

# Statute of the Caribbean Center of Arbitration

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## STATUTE OF THE CARIBBEAN CENTER OF ARBITRATION

### I.- GENERAL PROVISIONS

#### Article 1.- Functions.

1. The functions of the Caribbean Center of Arbitration (also referred to hereinafter as the “Center” or the “CCA”) shall be as follows: to promote arbitration as an appropriate means for the resolution of disputes arising within the framework of international trade, as well as to disclose the OHADAC Rules of Arbitration; to contribute to the training of arbitrators and mediators in the Caribbean, by means of courses and seminars; to act as Appointing Authority in *ad hoc* arbitration proceedings initiated in accordance with the OHADAC Rules; and, fittingly, to administer, if appropriate, any arbitral proceedings referred to it by parties, as well as to ensure the proper application of the OHADAC Rules of Arbitration.
2. In the exercise of its functions, the CCA shall act independently in relation both to OHADAC and to any other national, regional or international organization, including CARICOM, the Community of Caribbean States, and the member States of those organizations.
3. The CCA shall exercise its functions with scrupulous respect for the confidentiality of both its proceedings and its activities. It shall define the cases in which and the conditions under which third parties may attend the meetings of the Council, of its plenary sessions or of the Congress, subject to compliance with the obligation of safeguarding, in all cases, the confidentiality of the information dealt with at such meetings.
4. Moreover, the CCA may, on an exceptional basis, offer or allow access to information relating to the awards handed down, for analytical, academic, editorial or other purposes, thus contributing to the promotion and development of arbitration, to the exclusion of information concerning proceedings in respect of which the parties have expressed the wish to ensure strict confidentiality.

#### Article 2.- Seat of the CCA.

The seat of the CCA shall be located in the city of Pointe-à-Pitre, Guadeloupe, and it may establish subsidiary seats or representations in any States as it may see fit.

#### Article 3.- Arbitral Council.

1. The CCA’s administrative organ for the exercise of its functions shall be the Arbitral Council made up of seven (7) experts in international commercial arbitration, who will be elected from among the members of the OHADAC Congress.
2. The Arbitral Council shall appoint a chairman, two vice-chairmen and a secretary from among its members.

3. The members of the Arbitral Council of the CCA, including the chairman, the vice-chairmen and the secretary, shall be appointed for a term of three (3) years and their term of office may be renewed only once.
4. Any vacant seats shall be filled, during the remaining portion of the term, in accordance with an appointment by the Arbitral Council.
5. The resolutions of the Council shall be adopted by majority vote and, in the event of an equality of votes, the chairman shall have the casting vote.

**Article 4.- Caribbean Arbitration Congress.**

1. The Arbitral Council shall give an annual account of its administration to the Caribbean Arbitration Congress, which shall be convened by the CCA.
2. The Congress may propose to amend, as appropriate, the rules of Arbitration of the OHADAC, or the annexes thereto, and of these regulations. Such amendments shall be approved in accordance with the same procedure.

**Article 5.- Plenary sessions of the CCA.**

1. The Congress may convene the Center in plenary session by proceeding to elect arbitrators from Caribbean States having taken part in proceedings under the OHADAC Arbitration, or others of recognized prestige in the field . Such plenary sessions shall include the elected arbitrators and the members of the Council.
2. A plenary session shall be convened at least once a year, in connection with the meeting of the Congress, as well as upon notice given by the chairman.
3. The plenary session shall be presided over by the chairman or, in his absence, by a vice-chairman.
4. The plenary session shall be deemed to be validly convened when at least two thirds of its members are present.
5. Resolutions shall be passed in plenary session by majority vote and, in the event of an equality of votes, the chairman shall have the casting vote.
6. The plenary session may set up commissions in order to carry out studies or research or to organize activities.

**Article 6.- Secretariat of the CCA.**

1. The Secretariat of the CCA shall be headed by the secretary and shall exercise all of the powers conferred upon it by the OHADAC Rules of Arbitration and by the present Statute, under the supervision of the Center and of its chairman. It shall, in particular, ensure the management of the archives containing all of the documentation related to the arbitrations administered by the CCA and to any *ad hoc* arbitrations, within the framework of which the CCA has intervened as Appointing Authority.

2. The CCA shall determine the organizational structure of the Secretariat and shall approve its system of operation, its staff, and the salary of the employees working within it.
3. The staff of the Secretariat shall be appointed by the secretary.

## **II.- APPOINTMENT OF ARBITRATORS.**

### **Article 7.- Incompatibilities.**

1. The members of the Arbitral Council may not intervene as arbitrators, nor as counsel or attorneys for parties, in proceedings submitted to an arbitration administered by the CCA.
2. In the event that a member of the Arbitral Council should, even indirectly, be concerned by any arbitration proceedings pending before the CCA or involved in the latter, he shall immediately disclose the fact to the secretary and shall refrain from participation in the proceedings or in the adoption by the said CCA of any decisions which might have an influence on the pending proceedings, and may neither receive nor consult any information or documents relating to such proceedings.

### **Article 8.- Appointment criteria**

1. When exercising the powers granted to the CCA for the appointment of arbitrators, the Center shall apply criteria of excellence and efficiency, by appointing arbitrators whose competence is proven with regard to the dispute concerned and whose availability and commitment to the arbitration will be unquestionable.
2. For such purposes, the CCA shall request from the arbitrator or arbitrators capable of being appointed a statement relating to the number of pending arbitral proceedings in which they have been appointed or nominated. If that number is greater than three (3), that fact shall be assessed by the Center. In the event that such number should be greater than five (5), it shall refrain from appointing the arbitrator. The arbitrators appointed shall commit themselves to refraining from being members of more than five (5) arbitral tribunals simultaneously.
3. A special commission designated by the Center shall assess the arbitrators having intervened in the proceedings administered by it, taking into consideration the quality of the award, as well as the diligence evidenced by them during the arbitral proceedings. Such assessments shall remain secret, and the Center shall take them into account when making subsequent appointments.

## **III. PROVISIONS FOR ARBITRATION COSTS AND DETERMINATION OF COSTS AND FEES**

### **Article 9.- Payment of provisions.**

1. Provisions for arbitration costs, as set out in an annex to the OHADAC Rules of Arbitration, shall be paid in cash, unless they exceed an amount predetermined, on a general basis, by the CCA, in which case a bank guarantee may be granted in order to cover the amount in excess of that threshold.

2. A bank guarantee may also be given by a party in order to cover the provisions in respect of amounts which the opposite party may prove to be liable.
3. The CCA shall define the terms which must be met upon the granting by the parties of the bank guarantees conferred in accordance with the previous paragraphs.
4. The CCA shall lay down specific provisions for the payment of the fees and costs of the experts nominated by the arbitral tribunal.

**Article 10.- Arbitrators' fees.**

1. The CCA shall enjoy sole jurisdiction for the determination of an arbitrator's fees and costs in accordance with the rates listed in the table in Annex 3 or for the setting of such fees, at its discretion, in the event that the disputed amount should remain undetermined. Any agreements between the parties and arbitrators regarding such fees shall be deemed null and void and contrary to the OHADAC Rules of Arbitration.
2. For the purpose of determining an arbitrator's fees and costs, the CCA shall take into consideration his diligence, the number of hours of work required and the complexity both of his interventions and of the matter in dispute.
3. Where there are three arbitrators, the fees of the three arbitrators shall not exceed the amount of the fees corresponding to a single-arbitrator arbitration multiplied by three. Nevertheless, subject to that threshold not being exceeded, the CCA may grant the chairman of the arbitral tribunal higher fees than those determined for the other two arbitrators.

**Article 11.- Administration costs.**

1. The CCA shall fix the administration costs of the arbitration in accordance with the rates set out in Annex 4 of the Rules.
2. Additional costs shall be required in the event of a suspension of the arbitration requested by the parties, or by one party with the other's consent.
3. In the event that the arbitration should be terminated prior to the handing down of the final award, the CCA shall reduce the administration costs, taking into account what has been accomplished and the stage reached in the proceedings.
4. If in accordance with the OHADAC Rules of Arbitration one of the parties should submit a request for correction, interpretation or for rectification of a failure to rule on a given point in the award, the CCA may establish a specific provision in order to cover any additional costs relating thereto and may make the handling of the request conditional on the payment of such provision.
5. The fees paid to the arbitrators shall include neither value added tax (VAT) nor any other tax or levy.