

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

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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

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\* Deviations as compared to the UNCITRAL Rules (2010) are marked in bold print.

\* 与《联合国国际贸易法委员会仲裁规则》2010年版相异的部分标记为黑体加粗。

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**ARBITRATION RULES OF THE CHINESE EUROPEAN ARBITRATION CENTRE  
(CEAC) IN HAMBURG**

**CONSOLIDATED VERSION SEPTEMBER 2010**

**BASED ON THE CEAC CORE RULES  
AS APPROVED ON 21 SEPTEMBER 2010**

**BASED ON THE UNCITRAL ARBITRATION RULES 2010**

# INTRODUCTION

The UNCITRAL Arbitration Rules, the basis of these CEAC Hamburg Arbitration Rules, have been revised in 2010 and have been in force in their revised version since August 2010 (“**UNCITRAL Arbitration Rules 2010**”). The CEAC Hamburg Arbitration Rules have been revised after internal discussion in the Advisory Board. The short version of the CEAC Hamburg Arbitration Rules states only deviations from the UNCITRAL Arbitration Rules 2010 and may be referred to as the **Core Rules (Version September 2010)**.

It is intended to discuss these rules further within the CEAC community and in seminars. The Advisory Board reserves the right to make additional amendments after such further discussions and deliberations.

The **Consolidated Version** includes the necessary amendments to and the current version of the UNCITRAL Arbitration Rules. It may be referred to as the “**CEAC Hamburg Arbitration Rules**” or the “**CEAC Rules**”.

The CEAC Hamburg Arbitration Rules govern the arbitration procedure. In addition to these Rules the **Statutes for the Chinese European Arbitration Centre in Hamburg** govern the organisation and structure of the Chinese European Arbitration Centre.

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## 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,
  - international investments in China and
  - Chinese investments in the world outside China.
- B.** Where international trade takes place, disputes may arise. The *Chinese European Arbitration Centre* (“CEAC”) offers a possibility to settle such disputes in an international spirit by institutional arbitration. In 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. As a result, recourse to international arbitration is an important tool to enforce rights of participants in international trade.
- C.** For that purpose, in 2008 the *CHINESE EUROPEAN LEGAL ASSOCIATION e.V.* – a non-profit organisation dedicated to supporting the interaction and exchange between China, Europe and the world regarding issues of law and legal culture – 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.** These *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. However, if the parties so explicitly desire, arbitration under the *CEAC Hamburg Arbitration Rules* shall also be open to other international arbitrations.<sup>i</sup>
- E.** Hamburg, sister-city of Shanghai, has a longstanding tradition in international trade, including trade with China, and in international arbitration and conciliation. Over 20 years ago, in 1987, Chinese and German lawyers created the *Beijing-Hamburg Conciliation Centre*. These *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*.

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<sup>i</sup>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.

F. In order to tailor these *CEAC Hamburg Arbitration Rules* best to the needs of intercultural arbitration, they are embedded in an international environment:

- If the parties do not reach an agreement on a Chairman, or if one party defaults to appoint 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 law<sup>ii</sup> or neutral rules of law<sup>iii</sup> 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 take into account the particular legal environment for enforceability of arbitral awards in China.<sup>iv</sup>

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<sup>ii</sup>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.

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

<sup>iv</sup>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. Therefore, an international arbitration award issued under the administration of an arbitration institution matches the average understanding in China with respect to the enforceability of an arbitration award although, as a matter of law, foreign arbitration awards issued in an *ad hoc* arbitration may also be recognisable.

## Section I. Introductory rules

### Scope of Application\* and Relation to the Beijing-Hamburg Conciliation Centre

#### Article 1

1. Where parties have agreed that disputes between them in respect of a defined legal relationship, whether contractual or not, 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 when the agreement between the parties came into force subject to such modification as the parties may agree (see option g in the Model Arbitration Clause in the annex to these Rules).
- 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).<sup>v</sup>
2. These Rules shall govern the arbitration except that where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail to the extent that such conflict exists.
3. These Rules shall incorporate the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules; see [www.uncitral.org](http://www.uncitral.org)) in the version in force at the time when the agreement between the parties came into force and as supplemented or amended by the additional rules contained herein which take precedence unless otherwise provided for by the parties.
4. Prior 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 conciliate under the Rules of the *Beijing-Hamburg Conciliation Centre* or to engage in any other form of mediation or conciliation. Upon receipt of such consent, the arbitral proceedings including all deadlines is/are suspended for
  - (a) up to 3 months or until the termination of the conciliation or mediation whichever is earlier or
  - (b) upon an earlier application provided that the conciliation or mediation was initiated within one (1) week after receipt of such consent. If the mediation is not finished within the 3 month time period, a further suspension of the arbitral proceedings requires the mutual written consent of all parties which may be contained in separate documents.

#### Notice and calculation of periods of time

##### Article 2

1. A notice, including a notification, communication or proposal, may be transmitted by any means of communication that provides or allows for a record of its transmission.

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\* A model arbitration clause for contracts can be found in the annex to the Rules.

<sup>v</sup> This wording is based on recommendations made from experts with particularly extensive experience of arbitration law in China. As an arbitration clause may forget to explicitly refer to the "institution" CEAC, the clause is important.



2. If an address has been designated by a party specifically for this purpose or authorized by the arbitral tribunal, any notice shall be delivered to that party at that address, and if so delivered shall be deemed to have been received. Delivery by electronic means such as facsimile or e-mail may only be made to an address so designated or authorized.
3. In the absence of such designation or authorization, a notice is:
  - (a) Received if it is physically delivered to the addressee; or
  - (b) Deemed to have been received if it is delivered at the place of business, habitual residence or mailing address of the addressee.
4. If, after reasonable efforts, delivery cannot be effected in accordance with paragraphs 2 or 3, a notice is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means that provides a record of delivery or of attempted delivery.
5. A notice shall be deemed to have been received on the day it is delivered in accordance with paragraphs 2, 3 or 4, or attempted to be delivered in accordance with paragraph 4. A notice transmitted by electronic means is deemed to have been received on the day it is sent, except that a notice of arbitration so transmitted is only deemed to have been received on the day when it reaches the addressee's electronic address.
6. For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If 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. Official 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 or parties initiating recourse to arbitration (hereinafter called the "claimant") shall communicate to the other party or parties (hereinafter called the "respondent") a notice of arbitration.
2. **<sup>1</sup>The 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. <sup>2</sup>Upon filing of the notice of arbitration, the claimant shall pay the administration fee determined in accordance with the Schedule of Costs of the CEAC. <sup>3</sup>If the administration fee is not paid upon filing of the notice of arbitration, CEAC management shall set a time period within which the claimant is required to pay the administration fee which will be counted as an advance of costs according to Article 41 of these CEAC Hamburg Arbitration Rules. <sup>4</sup>If the administration fee is not paid within the time period set, the claim shall be deemed to have been withdrawn. <sup>5</sup>Arbitral proceedings shall be deemed to have commenced on the date on which the Notice of Arbitration is received by CEAC.**
3. The notice of arbitration shall include the following:
  - (a) A demand that the dispute be referred to arbitration;
  - (b) The names and contact details of the parties;
  - (c) Identification of the arbitration agreement that is invoked;
  - (d) Identification of any contract or other legal instrument out of or in relation to which the dispute arises or, in the absence of such contract or instrument, a brief description of the relevant relationship;
  - (e) A brief description 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, language and place of arbitration, if the parties have not previously agreed thereon.
4. The notice of arbitration may also include:
- (a) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
  - (b) Notification of the appointment of an arbitrator referred to in article 9 or 10.
5. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the sufficiency of the notice of arbitration, which shall be finally resolved by the arbitral tribunal.
- 6. In exercising their functions under these Rules, CEAC and the CEAC Appointing Authority may require from any party and the arbitrators the information they deem necessary to fulfil their function and they shall give the parties and, where appropriate, the arbitrators, an opportunity to present their views in any manner they consider appropriate. All such communications to and from CEAC and the CEAC Appointing Authority shall also be provided by the sender to all other parties.**

Response to the notice of arbitration  
Article 4

1. Within 30 days of the receipt of the notice of arbitration, the respondent shall communicate to the claimant a response to the notice of arbitration, which shall include:
- (a) The name and contact details of each respondent;
  - (b) A response to the information set forth in the notice of arbitration, pursuant to article 3, paragraphs 3 (c) to (g).
2. The response to the notice of arbitration may also include:
- (a) Any plea that an arbitral tribunal to be constituted under these Rules lacks jurisdiction;
  - (b) A proposal for the appointment of a sole arbitrator referred to in article 8, paragraph 1;
  - (c) Notification of the appointment of an arbitrator referred to in article 9 or 10;
  - (d) A brief description of counterclaims or claims for the purpose of a set-off, if any, including where relevant, an indication of the amounts involved, and the relief or remedy sought;
  - (e) A notice of arbitration in accordance with article 3 in case the respondent formulates a claim against a party to the arbitration agreement other than the claimant.
3. The constitution of the arbitral tribunal shall not be hindered by any controversy with respect to the respondent's failure to communicate a response to the notice of arbitration, or an incomplete or late response to the notice of arbitration, which shall be finally resolved by the arbitral tribunal.

Representation and assistance  
Article 5

Each party may be represented or assisted by persons chosen by it. The names and addresses of such persons must be communicated to all parties and to the arbitral tribunal. Such communication must specify whether the appointment is being made for purposes of representation or assistance. Where a person is to act as a representative of a party, the arbitral tribunal, on its own initiative or at the request of any party, may

at any time require proof of authority granted to the representative in such a form as the arbitral tribunal may determine.

#### Appointing Authority Article 6

The **CEAC** 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 the advisability of appointing an arbitrator of a nationality other than the nationalities of the parties.

#### Section II. Composition of the arbitral tribunal

#### Number of arbitrators Article 7

1. If the parties have not previously agreed on the number of arbitrators, and if within 30 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.
2. Notwithstanding paragraph 1, if no other parties have responded to a party's proposal to appoint a sole arbitrator within the time limit provided for in paragraph 1 and the party or parties concerned have failed to appoint a second arbitrator in accordance with article 9 or 10, the **CEAC** Appointing Authority may, at the request of a party, appoint a sole arbitrator if it determines that, in view of the circumstances of the case, this is more appropriate.

#### Appointment of arbitrators (articles 8 to 10) Article 8

If the parties have agreed that a sole arbitrator is to be appointed and if within 30 days after receipt by all other parties of a proposal for the appointment of a sole arbitrator the parties have not reached agreement thereon, a sole arbitrator shall, at the request of a party, be appointed by the **CEAC** Appointing Authority.

#### Article 9

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 arbitral tribunal.
2. 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 first party may request the **CEAC** Appointing Authority to appoint the second arbitrator.
3. If within 30 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 **CEAC** Appointing Authority in the same way as a sole arbitrator would be appointed under article 8.

#### Article 10

1. 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.

2. If the parties have agreed that the arbitral tribunal is to be composed of a number of arbitrators other than one or three, the arbitrators shall be appointed according to the method agreed upon by the parties.
3. In the event of any failure to constitute the arbitral tribunal under these Rules, the **CEAC** Appointing Authority 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.

#### Disclosures by and challenge of arbitrators (articles 11 to 13)

##### Article 11

When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties and the other arbitrators unless they have already been informed by him or her of these circumstances.

##### Article 12

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 it only for reasons of which it becomes aware after the appointment has been made.
3. In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his or her performing his or her functions, the procedure in respect of the challenge of an arbitrator as provided in article 13 shall apply.

##### Article 13

1. A party that intends to challenge an arbitrator shall send notice of its challenge within 15 days after it has been notified of the appointment of the challenged arbitrator, or within 15 days after the circumstances mentioned in articles 11 and 12 became known to that party.
2. The notice of challenge shall be communicated to all other parties, to the arbitrator who is challenged and to the other arbitrators. The notice of challenge shall state the reasons for the challenge.
3. When an arbitrator has been challenged by a party, all parties may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his or her office. In neither case does this imply acceptance of the validity of the grounds for the challenge.
4. If, within 15 days from the date of the notice of challenge, all parties do not agree to the challenge or the challenged arbitrator does not withdraw, the party making the challenge may elect to pursue it. In that case, within 30 days from the date of the notice of challenge, it shall seek a decision on the challenge by the **CEAC** Appointing Authority.

#### Replacement of an arbitrator

##### Article 14

1. Subject to paragraph 2, in any event where an arbitrator has to be replaced during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 8 to 11 that was applicable to the appointment or choice of the arbitrator being

replaced. This procedure shall apply even if during the process of appointing the arbitrator to be replaced, a party had failed to exercise its right to appoint or to participate in the appointment.

2. If, at the request of a party, the **CEAC** Appointing Authority determines that, in view of the exceptional circumstances of the case, it would be justified for a party to be deprived of its right to appoint a substitute arbitrator, the **CEAC** Appointing Authority may, after giving an opportunity to the parties and the remaining arbitrators to express their views: (a) appoint the substitute arbitrator; or (b) after the closure of the hearings, authorize the other arbitrators to proceed with the arbitration and make any decision or award.

#### Repetition of hearings in the event of the replacement of an arbitrator Article 15

If an arbitrator is replaced, the proceedings shall resume at the stage where the arbitrator who was replaced ceased to perform his or her functions, unless the arbitral tribunal decides otherwise.

#### Exclusion of liability Article 16

Save for intentional wrongdoing, the parties waive, to the fullest extent permitted under the applicable law, any claim against the arbitrators, the appointing authority and any person appointed by the arbitral tribunal based on any act or omission in connection with the arbitration. **In particular, no 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. Similarly, CEAC, its organs (Managers, Advisory Board and Management Board) and employees shall not be 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.**

#### Section III. Arbitral proceedings General provisions

##### Article 17

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 an appropriate stage of the proceedings each party is given a reasonable opportunity of presenting its case. The arbitral tribunal, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process for resolving the parties' dispute.
2. As soon as practicable after its constitution and after inviting the parties to express their views, the arbitral tribunal shall establish the provisional timetable of the arbitration. The arbitral tribunal may, at any time, after inviting the parties to express their views, extend or abridge any period of time prescribed under these Rules or agreed by the parties.
3. If at an appropriate stage of the proceedings any party so requests, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In 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.
4. All communications to the arbitral tribunal by one party shall be communicated by that party to all other parties. Such communications shall be made at the same time, except as otherwise permitted by the arbitral tribunal if it may do so under applicable law.
5. The arbitral tribunal may, at the request of any party, allow one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbi-

tral tribunal finds, after giving all parties, including the person or persons to be joined, the opportunity to be heard, that joinder should not be permitted because of prejudice to any of those parties. The arbitral tribunal may make a single award or several awards in respect of all parties so involved in the arbitration.

Place of arbitration  
Article 18

1. **If the parties have not explicitly agreed on another seat, the seat of the arbitration will be Hamburg, Germany. Regardless of the seat of the arbitration, the parties are free to determine any appropriate place for hearings or other proceedings.**
2. The arbitral tribunal may meet at any location it considers appropriate for deliberations. Unless otherwise agreed by the parties, the arbitral tribunal may also meet at any location it considers appropriate for any other purpose, including hearings.

Language  
Article 19

1. Subject 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. This 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 20

1. The claimant shall communicate its statement of claim in writing to the respondent and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The claimant may elect to treat its notice of arbitration referred to in article 3 as a statement of claim, provided that the notice of arbitration also complies with the requirements of paragraphs 2 to 4 of this article.
2. The statement of claim shall include the following particulars:
  - (a) The names and contact details of the parties;
  - (b) A statement of the facts supporting the claim;
  - (c) The points at issue;
  - (d) The relief or remedy sought;
  - (e) The legal grounds or arguments supporting the claim.
3. A copy of any contract or other legal instrument out of or in relation to which the dispute arises and of the arbitration agreement shall be annexed to the statement of claim.
4. The statement of claim should, as far as possible, be accompanied by all documents and other evidence relied upon by the claimant, or contain references to them.

Statement of defence  
Article 21

1. The respondent shall communicate its statement of defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal. The respondent may elect to treat its response to the notice of arbitration referred to in article 4 as a statement of defence, provided that the response to the notice of arbitration also complies with the requirements of paragraph 2 of this article.
2. The statement of defence shall reply to the particulars (b) to (e) of the statement of claim (art. 20, paragraph 2). The statement of defence should, as far as possible, be accompanied by all documents and other evidence relied upon by the respondent, or contain references to them.
3. In its 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 counterclaim or rely on a claim for the purpose of a set-off provided that the arbitral tribunal has jurisdiction over it.
4. The provisions of article 20, paragraphs 2 to 4, shall apply to a counterclaim, a claim under article 4, paragraph 2 (e), and a claim relied on for the purpose of a set-off.

Amendments to the claim or defence  
Article 22

During the course of the arbitral proceedings, a party may amend or supplement its claim or defence, including a counterclaim or a claim for the purpose of a set-off, unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay in making it or prejudice to other parties or any other circumstances. However, a claim or defence, including a counterclaim or a claim for the purpose of a set-off, may not be amended or supplemented in such a manner that the amended or supplemented claim or defence falls outside the jurisdiction of the arbitral tribunal.

Pleas as to the jurisdiction of the arbitral tribunal  
Article 23

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null shall not entail automatically the invalidity of the arbitration clause.
2. A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defence or, with respect to a counterclaim or a claim for the purpose of a set-off, in the reply to the counterclaim or to the claim for the purpose of a set-off. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The arbitral tribunal may rule on a plea referred to in paragraph 2 either as a preliminary question or in an award on the merits. The arbitral tribunal may continue the arbitral proceedings and make an award, notwithstanding any pending challenge to its jurisdiction before a court.

Further written statements  
Article 24

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 25

The 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 45 days. However, the arbitral tribunal may extend the time limits if it concludes that an extension is justified.

Interim measures  
Article 26

1. The arbitral tribunal may, at the request of a party, grant interim measures.
2. An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to:
  - (a) Maintain or restore the status quo pending determination of the dispute;
  - (b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself;
  - (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
  - (d) Preserve evidence that may be relevant and material to the resolution of the dispute.
3. The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that:
  - (a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and
  - (b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.
4. With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.
5. The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.
6. The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.
7. The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.
8. The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing,



the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

9. 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.

#### Evidence

##### Article 27

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. Witnesses, including expert witnesses, who are presented by the parties to testify to the arbitral tribunal on any issue of fact or expertise may be any individual, notwithstanding that the individual is a party to the arbitration or in any way related to a party. Unless otherwise directed by the arbitral tribunal, statements by witnesses, including expert witnesses, may be presented in writing and signed by them.
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 arbitral tribunal shall determine.
4. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

#### Hearings

##### Article 28

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. Witnesses, including expert witnesses, may be heard under the conditions and examined in the manner set by the arbitral tribunal.
3. Hearings shall be held in camera unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses, including expert witnesses, during the testimony of such other witnesses, except that a witness, including an expert witness, who is a party to the arbitration shall not, in principle, be asked to retire.
4. The arbitral tribunal may direct that witnesses, including expert witnesses, be examined through means of telecommunication that do not require their physical presence at the hearing (such as videoconference).

#### Experts appointed by the arbitral tribunal

##### Article 29

1. After consultation with the parties, the arbitral tribunal may appoint one or more independent experts to report to it, in writing, on specific issues to be determined by the arbitral tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.
2. The expert shall, in principle before accepting appointment, submit to the arbitral tribunal and to the parties a description of his or her qualifications and a statement of his or her impartiality and independence. Within the time ordered by the arbitral tribunal, the parties shall inform the arbitral tribunal whether they have any objections as to the expert's qualifications, impartiality or independence. The arbitral tribunal shall decide promptly whether to accept any such objections. After an expert's appointment, a party may object to the expert's qualifications, impartiality or independence only if the

objection is for reasons of which the party becomes aware after the appointment has been made. The arbitral tribunal shall decide promptly what, if any, action to take.

3. The parties shall give the expert any relevant information or produce for his or her inspection any relevant documents or goods that he or she may require of them. Any 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.
4. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties, which shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his or her report.
5. At the request of any 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. At this hearing, any party may present expert witnesses in order to testify on the points at issue. The provisions of article 28 shall be applicable to such proceedings.

#### Default Article 30

1. If, within the period of time fixed by these Rules or the arbitral tribunal, without showing sufficient cause:
  - (a) The claimant has failed to communicate its statement of claim, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings, unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so;
  - (b) The respondent has failed to communicate its response to the notice of arbitration or its statement of defence, the arbitral tribunal shall order that the proceedings continue, without treating such failure in itself as an admission of the claimant's allegations; the provisions of this subparagraph also apply to a claimant's failure to submit a defence to a counterclaim or to a claim for the purpose of a set-off.
2. If a party, 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 a party, duly invited by the arbitral tribunal to produce documents, exhibits or other 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 31

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 initiative or upon application of a party, to reopen the hearings at any time before the award is made.

**Time Limit for the Award**  
**Article 31a**

- 1. Unless otherwise agreed by the parties, the time limit within which the arbitral tribunal must render its final award is nine months. Such time limit shall run from the date on which the Notice of Arbitration is received by CEAC.**
- 2. The management of 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.**

Waiver of right to object  
Article 32

A failure by any party to object promptly to any non-compliance with these Rules or with any requirement of the arbitration agreement shall be deemed to be a waiver of the right of such party to make such an objection, unless such party can show that, under the circumstances, its failure to object was justified.

Section IV. The award

Decisions  
Article 33

1. When there is more than one arbitrator, 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 alone, subject to revision, if any, by the arbitral tribunal.

Form and effect of the award  
Article 34

1. The arbitral tribunal may make separate awards on different issues at different times.
2. All awards shall be made in writing and shall be final and binding on the parties. The parties shall carry out all awards 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. An award shall be signed by the arbitrators and it shall contain the date on which the award was made and indicate the place of arbitration. Where there is more than one arbitrator and any of them fails to sign, the award shall state the reason for the absence of the signature.
5. An award may be made public with the consent of all parties or where and to the extent disclosure is required of a party by legal duty, to protect or pursue a legal right or in relation to legal proceedings before a court or other competent authority.
6. Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.

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

<sup>3</sup>This contract shall be governed by

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

<sup>4</sup>In 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.
3. In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract, if any, and shall take into account any usage of trade applicable to the transaction.

Settlement or other grounds for termination  
Article 36

1. If, 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 the parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.
2. If, 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. The arbitral tribunal shall have the power to issue such an order unless there are remaining matters that may need to be decided and the arbitral tribunal considers it appropriate to do so.

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<sup>vi</sup> With respect to sales contracts it should be noted that, according to Art. 1 lit. b) CISG, such national law may include the *United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG)* in their “nationalised” version: That is the version applicable with due consideration of the national reservations made by the state whose law is chosen. In the case of choice of Chinese law this includes the Chinese reservation made according to Art. 95 CISG. That reservation concerns the form of the conclusion of contracts – it requires the written form – which was made in view of the Chinese national law in force at the time of issuance of the reservation while the Chinese Civil Law has changed ever since.

<sup>vii</sup> See e.g. the literature and cases referred to at [www.unidroit.org](http://www.unidroit.org).

<sup>viii</sup> This limitation reflects the UNCITRAL report 2007 regarding the discussion with respect to the relationship between the CISG and the UNIDROIT Principles at the 2007 session of UNCITRAL. Matters which are governed by the CISG are to be interpreted according to the CISG (including Art. 7 CISG).

<sup>ix</sup> See [www.unidroit.org](http://www.unidroit.org).

3. Copies 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. Where an arbitral award on agreed terms is made, the provisions of article 34, paragraphs 2, 4 and 5, shall apply.

#### Interpretation of the award Article 37

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within 45 days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 34, paragraphs 2 to 6, shall apply.

#### Correction of the award Article 38

1. Within 30 days after the receipt of the award, a party, with notice to the other parties, may request the arbitral tribunal to correct in the award any error in computation, any clerical or typographical error, or any error or omission of a similar nature. If the arbitral tribunal considers that the request is justified, it shall make the correction within 45 days of receipt of the request.
2. The arbitral tribunal may within 30 days after the communication of the award make such corrections on its own initiative.
3. Such corrections shall be in writing and shall form part of the award. The provisions of article 34, paragraphs 2 to 6, shall apply.

#### Additional award Article 39

1. Within 30 days after the receipt of the termination order or the award, a party, with notice to the other parties, may request the arbitral tribunal to make an award or an additional award as to claims presented in the arbitral proceedings but not decided by the arbitral tribunal.
2. If the arbitral tribunal considers the request for an award or additional award to be justified, it shall render or complete its award within 60 days after the receipt of the request. The arbitral tribunal may extend, if necessary, the period of time within which it shall make the award.
3. When such an award or additional award is made, the provisions of article 34, paragraphs 2 to 6, shall apply.

#### Definition of costs Article 40

1. **The arbitral tribunal shall state the costs of the arbitration in its award or if it deems appropriate, in another decision, according to the prior determination of costs by CEAC management. 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 of legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, but only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable and that they were reasonably incurred;**
  - (f) **Any fees and expenses of CEAC.**
- 2. In relation to the interpretation, correction or completion of any award under Articles 37 to 39, the arbitral tribunal may charge the costs referred to in paragraphs 1 (b) to (f), but no additional fees.**

Fees and expenses of arbitrators  
Article 41

- 1. <sup>1</sup>Before rendering the final award, the arbitral tribunal shall request CEAC management to finally determine the costs of the arbitral proceedings. <sup>2</sup>The fees of the arbitral tribunal and CEAC shall be calculated according to the CEAC Schedule of Costs 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 CEAC management 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 any other relevant circumstances.**
- 3. The parties are jointly and severally liable to the arbitrator(s) and to CEAC for the costs of the arbitral proceedings.**

Allocation of costs  
Article 42

- 1. The costs of the arbitration shall in principle be borne by the unsuccessful party or parties. However, 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. The arbitral tribunal shall in the final award or, if it deems appropriate, in any other award, determine any amount that a party may have to pay to another party as a result of the decision on allocation of costs.**

Deposit of costs  
Article 43

- 1. Upon filing of the statement of claim by claimant, CEAC's management may order the parties to deposit an amount as an advance for the costs referred to in article 40 of these Rules.**
- 2. <sup>1</sup>Each party shall pay half of the advance on costs, unless separate advances are determined (e.g. in a multi-party arbitration). <sup>2</sup>Where counterclaims are submitted, CEAC's management 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. <sup>3</sup>Upon request by the arbitral tribunal, CEAC's management may order the parties to pay additional advances during the course of the arbitral proceedings.**
- 3. <sup>1</sup>If a party fails to make a required payment, CEAC's management shall give the other party an opportunity to do so within a specified period of time. <sup>2</sup>If the required payment is not made within such period of time, the claim shall be deemed to have been withdrawn. <sup>3</sup>If the other party makes the required payment, the arbitral tribunal may, at the request of such party, render at any time a separate award for reimbursement of the payment.**

- 4. At any stage during the arbitral proceedings or after the award has been rendered, CEAC's management may draw on the advance on costs to cover the costs of the arbitral proceedings.**
- 5. CEAC's management may order 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, CEAC's management shall render to the parties an accounting of the deposits received and return the balance, if any, to the parties in such proportion as the tribunal may have determined.**

**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 institutional arbitration administered by the Chinese European Arbitration Centre (CEAC) in Hamburg (Germany) in accordance with the CEAC Hamburg Arbitration Rules.**

**Options:**

- (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 and 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.
- (f) The parties agree that also the mere existence of an arbitral proceeding shall be kept confidential except to the extent disclosure is required by law, regulation or an order of a competent court.
- (g) 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.



中文版

# 汉堡中国欧洲仲裁中心仲裁规则

整合版本（2010年9月）

基于2010年9月21日批准通过的

《中国欧洲仲裁中心核心规则》

基于《联合国国际贸易法委员会仲裁规则》2010年版

## 说明

《汉堡中国欧洲仲裁中心仲裁规则》（简称：《中欧仲裁中心汉堡仲裁规则》）是以《联合国国际贸易法委员会仲裁规则》为基础制定的。《联合国国际贸易法委员会仲裁规则》于 2010 年进行了修订，新修订版于 2010 年 8 月起生效（《联合国国际贸易法委员会仲裁规则》2010 年版）。《中欧仲裁中心汉堡仲裁规则》业已经由顾问委员会内部讨论而加以修订。本版《中欧仲裁中心汉堡仲裁规则》仅在于说明与《联合国国际贸易法委员会仲裁规则》2010 年版的差异，因而本版名为**核心规则（2010 年 9 月版）**。

今后将在中欧仲裁中心范围内以及研讨会中对这些规则加以讨论。在进行上述讨论以及斟酌之后，顾问委员会有权进行补充。

上述仲裁规则以及在《联合国国际贸易法委员会仲裁规则》新版本基础上进行必要补充而形成了一份**整合版本**。该版本可以被称之为“《中欧仲裁中心汉堡仲裁规则》”或者“《中欧仲裁中心仲裁规则》”。

《中欧仲裁中心汉堡仲裁规则》适用于仲裁程序。在本仲裁规则之外，《**汉堡中国欧洲仲裁中心规章**》负责规定中国欧洲仲裁中心的组织与结构。

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# 前言

一、“全球化”进程使得

- 中国与包括欧洲在内世界各国贸易商之间的交易大量增加，
- 在中国的国际投资大量增加，
- 中国在海外的投资大量增加。

二、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）提供了机会，基于国际理念、通过专业仲裁机构来解决此类争端。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常常是非常困难的，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。

三、基于此目的，*中国欧洲法律协会*——作为一家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合作与交流的非营利社团——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《中欧仲裁中心汉堡仲裁规则》运营*中国欧洲仲裁中心*。

四、《中欧仲裁中心汉堡仲裁规则》是在来自全球不同司法领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，其他国际仲裁也可采取《中欧仲裁中心汉堡仲裁规则》进行。<sup>i</sup>

五、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，1987年，中德两国的律师创建了*北京-汉堡调解中心*。《中欧仲裁中心汉堡仲裁规则》还特别提供了将有关争议交付*北京-汉堡调解中心*予以调解的可能性。

六、为了使《*中欧仲裁中心汉堡仲裁规则*》最佳地适应跨文化仲裁的需要，该仲裁规则的制定特别基于如下国际环境：

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<sup>i</sup> 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。

- 如果各方当事人就首席仲裁员的人选不能达成一致意见，或者一方当事人不指定仲裁员，则任命机构应任命一位来自中立司法领域的仲裁员为首席仲裁员，且任命机构通过其任命委员会中来自中国、欧洲和其他区域的国际专家来实现运转。
- 《中欧仲裁中心汉堡仲裁规则》允许各方当事人在自愿的基础上选择在上世界上，特别是对于中国，在不同程度上，得以认可的中立性法律<sup>ii</sup>或者中立性的法律规则<sup>iii</sup>。
- 《中欧仲裁中心汉堡仲裁规则》包含了许多专门针对中国的规定，例如第 3 条第 1 款，其考虑到了仲裁裁决在中国得以执行的特定法律环境。<sup>iv</sup>

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<sup>ii</sup> 例如《联合国国际货物买卖合同公约》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。

<sup>iii</sup> 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。

<sup>iv</sup> 根据中国法，重点在于(i)仲裁应事关商业事宜；(ii)当事人向仲裁机构提交仲裁。因而，通过仲裁机构的管理而作出的国际仲裁裁决与中国对于仲裁裁决在中国执行的一般理解是相匹配的，尽管，从法律上讲，外国临时仲裁裁决也是可以获得承认的。

## 第一章 绪则

### 适用范围\*、与北京—汉堡调解中心的关系

#### 第 1 条

1. 如果当事人同意将其之间确定的法律关系上的争议——无论是合同性质或者非合同性质——提交仲裁，适用《中欧仲裁中心汉堡仲裁规则》，则该争议的解决应根据本《规则》，且根据当事人之间协议生效时本《规则》有效的版本，并虑及当事人所作的修正（参见本《规则》附件中示范仲裁条款(g)项）。
- 1a. 如果合同各方当事人同意将其争议按《中欧仲裁中心汉堡仲裁规则》，《中欧仲裁中心仲裁规则》或者《中国欧洲仲裁中心仲裁规则》提交仲裁，但没有指明仲裁机构名称的，应视为当事人一致同意将其争议提交位于德国汉堡的中国欧洲仲裁中心进行仲裁。<sup>v</sup>
2. 本《规则》适用于仲裁，除非该《规则》与适用于仲裁的、且当事人不得排除其适用的法律规定相冲突。在此冲突情况下，该法律规定得以优先适用。
3. 本《规则》将包含当事人之间协议生效时有有效的《联合国国际贸易法委员会仲裁规则》（参见 [www.uncitral.org](http://www.uncitral.org)），且该《联合国国际贸易法委员会仲裁规则》经由在此包含的补充规定加以修订补充；这些补充规定得以优先适用，除非当事人另有约定。
4. 在按照《中欧仲裁中心汉堡仲裁规则》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按如下规定中止：
  - (a) 最多三个月，或者直至调停或者调解结束，取其发生在先者；或者
  - (b) 如果调解程序在收到书面同意后一周内即启动了，则基于先前的申请。如果调解未能在三个月内结束，仲裁程序的继续中止需要所有当事人共同的书面同意；该书面同意可以另行作出。

### 通知和期间计算

#### 第 2 条

\* 合同中的示范仲裁条款载于本《规则》附件。

<sup>v</sup> 此处文字表述基于具有丰富中国仲裁法律经验的专家的推荐。由于一项仲裁条款可能会忘记明确指明是提交给作为一个“机构”的中欧仲裁中心，该条款是重要的。

1. 通知包括通知书、函件或建议，可通过任何能够提供或容许传输记录的通信手段进行传输。
2. 凡一方当事人已为此目的专门指定某一地址，或者仲裁庭已同意指定某一地址的，均应按该地址将任何通知送达该当事人；照此方式递送的，视为收到通知。使用传真或电子邮件等电子方式的，只能将通知递送到按上述方式指定或同意指定的地址。
3. 没有指定地址或没有同意指定地址的，
  - (a) 通知直接交给收件人，即为收到；或者
  - (b) 通知递送到收件人的营业地、惯常住所或通讯地址，即视为收到。
4. 经合理努力仍无法根据第2款或第3款递送通知的，用挂号信或以能够提供递送记录或试图递送记录的方式，将通知递送到收件人最后一个为人所知的营业地、惯常住所或通讯地址，即应视为已收到通知。
5. 根据第2款、第3款或第4款递送通知的日期，或者根据第4款试图递送通知的日期，应视为已收到通知的日期。以电子方式传递通知的，通知发出的日期视为已收到通知的日期，但以电子方式传递的仲裁通知除外，仲裁通知视为已收到的日期，只能是其抵达收件人电子地址的日期。
6. 本《规则》规定的期间，应自收到通知之日的次日起算。期间的最后一天是收件人住所或营业地法定假日或非营业日的，期间顺延至其后第一个营业日。期间持续阶段的法定假日或非营业日应计入期间。

#### 仲裁通知 第3条

1. 提起仲裁的一方或多方当事人（以下称“申请人”）应向另一方或多方当事人（以下称“被申请人”）递送仲裁通知。
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以及——仅在合同中没有包含仲裁条款的情况下——单独的仲裁协议的复印件。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，该费用将被视为《中欧仲裁中心汉堡仲裁规则》第41条所规定的预付款。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. 仲裁通知应包括下列各项：
  - (a) 将争议提交仲裁的要求；
  - (b) 各方当事人的名称和联系方式；
  - (c) 指明所援引的仲裁协议；
  - (d) 指明引起争议的或与争议有关的任何合同或其他法律文书，无此类合同或文书的，简单说明相关关系；
  - (e) 对仲裁请求作简单说明，涉及金额的，指明其数额；

- (f) 寻求的救济或损害赔偿；
  - (g) 各方当事人事先未就仲裁员人数、仲裁语言和仲裁地达成协议的，提出这方面的建议。
4. 仲裁通知还可包括：
- (a) 第8条第1款中述及的关于指定一名独任仲裁员的建议；
  - (b) 第9条或第10条中述及的指定一名仲裁员的通知书。
5. 任何关于仲裁通知充分性的争议不得妨碍仲裁庭的组成，最终应由仲裁庭解决。
6. 在根据本《规则》履行职能时，中欧仲裁中心与中欧仲裁中心任命机构可以要求任何一方当事人以及仲裁员提供其认为对于履行其职能必要的信息，其应当给予当事人以及在必要时给予仲裁员机会使其采取合适的方式表达其意见。所有与中欧仲裁中心和中欧仲裁中心任命机构之间的通信交流均应由发送方知会其他各方当事人。

#### 对仲裁通知的答复

##### 第4条

1. 被申请人应在收到仲裁通知 30 天内向申请人递送对仲裁通知的答复，其中应包括：
  - (a) 每一被申请人的名称和联系方式；
  - (b) 对仲裁通知中根据第3条第3款(c)项至(g)项所载信息内容的答复；
2. 对仲裁通知的答复还可包括：
  - (a) 任何关于根据本《规则》组成的仲裁庭缺乏管辖权的抗辩；
  - (b) 第8条第1款中述及的关于指定一名独任仲裁员的建议；
  - (c) 第9条或第10条中述及的指定一名仲裁员的通知书；
  - (d) 提出反请求或为抵消目的而提出请求的，对其作简单说明，包括在有关情况下指明所涉金额以及所寻求的救济或损害赔偿；
  - (e) 被申请人对不是申请人的仲裁协议当事人提出请求的，第3条规定的仲裁通知。
3. 任何关于被申请人未递送对仲裁通知的答复或者关于对仲裁通知的不完整答复或迟延答复的争议，均不得妨碍仲裁庭的组成，最终均应由仲裁庭解决。

#### 代理和协助

##### 第5条

每一方当事人可由其选定的人员出任代理人或助理人。此类人员的姓名和地址必须通知各方当事人和仲裁庭。此种通知必须说明所作指定是为了代理目的还是为了协助目的。对于出任一方当事人代理人的人员，仲裁庭可自行或应任何一方当事人的请求，随时要求按照仲裁庭决定的方式出具对该代理人的授权证据。



任命机构

## 第6条

**中欧仲裁中心**任命机构将虑及此来努力保证选任中立公平的仲裁员，并考虑到选任非当事人国籍的仲裁员的可取性。

## 第二章 仲裁庭的组成

仲裁员人数

### 第7条

1. 各方当事人未事先约定仲裁员人数，并且在被申请人收到仲裁通知后**30**天内各方当事人未就只应指定一名仲裁员达成约定的，应指定三名仲裁员。
2. 虽有第1款规定，一方当事人提出指定独任仲裁员的提议而其他各方当事人未在第1款规定的时限内对此作出答复，并且有关的一方或多方当事人未根据第9条或第10条指定第二名仲裁员的，**中欧仲裁中心**任命机构可经一方当事人请求，指定独任仲裁员，但指定机构须根据案情确定这样做更适当。

仲裁员的指定（第8条至第10条）

### 第8条

各方当事人已约定将指定独任仲裁员，而在其他各方当事人收到指定独任仲裁员的建议后**30**天内各方当事人未就选择独任仲裁员达成约定的，经一方当事人请求，应由**中欧仲裁中心**任命机构指定独任仲裁员。

### 第9条

1. 指定三名仲裁员的，每一方当事人应各指定一名仲裁员。第三名仲裁员应由已被指定的两名仲裁员选定，担任仲裁员首席仲裁员。
2. 一方当事人收到另一方当事人指定一名仲裁员的通知书后，未在**30**天内将其所指定的仲裁员通知另一方当事人的，该另一方当事人可请求**中欧仲裁中心**任命机构指定第二名仲裁员。
3. 指定第二名仲裁员后**30**天内，两名仲裁员未就首席仲裁员人选达成约定的，应由**中欧仲裁中心**任命机构按照第8条规定的指定独任仲裁员的同样方式，指定首席仲裁员。

### 第10条

1. 为第9条第1款之目的，在须指定三名仲裁员且申请人或被申请人为多方当事人的情况下，除非各方当事人约定采用其他方法指定仲裁员，否则多方当事人应分别作为共同申请人或共同被申请人，各指定一名仲裁员。
2. 各方当事人约定组成仲裁庭的仲裁员人数不是一名或三名的，应按照各方当事人约定的方法指定仲裁员。
3. 未能根据本《规则》组成仲裁庭的，经任何一方当事人请求，指定机构应组成仲裁庭，并可为此撤销任何已作出的指定，然后指定或重新指定每一名仲裁员，并指定其中一人担任首席仲裁员。

## 仲裁员披露情况和回避（第11条至13条）

### 第11条

可能被指定为仲裁员的人，应在与此指定有关的洽谈中披露可能对其公正性和独立性产生有正当理由怀疑的任何情况。仲裁员应自其被指定之时起，并在整个仲裁程序期间，毫无延迟地向各方当事人以及其他仲裁员披露任何此种情况，除非此种情况已由其告知各方当事人。

### 第12条

1. 如果存在可能对任何仲裁员的公正性或独立性产生有正当理由怀疑的情况，均可要求该仲裁员回避。
2. 一方当事人只能根据其指定仲裁员之后才得知的理由，对其所指定的仲裁员提出回避。
3. 仲裁员不作为，或者仲裁员因法律上或事实上的原因无法履行其职责的，应适用第13条中规定的程序申请仲裁员回避。

### 第13条

1. 一方当事人意图对一名仲裁员提出回避，应在被要求回避的仲裁员的任命通知书发给该当事人后15天内，或在该当事人得知第11条和第12条所提及的情况后15天内，发出其回避通知。
2. 回避通知应发给其他各方当事人、被要求回避的仲裁员以及其他仲裁员。回避通知应说明提出回避的理由。
3. 一方当事人对一名仲裁员提出回避，其他各方当事人可以附议。该仲裁员也可在回避提出后辞职。无论是其中哪一种情况，均不表示提出回避的理由成立。
4. 自回避通知发出之日起15天内，如果其他当事人不同意该回避，或者被要求回避的仲裁员不辞职，提出回避的当事人可以坚持要求回避。在这种情况下，该当事人应自回避通知发出之日起30天内，请求**中欧仲裁中心**任命机构就回避申请作出决定。

## 替换仲裁员

### 第14条

1. 在不违反第2款的情况下，只要仲裁程序进行过程中有必要替换仲裁员，即应适用第8条至第11条规定的指定或选定被替换仲裁员的程序，指定或选定一名替代仲裁员。在指定拟被替换仲裁员的过程中，即使一方当事人未行使其指定或参与指定的权利，该程序仍应适用。
2. 经一方当事人请求，如果**中欧仲裁中心**任命机构确定，鉴于案情特殊，有理由取消一方当事人指定替代仲裁员的权利，在给予各方当事人和其余仲裁员发表意见的机会之后，**中欧仲裁中心**任命机构可以：**(a)**指定替代仲裁员；或**(b)**在审理终结后，授权其他仲裁员继续进行仲裁并作出决定或裁决。

## 在替换仲裁员的情况下继续进行审理

### 第15条

如果一名仲裁员被替换，应从被替换的仲裁员停止履行职责时所处的阶段继续进行程序，除非仲裁庭另有决定。

免责

#### 第16条

除故意不当行为外，在适用法律允许的最大限度内，各方当事人放弃以与本仲裁有关的作为或不作为为由，向仲裁员、任命机构以及仲裁庭指定的任何人提出任何索赔。尤其对于任何与仲裁有关的行为或者疏忽，仲裁员、雇员或者仲裁员的代理均不向任何人承担责任，除非该行为是出于主观故意造成的。同理，对于任何与仲裁有关的行为或者疏忽，中欧仲裁中心、其下属机构（经理、顾问委员会和管理委员会）以及雇员均不承担责任，除非该行为是出于主观故意造成的。

### 第三章 仲裁程序

通则

#### 第17条

1. 在不违反本《规则》的情况下，仲裁庭可以其认为适当的方式进行仲裁，但须平等对待各方当事人，并在仲裁程序适当阶段给予每一方当事人陈述案情的合理机会。仲裁庭行使裁量权时，程序的进行应避免不必要延迟和费用，并为解决当事人争议提供公平有效的程序。
2. 仲裁庭一经组成，在请各方当事人发表意见后，仲裁庭即应根据实际情况尽快确定仲裁临时时间表。任何期间，不论是本《规则》规定的还是当事人约定的，仲裁庭均可请各方当事人发表意见后随时予以延长或缩短。
3. 如有任何一方当事人在仲裁程序的适当阶段请求开庭审理，仲裁庭应开庭审理，由证人包括专家证人出示证据，或进行口头辩论。未提出此种请求的，仲裁庭应决定是进行开庭审理，还是根据书面文件和其他资料进行程序。
4. 一方当事人应将其提交仲裁庭的所有函件发送其他各方当事人。除仲裁庭可以根据适用法另外允许的情形外，所有此类函件应同时发送。
5. 仲裁庭可根据任何一方当事人的请求，允许将一个或多个第三人作为一方当事人并入仲裁程序，前提是该人是仲裁协议的一方当事人，除非仲裁庭在给予各方当事人，包括拟被并入仲裁程序的一人或多人陈述意见的机会后认定，由于并入仲裁程序会对其中任何一方当事人造成损害而不应准许此种并入。对于仲裁程序如此涉及到的所有当事人，仲裁庭可作出单项裁决，也可作出若干项裁决。

仲裁地

#### 第18条

1. **如果当事人未明确约定其他仲裁地点，则仲裁地点为汉堡。不考虑仲裁地点，当事人双方可以自由决定合适的地点来举行听证或者其他程序。**
2. 仲裁庭可在其认为适当的任何地点进行合议。除非各方当事人另有约定，仲裁庭还可在其认为适当的任何地点为其他任何目的举行会议，包括进行开庭审理。

## 语言

### 第19条

1. 在不违反各方当事人约定的情况下，仲裁庭应在其被指定后迅速确定仲裁程序中将使用的一种或数种语言。此决定应适用于仲裁申请书、答辩书和任何进一步书面陈述；进行开庭审理的，亦适用于开庭审理中将使用的一种或数种语言。
2. 仲裁庭可下达指令，任何附于仲裁申请书或答辩书的文件，以及任何在仲裁程序进行过程中提交的补充文件或物证，凡是用其原语文提交的，均应附具各方当事人所约定的或仲裁庭所确定的一种或数种语言的译文。

## 仲裁申请书

### 第20条

1. 申请人应在仲裁庭确定的期间内，以书面形式向申请人和每一名仲裁员递送仲裁申请书。申请人可选择将第3条述及的仲裁通知当作仲裁申请书对待，只要该仲裁通知同样符合本条第2款至第4款的要求。
2. 申请书应包括以下各项：
  - (a) 各方当事人的名称和联系方式；
  - (b) 支持本仲裁请求的事实陈述；
  - (c) 争议点；
  - (d) 寻求的救济或损害赔偿；
  - (e) 支持本仲裁请求的法律依据或观点。
3. 引起争议或与争议有关的任何合同或其他法律文书副本，以及仲裁协议副本，应附于仲裁申请书之后。
4. 仲裁申请书应尽可能附具申请人所依据的所有文件和其他证据，或附注说明拟提交的这些文件和证据。

## 答辩书

### 第21条

1. 被申请人应在仲裁庭确定的期间内，以书面形式向申请人和每一名仲裁员递送答辩书。被申请人可选择将其对第4条述及的仲裁通知的答复当作答辩书对待，只要对该仲裁通知的答复同样符合本条第2款的要求。
2. 答辩书应对仲裁申请书中(b)项至(e)项（第20条第2款规定）的特定内容作出答复。答辩书应尽可能附具被申请人所依据的所有文件和其他证据，或附注说明拟提交的这些文件和证据。
3. 被申请人可在其答辩书中提出反请求或为抵消目的而提出请求，仲裁庭根据情况决定延迟有正当理由的，被申请人还可在仲裁程序后一阶段提出反请求或为抵消目的而提出请求，前提是仲裁庭对此拥有管辖权。

4. 第20条第2款至第4款的规定应适用于反请求、根据第4条第2款(e)项提出的请求，以及为抵消目的而提出的请求。

#### 对仲裁请求或答辩的变更

##### 第22条

在仲裁程序进行过程中，当事人可更改或补充其仲裁请求或答辩，包括更改或补充反请求或为抵消目的而提出的请求，除非仲裁庭考虑到所提出的更改或补充过迟或对其他当事人造成损害，或者考虑到其他任何情况，认为不宜允许此种更改或补充。但是，对仲裁请求或答辩提出更改或补充，包括对反请求或为抵消目的而提出的请求提出更改或补充，不得使更改后或补充后的仲裁请求或答辩超出仲裁庭的管辖权。

#### 对仲裁庭管辖权的抗辩

##### 第23条

1. 仲裁庭有权力对其自身管辖权作出裁定，包括对与仲裁协议的存在或效力有关的任何异议作出裁定。为此目的，构成合同一部分的仲裁条款，应作为独立于合同中其他条款的一项协议对待。仲裁庭作出合同无效的裁定，不应自动造成仲裁条款无效。
2. 对仲裁庭无管辖权的抗辩，至迟应在答辩书中提出，涉及反请求或为抵消目的而提出的请求的，至迟应在对反请求或对为抵消目的而提出的请求的答复中提出。一方当事人已指定或参与指定一名仲裁员，不妨碍其提出此种抗辩。对仲裁庭超出其职权范围的抗辩，应在所指称的超出仲裁庭职权范围的事项在仲裁程序期间出现后尽快提出。仲裁庭认为延迟有正当理由的，可在上述任一情形中准许延迟提出抗辩。
3. 对于第2款述及的抗辩，仲裁庭既可作为先决问题作出裁定，也可在实体裁决书中作出裁定。对于涉及仲裁庭管辖权的任何异议，即使法院审理待决，仲裁庭仍可继续进行仲裁程序并作出仲裁裁决。

#### 进一步书面陈述

##### 第24条

仲裁庭应决定，除仲裁申请书和答辩书之外，还应要求各方当事人提交何种进一步书面陈述，或者各方当事人可提交何种进一步书面陈述，并应确定递送这些书面陈述的期间。

#### 期间

##### 第25条

仲裁庭确定的递送书面陈述（包括仲裁申请书和答辩书）的期间不得超过45天。但是，仲裁庭认为延长期间有正当理由的，可以延长该期间。

#### 临时措施

##### 第26条

1. 经一方当事人请求，仲裁庭可准予临时措施。
2. 临时措施是仲裁庭在下达决定争议的终局裁决之前的任何时候下令一方当事人采取的任何临时性措施，比如且不限于：
  - (a) 争议未决之前维持或恢复现状；

- (b) 采取行动防止, 或者避免采取行动造成: (一)当前或即将发生的损害, 或(二)对仲裁过程本身的妨碍;
  - (c) 为以后使用资产执行仲裁裁决提供一种资产保全手段; 或者
  - (d) 保全与解决争议可能有关的实质性证据。
3. 当事人请求根据第2款(a)项至(c)项采取临时措施, 应使仲裁庭确信:
- (a) 如果不下令采取此种措施, 所造成的损害可能无法通过损害赔偿裁决加以充分补偿, 而且此种损害大大超出如果准予采取此种措施可能给该措施所针对的一方当事人造成的损害; 并且
  - (b) 请求方当事人有在仲裁请求实体上获胜的合理可能性。对此种可能性的判定, 不得影响仲裁庭以后作出任何裁定的裁量权。
4. 对于根据第2款(d)项请求采取临时措施, 第3款(a)项和(b)项的要求只应在仲裁庭认为适当的限度内适用。
5. 经任何一方当事人申请, 仲裁庭可修改、中止或终结其准予的临时措施, 或者在特殊情况下并经事先通知各方当事人, 仲裁庭可自行主动修改、中止或终结其准予的临时措施。
6. 一方当事人提出临时措施请求, 仲裁庭可要求其为该措施提供适当担保。
7. 请求或准予临时措施所依据的情况发生任何重大变化的, 仲裁庭可要求任何一方当事人迅速披露此种情况。
8. 如果仲裁庭事后确定, 在当时的情况下本不应准予临时措施, 则提出临时措施请求的一方当事人可能须对此种措施给任何一方当事人造成的任何费用和损失承担赔偿责任。仲裁庭可在程序进行期间随时就此种费用和损失作出裁决。
9. 任何一方当事人向司法当局提出临时措施请求, 不得视为与仲裁协议不符, 或视为放弃仲裁协议。

## 证据

### 第27条

1. 每一方当事人应对其仲裁请求或答辩所依据的事实负举证责任。
2. 当事人提出的就任何事实问题或专业问题向仲裁庭作证的证人, 包括专家证人, 可以是任何个人, 无论其是否为仲裁的一方当事人或是否与一方当事人有任何关系。除非仲裁庭另有指示, 证人陈述, 包括专家证人陈述, 可以书面形式呈递, 并由其本人签名。
3. 在仲裁程序进行期间的任何时候, 仲裁庭均可要求各方当事人在应由仲裁庭决定的期限内出示文件、证物或其他证据。
4. 仲裁庭应就所出示证据的可采性、关联性、实质性和重要性作出决定。

## 开庭审理

### 第28条

1. 进行开庭审理的, 仲裁庭应将开庭日期、时间和地点充分提前通知各方当事人。
2. 对证人包括对专家证人的听讯或讯问, 可按照仲裁庭确定的条件或方式进行。

3. 各方当事人未另外约定的，审理不公开进行。仲裁庭可在任何证人包括专家证人作证时，要求其他证人包括其他专家证人退庭，但证人包括专家证人为仲裁一方当事人的，原则上不应要求其退庭。
4. 对证人包括对专家证人的讯问，仲裁庭可指示采用电信方式（例如视频会议）进行，不要求其亲自到庭。

#### 仲裁庭指定的专家 第29条

1. 经与各方当事人协商后，仲裁庭可指定独立专家一人或数人以书面形式就仲裁庭需决定的特定问题向仲裁庭提出报告。仲裁庭确定的专家职责范围应分送各方当事人。
2. 原则上，专家应在接受任命之前向仲裁庭和各方当事人提交一份本人资质说明以及本人公正性和独立性声明。各方当事人应在仲裁庭规定的时间内，向仲裁庭说明其对专家资质、公正性或独立性是否持有任何反对意见。仲裁庭应迅速决定是否接受任何此种反对意见。专家任命之后，一方当事人对专家资质、公正性或独立性提出反对意见，只能依据该当事人在专家任命作出之后才意识到的原因。仲裁庭应迅速决定将采取何种可能的行动。
3. 各方当事人应向专家提供任何有关资料，或出示专家可能要求其出示的任何有关文件或物件供专家检查。一方当事人与专家之间关于要求提供资料和出示文件或物件的必要性的任何争议，应交由仲裁庭决定。
4. 仲裁庭应在收到专家报告时将报告副本分送各方当事人，并应给予各方当事人以书面形式提出其对该报告的意见的机会。当事人应有权查阅专家在其报告中引以为据的任何文件。
5. 专家报告提交后，经任何一方当事人请求，专家可在开庭时听询，各方当事人应有机会出庭并质询专家。任何一方当事人均可在此次开庭时委派专家证人出庭，就争议点作证。本程序应适用第28条的规定。

#### 缺席审理 第30条

1. 在本《规则》或仲裁庭确定的期间内：
  - (a) 申请人未递送仲裁申请书，不表明充分理由的，仲裁庭应下令终止仲裁程序，除非尚有未决事项可能需作出决定，且仲裁庭认为就未决事项作出决定是适当的；
  - (b) 被申请人未递送对仲裁通知的答复或答辩书，不表明充分理由的，仲裁庭应下令继续进行仲裁程序，不递送答复或答辩书之事本身不应作为承认申请人主张对待；申请人未就反请求或为抵消目的而提出的请求提交答辩书的，也适用本项规定。
2. 一方当事人经根据本《规则》适当通知后仍未出庭，不就此表明充分理由的，仲裁庭可继续进行仲裁程序。
3. 一方当事人经仲裁庭适当请求仍未在规定期间内出示文件、证物或其他证据，不就此表明充分理由的，仲裁庭可依据已提交给仲裁庭的证据作出裁决。

## 开庭终结

### 第31条

1. 仲裁庭可询问各方当事人是否有任何进一步证据要提出、是否有其他证人要听讯或是否有其他材料要提交，没有的，仲裁庭即可宣布开庭终结。
2. 仲裁庭认为因特殊情形有必要的，可自行决定或经一方当事人申请后决定，在作出仲裁裁决之前的任何时候重新进行开庭审理。

## 作出仲裁裁决的期限

### 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。

## 放弃异议权

### 第32条

凡一方当事人未能迅速对不遵守本《规则》或仲裁协议任何要求的任何情形提出异议的，应视为该当事人放弃提出此种异议的权利，除非该当事人能够证明，其在当时情况下未提出异议有正当理由。

## 第四章 裁决

### 决定

#### 第33条

1. 仲裁员不止一名的，仲裁庭的任何仲裁裁决或其他决定均应以仲裁员的多数作出。
2. 关于程序问题，达不到多数或者经仲裁庭授权，首席仲裁员可单独作出决定，但仲裁庭可作出任何必要修订。

### 裁决的形式和效力

#### 第34条

1. 仲裁庭可在不同时间对不同问题分别作出仲裁裁决。
2. 所有仲裁裁决均应以书面形式作出，仲裁裁决是终局的，对各方当事人均具有拘束力。各方当事人应毫不延迟地履行所有仲裁裁决。
3. 仲裁庭应说明裁决所依据的理由，除非各方当事人约定无须说明理由。
4. 裁决书应由仲裁员签名，并应载明作出裁决的日期和指明仲裁地。仲裁员不止一名而其中有任何一名仲裁员未签名的，裁决书应说明未签名的理由。



5. 裁决可经各方当事人同意后予以公布，为了保护或实施一项法定权利，或者涉及法院或其他主管机构法律程序的，也可在法定义务要求一方当事人披露的情况下和限度内予以公布。
6. 仲裁庭应将经仲裁员签名的裁决书发送各方当事人。

适用法律，友好和解人

### 第35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。当事人双方可以考虑使用如下的示范条款，并标记下列可供选项之一：

本合同应适用

- a) \_\_\_\_\_（国家）的法律<sup>vi</sup>，或者
- b) 1980年《联合国国际货物销售合同公约》<sup>vii</sup>，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<sup>viii</sup>，补充适用国际统一私法协会制定的《国际商事合同通则》<sup>ix</sup>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. 只有在各方当事人明确授权仲裁庭的情况下，仲裁庭才应作为友好和解人或按照公平合理的原则作出裁决。
3. 所有案件中，有合同条款的，仲裁庭均应按照合同条款作出裁决，并应考虑到适用于有关交易的任何商业惯例。

和解或其他终止程序的理由

### 第36条

1. 裁决作出之前，各方当事人就争议达成和解协议的，仲裁庭应下令终止仲裁程序，或者经各方当事人请求并经仲裁庭接受，应记录此项和解协议并按照和解协议条款作出仲裁裁决。仲裁庭无须就此项裁决说明理由。

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<sup>vi</sup> 关于买卖合同，应注意：根据《联合国国际货物买卖合同公约》（CISG）第1条b项，成员国法律可以根据本国缔约的内容将《联合国国际货物买卖合同公约》吸收到内国法中，该内国法版本即考虑到了成员国所作的保留。就中国法律而言，主要是中国对《联合国国际货物买卖合同公约》第95条所作的保留，该保留涉及合同缔结的形式要件，即书面形式，其要求应当按照缔结合同时有效的中国法律规定。

<sup>vii</sup> 参见 [www.unidroit.org](http://www.unidroit.org) 提供的文献和案例。

<sup>viii</sup> 该限制反映了联合国国际贸易委员会2007年报告中所涉及的关于《联合国国际货物买卖合同公约》和国际统一私法协会（UNIDROIT）的《国际商事合同通则》的关系的探讨。由《联合国国际货物买卖合同公约》所管辖事项应当依据《联合国国际货物买卖合同公约》来加以解释（包括《联合国国际货物买卖合同公约》第7条）。

<sup>ix</sup> 参见 [www.unidroit.org](http://www.unidroit.org)。

2. 裁决作出之前，仲裁程序并非由于第1款提及的原因而不必继续或不可能继续的，仲裁庭应将其下达程序终止令的意图通知各方当事人。仲裁庭有权力下达此项命令，除非尚有未决事项可能需作出决定，且仲裁庭认为就未决事项作出决定是适当的。
3. 仲裁程序终止令或按照和解协议条款作出的仲裁裁决书，经仲裁员签名后，应由仲裁庭发送各方当事人。按照和解协议条款作出仲裁裁决书的，应适用第34条第2款、第4款和第5款的规定。

#### 裁决书的解释

##### 第37条

1. 一方当事人可在收到裁决书后30天内，在通知其他各方当事人后，请求仲裁庭对裁决书作出解释。
2. 裁决书的解释应在收到请求后45天内以书面形式作出。裁决书的解释应构成裁决书的一部分，并应适用第34条第2款至第6款的规定。

#### 裁决书的更正

##### 第38条

1. 一方当事人可在收到裁决书后30天内，在通知其他各方当事人后，请求仲裁庭更正裁决书中的任何计算错误、任何笔误或排印错误，或任何类似性质的错误或遗漏。仲裁庭认为此项请求有正当理由的，应在收到请求后45天内作出更正。
2. 仲裁庭可在发送裁决书后30天内，自行主动作出此种更正。
3. 此种更正应以书面形式作出，并应构成裁决书的一部分。应适用第34条第2款至第6款的规定。

#### 补充裁决

##### 第39条

1. 一方当事人可在收到终止令或裁决书后30天内，在通知其他各方当事人后，请求仲裁庭就仲裁程序中提出而仲裁庭未作决定的请求作出裁决或补充裁决。
2. 仲裁庭认为裁决或补充裁决请求有正当理由的，应在收到请求后60天内作出裁决或补充完成裁决。如有必要，仲裁庭可延长其作出裁决的期限。
3. 作出此种裁决或补充裁决时，应适用第34条第2款至第6款的规定。

#### 费用定义

##### 第40条

1. 仲裁庭应根据中欧仲裁中心管理机构此前所作费用决定在其裁决中说明仲裁费用。所谓“费用”仅包括如下各项：
  - (a) 仲裁庭的仲裁费，并针对各个仲裁员分别作以说明；
  - (b) 仲裁员支出的差旅费和其他费用；
  - (c) 专家咨询费用和经仲裁庭所要求的其他辅助服务的费用；

- (d) 在仲裁庭批准同意条件下证人的差旅费和其他费用；
  - (e) 胜诉一方当事人所支付的法律事务代理人和辅助人员的费用，条件是此项费用要求应于仲裁程序进行过程中提出，且仅限于仲裁庭认定该费用数额是合理的并且其产生也是合理的；
  - (f) 中国欧洲仲裁中心的酬金及所支付的费用。
2. 有关于第37至39条项下任何裁决的解释、纠正或者完成，仲裁庭得计取第1款(b)至(f)项的费用，但不得再要求其他额外酬金。

#### 仲裁员的收费和开支

##### 第41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仲裁费用表来计算。
2. 如果仲裁程序在最终裁决做出之前予以终止的，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。

#### 费用分担

##### 第42条

1. 仲裁费用原则上应由败诉一方或败诉各方负担。但是，仲裁庭考虑到具体案情，认为分摊费用合理的，仲裁庭可裁决在当事人之间分摊每一项此种费用。
2. 仲裁庭应在最终裁决书中，或者在其认为适当的其他任何裁决中，裁决一方当事人须根据费用分摊决定向另一方当事人支付的任何数额。

#### 费用预付

##### 第43条

1. 申请人的申请一经提交，中欧仲裁中心管理机构即可要求当事人各方就本《规则》第40条所指的各项费用预先交付一定数额的预付款。
2. 当事人各方应预先交付预付款的百分之五十，除非各项预付款分别计算（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的费用的预付款。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. 如一方当事人未能履行要求的付款，中欧仲裁中心管理机构应给予另一方当事人机会在指定期限内履行交付。如果在该期限内另一方当事人未能履行交付，则申请视为被撤回。如果另一方当事人履行了所要求的付款，则应此当事人的请求，仲裁庭可随时作出一项单独裁决判定该款项的补偿。
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，中欧仲裁中心管理机构可支取预付款来支付仲裁程序中的各项费用。

5. 中欧仲裁中心管理机构可以决定部分预付款应采取银行担保或者其他担保方式。
6. 在仲裁裁决作出以后，中欧仲裁中心管理机构应向当事人提供所收预付款收支帐目；如果尚有结余，则按照仲裁庭可能得以决定的比例返还给当事人。

## 示范仲裁条款

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、终止或无效应由位于德国汉堡的中国欧洲仲裁中心依据《中欧仲裁中心汉堡仲裁规则》通过机构仲裁方式予以解决。

- (a) 仲裁员人数应为\_\_\_\_\_（(i)一人或者(ii)三人或者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。
- (f) 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。
- (g) 仲裁庭应当适用仲裁程序启动时有效的《中欧仲裁中心汉堡仲裁规则》，除非一方当事人自仲裁庭组成四周内向仲裁庭申请，要求依据本合同缔结时有效的《中欧仲裁中心汉堡仲裁规则》的。



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