事人要求举行听证。

第25条

- (1) 举行口头听证时，仲裁庭应就其有关的日期、时间和地点充分提前通知当事人。
- (2) 倘需要传讯证人，当事人各方至少应在听证十五天前将其要邀请出庭的证人姓名和地址以及该证人提供证词所涉及的问题和使用的语言通知仲裁庭及他方当事人。
- (3) 仲裁庭应就听证时口头陈述的翻译及听证记录作出安排，如仲裁庭根据案情认为有此必要，或当事人双方就此已达成协议，并至少于听证十五天前已将该协议通知仲裁庭。
- (4) 除当事人另有相反意见外，听证应秘密进行。仲裁庭在某一证人提供证词时，得要求其他证人或所有证人退庭。仲裁庭得自由决定询问证人的方法。
- (5) 证人证词亦得以提供经其签署的书面方式为之。
- (6) 仲裁庭应决定证人证词的可接受性、有关性、实质性和重要性。

临时性保护措施

第26条

- (1) 应当事人任何一方的要求，仲裁庭得对争议标的采取任何其认为有必要的临时措施，包括构成争议标的的货物的保存，诸如将货物交由第三者保存或出售易损的货品。
- (2) 这些临时措施得以临时性裁决的方式为之。仲裁庭有权要求为实施这些措施产生的费用提供担保。
- (3) 当事人中任何一方向司法机关要求采取临时措施不应被认为与仲裁协议有抵触或被认为系对该协议的摒弃。

专家

第27条

- (1) 仲裁庭得指定一名或数名专家对有待该庭决断的特定问题提出书面报告。仲裁庭应将其制定的介绍专家的情况书副本送交各方当事人。
- (2) 当事人各方应向专家提供任何有关资料，或经专家要求时，提供任何有关文件或货物以供检验。一方当事人与专家之间就要求提供的资料，或要求提供的货物或文件是否与案情有关而发生的任何争议应交由仲裁庭裁决。
- (3) 在收到专家报告以后，仲裁庭应将报告副本送达当事人，当事人应有机会以书面方式表达其对报告的意见。当事人中任何一方均有权检阅专家在报告中所依据的任何文件。

- (4) 送达专家报告以后，在当事人任何一方的要求下，得举行听证，当事人均可出席并质询专家。在听证会上，当事人双方均得提出具有专业知识的证人，以便就争执点出庭作证。第25条的规定适用于这些程序。

不履行责任

第28条

- (1) 如果申请人在仲裁庭规定的期限内无充分理由而未将其申请书送交仲裁庭时，仲裁庭应作出终止仲裁程序的裁定。如果被申请人在仲裁庭规定的期限内无充分理由而未将其答辩书送交该庭时，仲裁庭应裁定仲裁程序继续进行。
- (2) 如果当事人一方，经按照本规则如期、合法被通知后，无充分理由而不出席听证会时，仲裁庭得继续进行其仲裁程序。
- (3) 如果当事人一方在被正式邀请提供书面证据，但无充分理由而未在规定限期内照办时，仲裁庭得根据此前的证据作出裁决。

开庭终结

第29条

- (1) 仲裁庭得征询当事人是否尚有其他证据有待提供，或有证人待出席作证，或有意见待提出。如无上述任何情况，仲裁庭得宣告听证结束。
- (2) 仲裁庭，如认为由于特殊情况有必要时，得自行动议或根据当事人一方的请求，决定在作出裁决前重新听证。

规则放弃

第30条

如本规则规定的任何条款或任何条件未被遵行，而当事人一方明知该情况，但未提出异议而继续参加仲裁程序的，应认为已放弃其反对的权利。

第四章 裁决

决定

第31条

- (1) 在有三名仲裁员的情况下，任何仲裁或其他决定应由仲裁员的多数作出。
- (2) 关于程序问题，在未取得多数的情况下或由仲裁庭授权时，仲裁庭主席得单独作出决定，仲裁庭得对此进行修正。

第31a条

- (1) 除非双方当事人另有约定，仲裁庭作出最终裁决的期限为九个月。该期限应自中欧仲裁中心收到仲裁通知书之日起算。
- (2) 中欧仲裁中心的管理机构可以根据仲裁庭的合理请求或者自行决定是否有必要延长该期限。

裁决的形式和效力

第32条

- (1) 除作出最终裁决外，仲裁庭亦有权作出临时性的、中间的或部分的裁决。
- (2) 裁决应以书面为之，并应是终局的和对当事人双方具有约束力的。双方有义务立即履行裁决。
- (3) 除当事人双方同意无需说明理由外，仲裁庭应说明裁决所根据的理由。
- (4) 裁决应由仲裁员签署并应包括作出仲裁的时间和地点。倘有三名仲裁员而其中之一不能签署时，仲裁裁决应说明缺少签署的原因。
- (5) 仲裁庭仅在当事人双方同意的情况下，方得公开其裁决。
- (6) 仲裁庭应将由仲裁员签署的仲裁裁决副本送达双方当事人。
- (7) 仲裁地国家的仲裁法规如要求仲裁庭将其裁决进行归档或登记，仲裁庭应在法规规定期限内遵照执行。

适用的法律，友好和解人

第33条

- (1) 仲裁庭应适用当事人双方预先指定的适用于争端实质的法律或者法律规定。²当事人双方可以考虑使用如下的附有选项的示范条款：

本合同应适用

- a) _____（国家）的法律，或者
- b) 《1980年联合国国际货物销售合同公约》，不考虑任何国家保留。对于《1980年联合国国际货物销售合同公约》不涉及的情形，补充适用国际统一私法协会制定的《国际商事合同通则》和其他可以适用的国家法律的相关规定，或者
- c) 国际统一私法协会制定的《国际商事合同通则》，并补充适用其他可以适用的法律。

在对于所适用的法律没有约定的情况下，仲裁庭应指定可以适用的法律。

- (2) 仲裁庭仅在当事人双方明确授权和适用于仲裁程序的法规允许的情况下，方得运用友好仲裁或按公平和善良的原则进行裁决。
- (3) 无论属于哪一种情况，仲裁庭应按照合同条款进行裁决，并应考虑到适用于该具体交易的贸易惯例。

和解解决或终止仲裁的其他理由

第34条

- (1) 在裁决作出以前，如当事人双方就争端达成和解，仲裁庭应作出终止仲裁的裁定，或者，如经双方要求并为仲裁庭所接受的，仲裁庭亦得用仲裁裁决的形式根据同意的条款将和解作成记录。仲裁庭对该裁决无需说明理由。
- (2) 如果在仲裁裁决作出之前，由于前一款以外的原因使得仲裁程序的继续不必要或者不可能，仲裁庭应将其终止仲裁程序的打算通知当事人各方。仲裁庭有权作出该项决定，除非一方当事人提出合理的反对理由。
- (3) 由各仲裁员签署的终止仲裁程序的裁定或依据协议条款而作成的仲裁裁决的副本均应由仲裁庭送达双方当事人及汉堡的中欧仲裁中心。如系根据和解条款作出的仲裁裁决，应适用第32条第2款及第4款到第7款的规定。

对裁决的解释

第35条

- (1) 在收到裁决后三十天内，任何一方当事人，经通知他方，得要求仲裁庭就裁决进行解释。
- (2) 仲裁庭应于收到要求后四十五天内作出书面解释。此项解释应构成裁决的一部分，并适用第32条第2款至第7款的规定。

裁决书的改正

第36条

- (1) 在收到裁决后三十天内，任何一方当事人，经通知他方，得要求仲裁庭更正任何计算上的错误，任何誊抄或打字上的错误，或其他类似性质的错误。仲裁庭在送达仲裁裁决后三十天内亦得自行作出上述更正。
- (2) 此项更正应以书面形式作出，并适用第32条第2款至第7款的规定。

追加的裁决

第37条

- (1) 在收到裁决后三十天内，任何一方当事人，经通知他方，得申请仲裁庭就其在仲裁程序中已经提出而在仲裁裁决内遗漏未提及的请求事项作出补充裁决。
- (2) 如仲裁庭认为该项补充裁决的要求是合理的并认为补充原裁决中的遗漏部分可毋庸采取任何其他听证或证据揭示时，应在收到该要求后六十天内完成其裁决。
- (3) 如果补充裁决作出的，应适用第32条第2款至第7款的规定。

费用

第38条

仲裁庭应在其裁决中根据中欧仲裁中心的管理机构之前所确定的金额来确定仲裁的费用。所谓“费用”仅指下列诸项：

- (a) 仲裁庭的仲裁费应按每一仲裁员分别规定；
- (b) 仲裁员因参加仲裁而支出的旅费和其他费用；
- (c) 专家的咨询费用和经仲裁庭要求支付的其他辅助费用；
- (d) 在仲裁庭所同意的限度内有关证人的旅费和其他费用；
- (e) 胜诉一方当事人支付的法律事务代理人和辅助人的费用，但此项费用要求应于仲裁程序进行中提出，其数额不得超过仲裁庭认为合理的限度；
- (f) 中国欧洲仲裁中心的酬金及所支付的费用。

第39条

- (1) 在做出最终裁决之前，仲裁庭应要求中欧仲裁中心的管理机构确定仲裁程序中所花费的最终费用。仲裁庭和中欧仲裁中心所花费的费用应根据仲裁程序启动时有有效的中欧仲裁中心的费用表来计算。
- (2) 如果仲裁程序在最终裁决做出之前被终止的，中欧仲裁中心的管理机构应根据仲裁程序终止时仲裁庭所作的工作以及其他相关情况来决定最终的仲裁费用。
- (3) 双方当事人有义务共同且分别承担仲裁员和中欧仲裁中心在仲裁程序中所花费的费用。

第40条

- (1) 除第2款规定外，仲裁费用原则上应由败诉一方当事人负担。但仲裁庭在考虑有关案件的具体情况后，认为以分摊合理时，得决定由当事人双方摊付其费用。
- (2) 关于第38条第e款所指的法律事务代理人和辅助人的费用，仲裁庭在考虑案件具体情况后，得自由决定应由何方负担该费用，或者，在其认为分摊是合理的情况下，决定各方分摊比例。
- (3) 在仲裁庭作出终止仲裁程序的裁定或根据当事人双方和解作出裁决时，其应在裁定或裁决文本中明确第38条、第39条第1款所涉及的仲裁费用。
- (4) 仲裁庭对依第35条至第37条的规定作出的解释、更改或补充裁决不得再行收费。

费用的交存

第41条

- (1) 申请人的申请一经提交，中欧仲裁中心的管理机构即可要求当事人各方就本规则第38条和第39条所规定的各项费用交付一定数额的预付款。

- (2) 当事人各方应预先交付所需费用的百分之五十，除非预付款单独支付（例如，在多方当事人仲裁程序中）。反请求一经提交，中欧仲裁中心的管理机构即可决定申请和反请求所应分别交付的预付款数额，当事人各方应交付与其请求相关费用的预付款。应仲裁庭请求，在仲裁程序进行中，中欧仲裁中心的管理机构可以向当事人双方要求追加预付款。
- (3) 如一方当事人未能交付款项，中欧仲裁中心的管理机构应给予另一方当事人在特定期限内履行交付预付款的机会。如果在该期限内另一方当事人未能交付，申请视为被撤回。如果另一方当事人交付了预付款，应该方当事人的请求，仲裁庭可作出一个偿还该预付款的单独裁定。
- (4) 在仲裁程序进行中的任何阶段或者在仲裁裁决作出之后，中欧仲裁中心的管理机构可支取预付款以支付仲裁程序中的各项费用。
- (5) 中欧仲裁中心的管理机构可以决定部分预付款应为银行担保或者其他担保方式。
- (6) 在作出仲裁裁决以后，中欧仲裁中心的管理机构应向当事人双方提供所收预付款的帐目，如果尚有结余，还应退还该结余。

第五章 其他规定

仲裁庭、中欧仲裁中心以及其他相关机构的责任

第42条

仲裁员以及仲裁机构的雇员或者代理人员对于任何与仲裁有关的行为或者疏忽均不承担责任，除非该行为是由于主观故意造成的。同样的，中欧仲裁中心及其机关（经理人员、顾问委员会）以及雇员对于任何与仲裁有关的行为或者疏忽均不承担责任，除非该行为是由于主观故意造成的。

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