

Conflict resolution made easy

As trade has globalized over the last few decades, trade disputes have kept pace. "This trend can only continue: the more commerce there is, the more sources for conflicts, and the more necessity for conflict resolution," says **University of Geneva Professor Gabrielle Kaufmann-Kohler**, one of the world's leading specialists in international arbitration.

A nightmare scenario could go like this. A German company is buying rice from a company in India. A dispute breaks out between them that will have to be settled in an Indian State court. The judge is almost certainly not specialized in trade disputes; plus everything will have to be translated into Hindi. "An Indian lawyer told me that a case like that would probably take 20 years for the first decision," says **Eric Biesel, Director, Arbitration and Mediation Department of the Geneva Chamber of Commerce, Industry and Services**. "Unless, the other party challenges the decision - in which case resolution would take decades." Meanwhile, the hearings are not confidential so the images of the two companies are tarnished and some of their business secrets are aired in public. Finally, even once the decision is reached, it may still have to be enforced abroad. Without an international agreement, the "winner" has to apply for recognition, which takes more time...

The Geneva Chamber of Commerce wants to spare you that nightmare. Mr Biesel highly recommends that companies put a standard international arbitration clause into any contract.

Arbitration, he explains, is when independent specialists arbitrate between two parties in conflict. It offers a customized, efficient and fast way to resolve disputes. By definition, the arbitrators are neutral and are called in by the will of both parties. Most importantly, any award they eventually render can, in almost all cases, be enforced at an international level.

Eric Biesel, Director,
Arbitration and Mediation
Department of the Geneva
Chamber of Commerce,
Industry and Services



Something akin to a pre-nuptial agreement, an arbitration clause defines the terms of dispute resolution in the event of a separation and how it should be handled: confidentiality, language of documents, seat of the arbitration, location of hearing, who will arbitrate, etc. "Put a model arbitration clause in the contract. If a dispute arises, it's there, alongside the applicable law" he says. "And do use a model clause - don't get too creative."

Mr Biesel notes that companies often consider Geneva as the location for arbitration under the Swiss Rules of International Arbitration. "By tradition, Geneva is an international city and a neutral place, both politically and commercially," he explains. "Both parties can be reassured that any arbitration reached in Geneva will be balanced."

One could say that, since 1920, when the League of Nations was established in Geneva, conflict resolution flows in the city's veins. Arbitration itself has a long history in Geneva. Its Chamber of Commerce, founded in 1865, was one of the first institutions to offer arbitration services. As home to the World Trade Organization dispute settlements, Geneva is one of the world's top commercial arbitration venues. Specialists are also active here in international organizations such as the World Intellectual Property Organization and the nearby Court of Arbitration for Sports. Academic teaching and research in Geneva has always had a strong focus on international law.

In recent years, the growth of the trading and shipping sector in Geneva has developed this activity. "Forty-five percent of international arbitrations filed with the Chamber in 2011 were related to trading," Mr Biesel analyses.

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"The Swiss Rules, he adds, are friendly to trading activities." Their model clauses mean that disputes are solved quickly - within six months under the expedited procedure, while the ordinary, non-expedited procedure takes a little over one year. Arbitration in this manner is a lot cheaper, too.

Most importantly, the arbitrators must be independent. "We are really strict about there being no conflict of interest," Eric Biesel says.

"Geneva has always been a city at the service of all nations," says Eric Biesel. "Maybe that is our vocation and part of what we call the 'Spirit of Geneva'."

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Supporting the rules of trading

The Geneva Chamber of Commerce (CCIG) is constantly working to shape dispute resolution as best adapted to the evolving trading sector. This answers a real need for Geneva, a global base for commodity trading, shipping and trade finance companies. In 2011, trading-related cases soared to an all-time high: 45% of the arbitration cases administered under Swiss Rules at the CCIG. Nearly 50% of these trading cases involved non-Swiss parties only.

Playing by Swiss Rules

The Swiss Rules of International Arbitration, (Swiss Rules) administered by the Geneva Chamber of Commerce, are flexible and cut the duration and costs of an arbitral procedure:

- Expedited procedure: awards within 6 months; 1 arbitrator - instead of three; automatically applies for amounts under 1 million Swiss francs; can also be chosen by the parties for larger amounts.
- No administrative costs when the disputed amount is under 2 million Swiss francs.
- 1 year: the average time for an arbitral procedure.

Arbitrators in training

The University of Geneva Law School and the Graduate Institute have been offering jointly a Master in International Dispute Settlement (MIDS) since September 2008.