



Association Suisse de l'Arbitrage
Schweiz. Vereinigung für Schiedsgerichtsbarkeit
Associazione Svizzera per l'Arbitrato
Swiss Arbitration Association

THE SWISS INITIATIVE FOR TRANSPARENCY IN ARBITRATION COSTS

1. Considering the critical importance of costs for the continued success of international arbitration;
2. Recognising the importance of reliable data as a basis for a proper understanding of the origins of the costs and the means of their control;
3. Noting that the data presently available is at best anecdotal;
4. Recognising the efforts undertaken by the enquiry conducted by the Chartered Institute about costs in international arbitration which was a step in the right direction, but showed the complexity of the issue and the need for greater refinement in the collection of data and in their analysis;
5. Emphasising that the data about arbitration costs must be accessible in a transparent form, while preserving the confidentiality of individual arbitration cases;
6. Convinced that transparency of costs in international arbitration can best be achieved in a collective effort by international arbitration practitioners, addressing the issue without bias as to the places of arbitration, arbitral institutions or legal systems;

The Swiss Arbitration Association (ASA) now proposes the formation of an

International Working Group for Transparency in Arbitration Costs

The objectives of the proposed International Working Group are:

- (a) reaching a common understanding of the term "arbitration costs" and defining an appropriate breakdown of the various components of those costs,
- (b) collecting reliable data on international arbitration costs by reference to criteria which allow a meaningful analysis,
- (c) presenting such data in a transparent form while preserving confidentiality of the individual cases,
- (d) determining the factors that drive these costs so as to promote better cost control,
- (e) promoting improved cost control for users and arbitration practitioners.

With respect to the **formation of the International Working Group and its work**, ASA is guided by the following considerations:

1. Composition of the International Working Group: Whilst the information from international arbitration institutions will be of critical importance for the work of the Group, the International Working Group itself should be composed of organisations which are not directly engaged in the provision of arbitration services (or delegates of such organisations), so as to avoid the appearance of bias in the project.
2. Since the Chartered Institute, like ASA, is not an arbitral institution, and given the Institute's important role in the UK and internationally, ASA sees in it an ideal partner in the implementation of the Initiative.
3. ASA proposes to the Chartered Institute joint leadership in the International Working Group. Other organisations of a similar nature and stature, grouping arbitration practitioners, should be invited to join the project, provided they are not directly engaged in organising arbitration procedures. It is essential that arbitration users also participate actively in the International Working Group.
4. Once the International Working Group has identified the criteria for the data collection, arrangements for the collection of data should be sought with arbitral institutions and with arbitration practitioners.
5. The cost survey of the Chartered Institute, the ASA-MIDS enquiry on "Arbitral Institutions under Scrutiny" in the context of ASA's conference on 9 September in Zurich as well as possible other studies can serve as a starting point for the International Working Group.
6. ASA invites the Chartered Institute and other interested arbitration practitioners to initial consultations at the occasion of the conference on 27 September.

Geneva, 26 September 2011