

CAI

Cotton Association of India

**Rules
of
Arbitration**

COTTON ASSOCIATION OF INDIA

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Rules of Arbitration of Cotton Association of India

CAI ARBITRATION CLAUSE

All parties desirous of making reference to arbitration by Cotton Association of India, should include following arbitration clause in writing in their contracts, agreements :

“Any dispute or difference whatsoever arising between the parties out of this contract shall be settled by arbitration in accordance with the Statutory By-laws and Rules of Arbitration of Cotton Association of India The award made in pursuance thereof shall be binding on the parties.”

DEFINITIONS

Rule 1 (i) These rules may be called the “Rules of Arbitration of Cotton Association of India

Rule 2 In these rules, the following words have the following meanings :

- (i) “Arbitral Tribunal” means an arbitrator or arbitrators appointed for adjudicating a particular dispute or difference.
- (ii) “Arbitral Award” includes an interim award.
- (iii) “Claimant” means party wishing to commence arbitration proceedings under the Rules of arbitration of the Association. “Respondent”, “Defendant” means party against whom arbitration reference has been filed.
- (iv) “Association” means the Cotton Association of India
- (v) “Board” means the Board of Directors of Cotton Association of India
- (vi) “Chairman” means Chairman of the Board of Directors of the Association and “Vice-Chairman means Vice-Chairman of the Board of Directors of the Association.
- (vii) “Member” means any one duly elected & admitted to membership of the Association under the Articles of Association of Association. “Non-Member” means who is not member of the Association.

- (viii) “Guidelines” means the guidelines for arbitrators and the parties to arbitration for expeditious conduct of the arbitration proceedings given in the Annexure (1) to these Rules.
- (ix) “Party” means a party to an arbitration agreement. It shall include individual, HUF (Hindu Undivided Family), AOP (Association of Persons), BOI (Body of Individuals) (who is Indian national or from any country other than India), co-op. Society, firm/company (incorporated in India or other than India), body corporate & association of persons whether incorporated or not, Government (includes Government of foreign country), Government organisation or Government Undertaking.
- (x) “Panel” means the Panel of Arbitrators maintained by the Association.
- (xi) “Secretary” means the Secretary for the time being appointed by the Association and includes Joint Secretary/Asstt. Secretary, and such other persons as the Association may nominate for carrying out the duties of the Secretary under these rules.
- (xii) “Rules” means the Rules of Arbitration of the Association.
- (xiii) “Fast Track Arbitration” means arbitration in accordance with Rule 34.
- (xiv) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.

RULES APPLICABLE

- Rule 3** (a) Any dispute relating to claim arising out of cotton transaction and/or any commercial matter relating to cotton between two or more parties in India or other than in India who have agreed for arbitration stated expressly in the contract or by a separate agreement, under the Rules of Arbitration of the Association shall be determined and settled in accordance with these Rules.

- (b) In case the parties have provided different procedure for appointment of arbitrator or schedule of cost including the arbitrator's fee, the Association shall not be bound to process the case unless both the parties agree to follow entire procedure of arbitration under Rules of Arbitration of the Association.
- (c) The Association shall be competent to function as Appointing Authority.

Rule 4 Wherever the Parties have provided or agreed for arbitration by the Cotton Association of India these rules or any amendment thereof in the form inforce at the time the dispute is referred to arbitration of the Association shall apply.

Rule 5 If one or both of the parties to a dispute which is referred to arbitration by the Association belong to a country or countries other than India, in the absence of an agreement by the Parties on the substantive law to be applied, it will be determined by the arbitral tribunal. The procedural law shall be the laws of India and parties shall be deemed to have submitted to the jurisdiction of the Courts in India.

Rule 6 The Limitation Act, 1963 (36 of 1963), shall apply to arbitrations as it applies to proceedings in Court.

INTERPRETATION OF THE RULES

Rule 7 The decision of the Board on any question relating to interpretation of these rules or any procedural matter thereunder shall be final and binding on the parties.

PANEL OF ARBITRATORS

Rule 8 A Panel of Arbitrators shall be appointed by the Board from amongst persons who are acquainted with Rules/By-laws of the Association and willing to serve as arbitrators generally or in specific fields and who are from time to time recommended by the members of the Association and or any other organisation.

The Board may at any time add the name of any person to the list of arbitrators included in the Panel or delete the name of any person from the Panel.

Rule 9 The Secretary shall prepare and maintain an up-to-date list Panel of Arbitrators togetherwith adequate information as to their qualifications and experience. Separate lists may be kept and maintained of arbitrators included in the Panel for disputes in general and for each of the fields of international trade and/or business transactions in which the Board decides that the Association will offer arbitration facilities under these Rules

The parties to a dispute or the Chairman/Vice-Chairman as the case may be while appointing arbitrator may choose any person from the Panel to act as arbitrator(s) for any dispute. If any party appoints a foreigner residing abroad as arbitrator from the Panel, that party will have to meet the travel expenses from his country to the place of arbitration and lodging and boarding expenses incurred if any of such person appointed as arbitrator. The Panel of Arbitrators shall be open to inspection by all persons with the permission of the Secretary and same shall be available on the web site of the Association.

Rule 10 The Chairman/Vice-Chairman may include the name(s) of any person in the Panel, in case it is required in any particular case. His continuance in the Panel will be decided by the Board.

DUTIES OF THE SECRETARY

Rule 11 (a) The Secretary shall receive applications for arbitration by the Association, receive payment of fees and deposits, communicate decision of the Chairman/Vice-Chairman, regarding appointment of arbitrator(s) as hereinafter provided. The Secretary shall also receive all communications made to the arbitral tribunal by the parties and communicate to them the orders and directions of the arbitral tribunal, keep a register of application to the Association and of awards made by the arbitral tribunal, keep such other books or memoranda and make such other records or returns as the Board shall from time to time require and generally carry out the directions of an arbitral tribunal so constituted under these rules and take such

other steps as may be necessary to assist such arbitral tribunal in the carrying out of its functions.

- (b) The Secretary may delegate any officer of the Association to the premises at which the arbitration proceedings are taking place, to discharge such of the functions and administrative duties of the Secretary as are deemed proper and necessary from time to time, with reference to a particular case or cases.
- (c) The Secretary shall arrange to serve the necessary notices about first and/or subsequent hearing to the parties concerned including witnesses if required and inform the arbitrators about service of such notices before the date of hearing.

INITIATION OF ARBITRATION

Rule 12 Any Party (Claimant) wishing to commence arbitration proceedings under these Rules shall submit to the Secretary a written request (application) for arbitration which shall include or be accompanied by :-

- (a) The names and full addresses of the parties to the dispute.
- (b) Statement of the claim and facts supporting the claim, points at issue and relief or remedies sought with other details of the Claimant's case.
- (c) Original with xerox copies of the contract or agreement out of or in connection with which the dispute has arisen, arbitration agreement providing for arbitration under the By-laws of Association, and such other documents, cotton samples and information relevant or relied upon.
- (d) Non Refundable Registration fee as laid down in the Rules of Arbitration.
- (e) An Arbitration shall be deemed to have commenced on the day the application for arbitration is received by the Secretary of the Association. However if the application for arbitration is not accompanied by requisite registration fees, administrative fees and arbitration fees, incidental charges as laid down in the Rules of

Arbitration and Statement of claim and the claimant party fails to rectify this within a period of 7 days on being so communicated by Secretary, the application for Arbitration shall be treated as not made.

Rule 13 If any Court makes an order directing that an arbitration be held under these Rules, in addition to the documents listed in Rules 12, the certified copy of the order of that Court or a copy thereof duly certified as true by the concerned party shall accompany the application for arbitration.

Rule 14 (a) On receipt of an application for arbitration, and before deciding on the acceptability of an application for arbitration, the Secretary may ask the parties for further information and particulars of their claims.

(b) Similarly, if any information or particulars regarding the arbitration reference furnished by any of the parties to arbitration are found to be incorrect or false at any time subsequently, the Secretary shall bring it to the notice of arbitrator(s) in writing. The decision of the arbitrator(s) in this regard will be final and binding on both the parties.

DEFENCE STATEMENT

Rule 15 (a) The Claimant shall send to the other Party (Respondent) a copy of claim statement and attached documents and ask such other party to furnish to Claimant & Secretary within fifteen days if the party is in India and 30 days if party outside India a defence statement setting out his case accompanied by all documents and information in support of or bearing on the matter.

(b) Any communication sent on the address appearing in the contract between the parties, will be deemed to be duly served if it is delivered to the addressee personally or at his place of business, habitual residence or mailing address last known, even if the Respondent refuses to accept the said communication or if it is returned to Sender by the postal authorities as unclaimed by the said party. The arbitration proceedings may proceed further as per the rules as if such communication had been duly served on the concerned party.

- (c) The communication is deemed to have been received on the day it is so delivered.

COUNTER-CLAIM AND REPLY TO COUNTER-CLAIM

- Rule 16** (a) The Respondent may make a counter-claim against the Claimant provided the counter-claim arises under the same transaction as the original claim. He must submit the counter-claim with full details supported by all documents and information as in the case of the claim under Rule 12 and pay all fees to the Association as laid down in Rule book within the period laid down for the defence statement to the claim and the Claimant may within fifteen days of the notification of the counter claim or within such extended time submit a statement in reply to the counter-claim. The arbitral tribunal appointed to adjudicate upon the original claim shall also adjudicate upon the counter-claim.
- (b) Copy of the reply of the Claimant to the counter-claim and all appended documents, if any, shall be sent to the Respondent and Secretary for information.

COPIES OF STATEMENTS, ETC.

- Rule 17** All statements, replies and other documents and papers submitted by the parties and all appended documents must be supplied in triplicate. Where there is more than one arbitrator or more than one opposing party, the parties shall within the time specified furnish to the Secretary such number of further copies as may be required by the Secretary.

CONSTITUTION OF THE ARBITRAL TRIBUNAL

Rule 18 On receipt of the application for arbitration, the Secretary shall take necessary steps to have the arbitral tribunal constituted for the adjudication of the dispute or difference as provided hereunder :

Rule 19 The number of arbitrators to hear a dispute shall be determined as under :-

- (a) Where the claim does not exceed Rs.one crore the reference shall be deemed to be to a sole arbitrator.
- (b) Where the claim exceeds Rs.One crore, the reference shall be to three arbitrators.

Rule 20 The appointment of sole arbitrator or three arbitrators, as the case may be shall be made in the following manner :

- (a) In case a sole arbitrator is to be appointed, the Secretary shall call upon the parties to dispute by a notice in writing sent to them to forward the name of an agreed arbitrator within 7 days from receipt of notice from among the Panel of Arbitrators.If the parties fail to agree on the person to be appointed as sole arbitrator within the specified period, the Chairman/Vice-Chairman of the Association shall appoint the sole arbitrator ready and willing to act from among the Panel of Arbitrators. The sole arbitrator so nominated shall constitute the arbitral tribunal to hear the dispute. Such appointment shall be communicated in writing to the parties to the dispute by the Secretary. The Secretary shall give notice to the Parties of the constitution of the arbitral tribunal.
- (b) Where the reference is to three arbitrators, the Secretary shall in the first instance call upon each party to dispute by a notice in writing sent to them to nominate within 7 days from receipt of notice one arbitrator from among the Panel of Arbitrators. If a Party to dispute refuses or neglects to appoint an arbitrator on his behalf within the period

specified or any extended period or if he requests Chairman/Vice-Chairman to nominate an arbitrator on his behalf, the Chairman/Vice-Chairman shall appoint the arbitrator ready and willing to act from the Panel of arbitrators on behalf of that party. On receipt of the nominations from the respective parties or on the appointment as aforesaid by the Chairman/Vice Chairman, the third Arbitrator of the arbitral tribunal will be appointed by Chairman/Vice-Chairman, from among the Panel of Arbitrators who shall act as Presiding Arbitrator of the arbitral tribunal.

Rule 21 The Secretary will obtain the consent from person(s) so nominated by parties to the disputes or by Chairman/Vice-Chairman. After a person gives his consent for appointment as arbitrator, he will be duly intimated within 7 days about his appointment to decide the dispute by a Memo in writing under the hand of the Secretary about the constitution of the arbitral tribunal. The appointment of the arbitrator will take effect from the date of such intimation about the constitution of the arbitral tribunal.

In case arbitrator(s) so nominated by the parties concerned and/or Chairman/Vice Chairman is not willing and ready to work as Arbitrator, the Chairman/Vice Chairman shall appoint other person(s) from the panel of arbitrators, ready and willing to act as arbitrator.

Rule 22 Before accepting his nomination, the prospective arbitrator shall disclose within 7 days any circumstances likely to disqualify him as an impartial or independent arbitrator. Upon receipt of such information, the Secretary shall disclose it to the parties, within 3 days who if willing to proceed under the circumstances disclosed, shall advise the Secretary accordingly. If either party declines to waive the presumptive disqualification within 7 days the prospective arbitrator shall be disqualified from acting as arbitrator and the vacancy so created shall be filled, in accordance with the applicable Rules, for filling up vacancy as provided herein under.

Rule 23 (a) If any appointed arbitrator resigns or dies or becomes incapable of acting or neglects or fails to act expeditiously,

prior to or during the arbitration hearings, the Chairman/Vice-Chairman may terminate the authority of such an appointed arbitrator and Secretary will inform him accordingly.

- (b) In case of the resignation or death or termination of authority of an appointed arbitrator under Sub-Rule(a) above, a new arbitrator will be appointed in his place as per procedure laid down under Rule 20.
- (c) The arbitrator(s) appointed as above will be informed about the reconstitution of the arbitral tribunal and the reconstituted arbitral tribunal shall make the award expeditiously. The reconstituted arbitral tribunal shall proceed with the arbitration with the liberty to act on the record of evidence and proceedings as then existing or to commence the proceedings de novo.

DEPOSITS

- Rule 24**
- (i) The Secretary may require the Parties before passing the case on to the arbitrators, to deposit in advance in one instalment such sums of money towards registration fees, the administrative and arbitration fees, incidental charges as laid down under the rules of Arbitration. As a general rule, the deposits shall be called from the Claimant(s). The arbitral tribunal shall proceed only in respect of those claims or counter-claims for which the deposits have been duly paid to the Association and otherwise may order the suspension or termination of the arbitral proceedings.
 - (ii) All deposits towards costs and expenses shall be made with the Association and no payment shall be released to the arbitrators directly by the parties. The deposit made shall be taken into account by the arbitral tribunal in apportioning the cost while making the award. Any deposit made in excess shall be refunded to such of the parties as the arbitral tribunal may direct.

- (iii) The Associations shall have a lien for the arbitral award on any unpaid cost of the arbitration.

FEES AND EXPENSES

Rule 25 The fees, costs and expenses incidental to the reference and the award shall include the following :

- (1) Registration fee
- (2) Administrative Fees & Arbitrator's Fees
- (3) Incidental charges
- (4) Adjournment Fees
- (5) Appeal Fees

All the fees will be payable as per schedule 1 appended to these set of Rules & form part of Rules of Arbitration.

- (6) In case Respondent files counter claim all the fees as laid down in Rule (25) will also be payable by Respondent.
- (7) Notwithstanding the provisions in this Rule, the Board may prescribe the Arbitrator's fees and the Administrative fees of CAI at a figure higher than those prescribed in the said Sub-Rules, if in the exceptional circumstances of the case this appears to be necessary.

Rule 26 Other expenses: The arbitrator(s) will not be entitled for reimbursement towards local conveyance for attending arbitration hearing.

Rule 27 The amount of the claim shall be stated in the application by the party applying for arbitration. If the amount is stated in a currency other than the rupee, it shall be converted into Rupees, at the current official rate of exchange prevailing at the time of application.

Rule 28 The amount of interest wherever specified will be included in the claim amount for the purpose of calculation of arbitration fees. Further, claims and counter claims referred for arbitration shall be taken into consideration separately for the purpose of calculation of arbitration fee as specified in the schedule of fees.

SUBMISSION OF THE CASE TO THE ARBITRAL TRIBUNAL

Rule 29 The Secretary shall send copies of all papers relating to arbitration such as, claim statement, defence statement, counter-claims, reply, statements, or other documents received from the parties to the dispute to the Arbitrator(s) constituting the Arbitral Tribunal with a request to proceed with the arbitration.

NOTIFICATIONS AND/OR COMMUNICATIONS FROM THE SECRETARY

Rule 30 All applications which the parties desire to make to the arbitral tribunal and all notices to be given to the Parties before or during the course of arbitration or otherwise in relation thereto shall be made through and sent by the Secretary who shall communicate the orders and directions of the Arbitral Tribunal thereon to the Parties, except applications/statements etc filled at the time of hearing before the arbitral tribunal.

AMENDMENT OF CLAIMS, ETC.

Rule 31 Amendments of the claim, defence statement, counter-claim or reply submitted to the arbitral tribunal must be formulated in writing by the Party so desiring. The Arbitral Tribunal will decide whether such amendments should be allowed or not. The fees payable shall get revised to the extent of increase for such additional claims/counter claim. The party making such additional claim/counter claim shall deposit the entire fees payable in respect of such increase of additional claim as set out in the schedule of fees.

PLACE OF ARBITRATION

Rule 32 The place or venue of arbitration shall be India. The arbitration proceedings shall be held at Cotton Association of India, Cotton Exchange Building, Cotton Green, Sewri, Mumbai 400 033 or at such place in Mumbai determined by the Arbitrator(s), taking into considerations the convenience of all concerned. The decision of the Arbitrator(s) will be final and binding on all the parties concerned

PROCEEDINGS BEFORE THE ARBITRAL TRIBUNAL

Rule 33 **Optional Conciliation:** The parties may opt for conciliation and request the arbitral tribunal before the commencement of the arbitration proceedings, unless they have already agreed otherwise, to settle their dispute through conciliation as per Rules of Conciliation of the Association.

FAST TRACK ARBITRATION

Rule 34 **Fast Track Arbitration :** The parties may opt for Fast Track Arbitration and request the arbitral tribunal, before the commencement of the arbitration proceedings, to decide the reference in a fixed time frame of 1 to 2 months or any other time but not exceeding three months agreed between the parties according to the Fast Track Arbitration procedure, as under :

- (1) The arbitral tribunal will be authorised to decide the dispute on the written pleadings, documents and written submissions filed by the parties without any oral hearings.
- (2) The arbitral tribunal shall have power to call for any further information/clarification from the parties in addition to the pleading and documents filed by them.
- (3) An oral hearing may be held if both the parties make a joint request or if the arbitration tribunal considers an oral hearing necessary in any particular case.
- (4) If an oral hearing is held, the arbitral tribunal may dispense with any technical formalities and adopt such procedure as it deems appropriate and necessary for economic and expeditious disposal of the case.

- Rule 35** At a hearing a Arbitration Tribunal may allow party/parties to appear personally or, allow party/parties to be represented by authorised representative(s), provided written request is made by the party concerned with requisite details. Decision of the Arbitration Tribunal will be final and binding on both the parties.
- Rule 36** The arbitral tribunal may proceed with the reference notwithstanding any failure by a party to comply with any of the directions of the arbitral tribunal and may also proceed with the arbitral proceedings in the absence of any or both the parties who fail or neglect to attend at the time and place appointed by the arbitral tribunal, in spite of due notice.
- Rule 37** The parties shall do all acts necessary to enable the arbitral tribunal to make an award expeditiously and shall not do or cause or allow to be done, any act which will delay the proceedings or prevent arbitral tribunal from making an award expeditiously and if any party does cause or allow to be done any such act, that party shall pay such costs as the arbitral tribunal deems reasonable.
- Rule 38** The arbitration session will go on as far as possible continuously on a day-to-day basis during office hours, once the hearing begins after completion of all the formalities. The arbitral tribunal shall not ordinarily adjourn a hearing at the request of any party, except where the circumstances are beyond the control of the party and the arbitral tribunal is satisfied that reasons and circumstances for the adjournment are justified. While granting an adjournment, it is subject to payment of costs by one or both of the parties as, laid down in the schedule of fees appended to this rule book.
- Rule 39** If the parties have agreed to submit their case to arbitration under these Rules and any party refuses or fails to take part in the arbitration proceedings, the arbitral tribunal may proceed with the arbitration notwithstanding such refusal or absence.

Rule 40 The arbitral tribunal may at its discretion at any time or whenever required before making the final award and at the expense of the parties concerned, consult any person having special knowledge relating to the particular industry, commodity, produce or branch of trade concerned in the reference or any expert or qualified accountant and may also at the like expenses of the parties, consult solicitors, counsel or advocates upon any technical question of law, evidence of law, evidence, practice or procedure arising in the course of the reference. If the parties agree, the arbitral tribunal may, at the expense of the parties, appoint any expert, accountant, or lawyers to sit with as an assessor and take into account the advice of such assessor.

EVIDENCE OF WITNESS

Rule 41 The parties to the reference and any witness on their behalf shall, subject to the provisions of any law for the time being in force;

- a. Submit to be examined by the arbitral in relation to the matters in dispute.
- b. Produce before the arbitral tribunal all books, deeds, papers, accounts, writings and documents in their possession or power respectively which may be required or called for by the arbitral tribunal.
- c. Comply with the requirements of the arbitral tribunal as to the production or selection of samples and
- d. Generally do all other things which, during the pendency of the reference, the arbitral tribunal may require.

Rule 42 The arbitral tribunal will consider, as far as possible, to receive the evidence of witnesses in writing provided that the witness whose such statement is admitted in evidence is made available for cross-examination at the request of the opposite party.

THE ARBITRAL TRIBUNAL

Rule 43 The Arbitral Tribunal may

- (a) administer oath or affirmation to the parties or witnesses appearing and giving evidence;

- (b) make any interim and or final award.
- (c) to give necessary direction or order to the party/parties concern as and when found necessary.
- (d) correct in any award any clerical mistake or error arising from or incidental to any slip or omission;
- (e) administer to the parties to the arbitration such interrogatories as it may consider necessary;
- (f) decide all objections to its jurisdiction including any objection regarding the existence or validity of the arbitration clause or the arbitration agreement, or as to impartiality and or independence of Arbitrator and also pertaining to bias or prejudice of Arbitrator
- (g) decide the law governing :
 - (i) the contract or the matter in dispute
 - (ii) the arbitration agreement, and
 - (iii) the arbitration procedure
- (h) award interest including *pendente lite* as also post-award interest.

Rule 44 When substantially the same dispute or questions of law and facts are likely to arise in more than one contract or agreement (Chain Contracts), the arbitral tribunal may invite all parties involved to agree to submit to an award in one arbitration between such two or more of the parties as are named for the purpose.

Rule 45 (i) The arbitral tribunal may by the award dismiss the application or claim :

- (a) if the Claimant does not prosecute the arbitration proceedings or file the papers within the time
- (b) Arbitral Tribunal may ask any party to leave the room if any one misbehave or uses indecent words despite two warnings during the course of hearing. If necessary arbitrator(s) may adjourn the hearing and impose the cost on the party at fault.

- (ii) The arbitral tribunal may make an ex parte award :
 - (a) if the Defendant neglects or refuses to appear or make his defence or fails to file the papers within the time granted.

LANGUAGE OF ARBITRATION PROCEEDINGS

Rule 46 The language of the arbitration proceedings shall be English. However parties are free to agree upon language to be used in the arbitral proceedings. Failing any agreement decision of the Arbitral Tribunal will be final and binding on the parties. If any documents filed by a party are in a language other than English, the party filing such documents shall simultaneously furnish an English translation of the documents. The Secretary may make arrangements for the service of an interpreter at the request of one or more of the parties made in writing at least 7 days prior to date of hearing and costs thereof @ Rs.1000/- per hearing are deposited in advance with the Association from the party/parties making the request.

Rule 47 The arbitral tribunal may issue such orders or directions as it may deem necessary for safeguarding, interim custody, preservation, protection, storage, sale or disposal of the whole or part of the subject matter of the dispute or for its inspection or sampling without prejudice to the rights of the parties or the final determination of the dispute. If arbitral tribunal hold any cotton for any reason, it will be entirely at the owner's risk.

WAIVER OR RULES

Rule 48 Any party who proceeds with the arbitration with the knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing shall be deemed to have waived his right to object.

RETURN OF DOCUMENTS

Rule 49 Unless required to be filed in a Court of law, the arbitral tribunal shall have full discretion to retain/or to return all books, documents or papers produced before it and may direct at any time that the books, documents or papers produced before it or any of them may be returned to the parties producing them on such terms and conditions as the arbitral tribunal may impose.

AWARD

Rule 50 No award shall be made by the arbitral tribunal unless the case of the party applying for arbitration has been brought to the notice of the other party and until after the lapse of such specified time within which he has been asked to submit his defence statement.

Rule 51 Whenever there is more than one arbitrator, the award of the majority shall prevail and be taken as the decision of arbitral tribunal.

Rule 52 Should the parties arrive at a settlement of the dispute by common agreement before the Arbitral Tribunal and the arbitral tribunal is satisfied that such agreement is genuine and not to defeat the purpose of any law, the arbitral tribunal shall render an award as per agreement of the parties, otherwise, the arbitral tribunal shall make the award on the basis of oral submissions made and or the documents, evidence, etc. filed before it by the Parties.

Rule 53 The arbitral tribunal shall make the award as expeditiously as possible, preferably within three months from the date of the reference subject to extension/s of such duration/s as may be decided by the Chairman from time to time.

Rule 54 The arbitral award shall state the reasons upon which it is based, unless :

- (i) the parties have agreed that no reasons are to be given or
- (ii) the award is an arbitral award on agreed terms.

Rule 55 The arbitral award shall state its date and the place of arbitration and the award shall be deemed to have been made at that place.

Rule 56 The arbitral tribunal may make an interim award and may, by an award, determine and order what shall be done by either or any of the parties, respecting the matters referred.

Rule 57 An arbitral award shall be in English language in writing, signed by the member(s) of the arbitral tribunal. In arbitral proceedings with more than one arbitrator, the signature of the majority of all the members of the arbitral tribunal shall be sufficient so long as the reason(s) for any omitted signature is stated. The Secretary will countersign the award and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and the award. The fees to the arbitrator(s) shall be payable by the Association on receipt of the award and requisite deposit made by the parties.

Rule 58

- (a) When an award has been made, the Secretary shall furnish a true copy of the award to the parties by registered post/U.C.P./courier service etc. only when the arbitration costs have been fully paid to the Association by the parties concerned.
- (b) The Secretary may request either party to notify Association of the compliance with the award.
- (c) The Association may print, publish or otherwise circulate any award made under its rules or under its auspices in any arbitration journal, magazine, bulletins, association`s internet website etc. for the purpose of creating arbitration jurisprudence or precedents for the benefit and guidance of future arbitrations and members of the trade in general.

No party to the arbitration shall have any objection to the publication of awards as above provided that the names and addresses of any party to the dispute, if deemed fit by the Chairman may be omitted from such publication and its identity duly concealed.

Rule 59 Additional copies of the award certified true by the Secretary shall be made available to the parties but to no one else, at request and on payment as specified in the Schedule of fees.

Rule 60 A party shall respect and obey the award which shall be binding on the parties and their respective representative notwithstanding the death of any party before or after making of the award and such death shall not operate as revocation of the submission of reference.

STAMP DUTIES

Rule 61 Stamp on arbitral award shall be paid in all cases as prescribed in the Bombay Stamp Act as in force from time to time

COPIES OF DOCUMENTS

Rule 62 The Secretary shall, upon the written request of a party concerned with that matter furnish to such party at his expense certified facsimile of any documents filed in the arbitration proceedings.

CASES WITHDRAWN

Rule 63 When the party instituting a case desires to withdraw it before an arbitral tribunal has been constituted the Secretary shall return to him deposits made by him towards arbitration fees and incidental charges as per the guide lines contained in schedule of fees. The registration fee however, shall not be refundable.

SCHEDULE OF ARBITRATION, APPEALS AND SUPPER APPEAL FEES

**Item
No.**

(I) FEES RE. ARBITRATIONS, APPEALS, ETC.

◆ **INDIAN COTTON**

(a)	<u>Fees for Arbitration as to quality under By-law 36(1) :</u> (By-law 41)		Rs.
	Members	For first 55 bales or less For every additional 55 bales or less	1000/- 500/-
	Non-Members	For first 55 bales or less For every additional 55 bales or less	1500/- 800/-
(b)	<u>Fees for Survey for Country Damaged Cotton (under By-law 36(2)) :</u> (By-law 41)		Rs.
	Members	For first 55 bales or less For every additional 55 bales or less	2000/- 1000/-
	Non-Members	For first 55 bales or less For every additional 55 bales or less	2500/- 2000/-
(c)	<u>Fees for Appeals against Survey Awards (By-law 36(1)) :</u> (By-law 41)		Rs.
	Members	For first 55 bales or less For every additional 55 bales or less	2000/- 1500/-
	Non-Members	For first 55 bales or less For every additional 55 bales or less	3000/- 2000/-
(d)	<u>Fees for Appeal under By-law 36(2) :</u> (By-law 41)		Rs.
	Members	For first 55 bales or less For every additional 55 bales or less	2500/- 2000/-
	Non-Members	For first 55 bales or less For every additional 55 bales or less	3500/- 3000/-

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No.**

(e)	Fees for Super Appeal (By-law 37)	Rs.
	Members For first 55 bales or less	4000/-
	For every additional 55 bales or less	3000/-
	Non-Members For first 55 bales or less	5000/-
	For every additional 55 bales or less	4000/-

◆ **IMPORTED COTTON (Fees for both members & Non-Members)**

(a)	<u>Fees for Arbitration as to quality</u> : (By-law 212)	
	<u>For all imported cottons</u> :	Rs.
	For first 50 bales or less	2000/-
	For next 50 bales or less	1500/-
(b)	<u>Fees for Appeals against Survey Awards</u> (By-law 212) :	
	<u>For all imported cottons</u> :	
	For first 50 bales or less	Rs.4,000/-
	For next 50 bales or less	Rs.3,000/-

II.	<u>Fees for supply of Classification of Grades & Staples of American Cotton</u> :	Rs 5000/-
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III. Fees for Arbitration & Appeal under By-law 38 :

(a)	Registration Fee: (To be paid in advance by the claimant and by respondent in case respondent files a counter claim) :	
	i) For Members	Rs.5,000/-
	ii) For Non-members	Rs.10,000/-

Registration fee is non-refundable and becomes the property of the Association

(b)	<u>Administrative Fees & Arbitration Fees</u>	
	For Members @0.25% of the amount of claim passed subject to Minimum Rs.10,000/- Maximum Rs.1,00,000/-	
	For Non-members @0.25% of the amount of claim passed subject to Minimum Rs.15,000/- Maximum Rs.1,50,000/-	
	i) All fees to be paid in advance by the claimant when reference for arbitration is made to the Association and also by respondent when he files counter claim.	

- ii) If application for arbitration and counter claim by respondent is rejected before commencement of arbitration proceeding, administrative and arbitration fees deposited by claimants and by respondent if any will be refunded. However Registration fees are not refundable.

(c) Incidental Charges

For Members Rs.5000/- including stamp paper and postage cost.

For Non-members Rs.5000/- including stamp paper and postage cost.

- i) To be paid in advance by claimant and in case of counter claim by respondent also and retained by CAI.
- ii) On receipt of application for arbitration and counter claim by respondent if such application is rejected before commencement of arbitration proceedings, incidental charges deposited by claimant and respondent will be refunded.

(d) Adjournment

Adjournment fee: Rs.1000/- per adjournment to be paid to CAI by party(ies) requesting for adjournment- Non-refundable.

As far as possible Plaintiffs & Defendants may be allowed minimum adjournments subject to payment of adjournment fees

(e) Fees for Appeal to Board

Members Rs.20,000/- to be paid in advance; non-refundable

Non-members Rs.25,000/- to be paid in advance; non-refundable

Adjournment Fees

- i) In case the application(s) for adjournment is made and granted by the Chairman three working days prior to Board Meeting, adjournment fees of Rs.2000/- to be paid in advance – which is non-refundable.
- ii) In all other cases adjournment fee to be Rs.5000/-.
- iii) Only one adjournment to be granted.

GUIDELINES FOR ARBITRATORS AND THE PARTIES

1. The arbitrators and the parties to arbitration are expected to follow these guidelines to ensure economic and expeditious disposal of arbitration cases.

For Arbitrators

2. The arbitrators must take up the arbitration expeditiously on receipt of the request from the Association and should also complete the same with reasonable dispatch. Serious efforts should be made to settle arbitration cases expeditiously within a period of a 3 months.
3. When accepting his mandate, the arbitrator shall be able to perform his task with the necessary competence according to his professional qualifications.
4. When giving notice of his acceptance, the arbitrator shall disclose in writing as under:
 - any relationship with the parties or their counsel which may affect his independence and impartiality;
 - any personal or economic interest, either direct or indirect, in the subject matter of the dispute;
 - any prejudice or reservation as to the subject matter of the dispute which may affect his impartiality.
 - where necessary due to supervening facts, this Statement shall be repeated in the course of the entire arbitral proceedings until the award is filed.
5. Where facts that should have been disclosed are subsequently discovered the arbitrator may either withdrawn or be challenged or the Cotton Association of India may refuse to appoint him in other arbitral proceedings on this ground.

6. The arbitrator may at all stages suggest the possibility of a settlement to the parties but may not influence their decision by indicating that he has already reached a decision on the dispute.
7. In the course of the arbitral proceedings, the arbitrator shall refrain from all unilateral contact with the parties or their counsel which is not notified to Cotton Association of India so that CAI can inform the other parties and arbitrators.
8. The arbitrator shall refrain from giving the parties, either directly or through their counsel, any indication about decisions in the evidence taking place or on the merits; any decisions shall be conveyed exclusively by CAI
9. The arbitrator shall neither request nor accept any direct arrangement on costs or fees with the party which has designated him. The arbitrator is entitled to a fee as exclusively determined by CAI according to its Schedule of Fees, which is deemed to be approved by the arbitrator when accepting his mandate.
10. The arbitrator shall encourage a serene and positive development of the arbitral proceedings. In particular, he shall decide on the date and manner of the hearings in such a way as to allow both parties to fully participate therein, in compliance with the principle of equal treatment and adversarial proceedings.
11. The first hearing of the arbitral tribunal should be convened within 15 days of the receipt of the complete reply of the respondent when the arbitral tribunal may issue necessary directions. Admission and denial of the documents may be got done by the Secretary. Issues if any to be framed, may be done at the same hearing. The arbitrators should hold arbitration hearings continuously on day-to-day basis during office hours.
12. The parties should be asked to furnish a list of their witness, if any, in advance and they should be asked to file affidavits of witness on the date fixed for evidence preferably within a weeks of the settlement of issues. Cross-examination of such of the deponent's witnesses whose presence is demanded by the opposite party should be completed at a hearing to be fixed within 15 days.

13. Arguments preferably should be heard within 15 days of the completion of evidence to be followed by submission of written arguments, if any.
14. Adjournments of duly fixed hearing should not be ordinarily granted except for unavoidable reasons which should be spelt out in the adjournment order.
15. The Arbitrator should make the award expeditiously after the close of the hearings preferably within 15 days.
16. The arbitrator who does not comply with the provisions of these guidelines may be replaced by the Chairman/Vice-Chairman. Where it is not appropriate to replace the arbitrator in order not to cause delay in the arbitral proceedings CAI may also take such action after the conclusion of the arbitral proceedings by delisting him from the Panel of Arbitrators. The arbitrator should not remain absent or adjourn the hearing for his own convenience unless there is a valid reason.

For Parties

17. The claimant should file the applications or demand for arbitration to the Secretary of the Association with all the information and papers as per Rules full statement of claim and copies of documents relied upon in 3 sets in case of a Sole Arbitrator and in 5 sets in case of three arbitrators. The claimant should also simultaneously send set of claim papers/statement to Respondent.
18. The respondent should file his reply to the claim with complete information and documents relied upon in 3 or 5 sets as above as early as possible within the prescribed time and simultaneously send set of reply to claimant. Fresh documentation/claims should not be entertained at a later stage of the proceedings unless the arbitral tribunal is satisfied about the reasons for granting such permission.
19. If any party of arbitration, particularly in cases where any arbitrator, advocate or any of the parties has to come from out station to participate in arbitration proceedings desires to seek adjournment on any valid ground, it must submit a written request to the Secretary at least before 7 working days stating the grounds which compel it to request for postponement of the hearing so that the Association is in a position to take necessary steps to inform the Parties, Arbitrators and Advocates regarding postponement of the hearing. Parties seeking adjournment will have to pay cost as fixed by the Association.

20. Parties should deposit arbitration and administrative fees with the CAI within the stipulated time, as per the Rules.

21. To avoid excessive costs in arbitration proceedings, the parties are advised to choose their arbitrators from the Panel as far as possible from the place where the arbitration hearings have to be held. In case, a party still chooses an arbitrator from a place other than the place of hearing the concerned party will bear the entire extra cost to be incurred on stay TA/DA etc. of the arbitrator nominated by it.

Internal Guidelines for Secretariat, Arbitrators and Testing Laboratory
(Practices & Procedures)

Secretariat

1. On receipt of reference for arbitration, Secretary should ensure that all requisite actions are taken within ten working days .
2. The claim or arbitration must be raised as soon as the cause for arbitration arises, as the case of cause of action arisen in a civil action. Reference to arbitration made on the basis of a clause after the expiry of the period of limitation is a time barred claim, as right to claim ceases to subsist and the relief with respect to dispute has become time-barred.
3. Secretary should take regular review of progress of arbitration proceedings with a view to completing arbitration hearings within stipulated time.
4. Secretary should keep the Board informed about arbitration cases pending for more than 3 months alongwith detailed note giving reasons for delay in disposal of case and steps being taken.
5. Appeal filed before Board, against arbitrators award, should be listed for hearing by Board, preferably within 30days from the date of receipt of grounds of appeal.
6. Secretary should ensure that all record pertaining to arbitration reference is preserved properly for a period of 5 years from the date of the award. The copy of award however should be preserved for 15 years from the date of award. In case of appeal, period to be counted from date of award by Board.
7. Wherever there is quality arbitration which requires testing of cotton in Laboratory, Secretary will arrange to send required quantity & number of sealed sample(s) for testing to CAI laboratory at Cotton Green, Sewri. Quality parameters required to be tested should be laid down clearly. Unless mentioned otherwise specifically, testing of cotton in Laboratory means testing at CAI Laboratory at Cotton Green, Sewri in HVI system.
8. Out of Administrative Fees & Arbitration Fees, the share of CAI and arbitrator(s) would be as under :

Single/Sole Arbitrator :	50% CAI, 50% Arbitrator
Three Arbitrators :	25% CAI, 25% for each of the Arbitrator.

No other incidental charges are payable to arbitrator(s)

Arbitrators

1. After having agreed to work as arbitrator, arbitrator(s) must ensure that hearing is completed in time schedule laid down in the Rules of Arbitration.

2. Arbitrators must ensure that they remain present on the date & time fixed for hearing and avoid postponements.
3. Arbitration should preferably be held at CAI's Cotton Green premises in the Board Room.
4. The quorum of arbitral tribunal will be one (in case of single arbitrator) or three (in case of three arbitrators) as the case may be.
5. In the first hearing and before the commencement of arbitration proceedings, the arbitrator(s) may ask the parties if they would like to opt for conciliation (provided such an attempt has not been made earlier) & then deal with the case accordingly.
6. After asking the parties if they have any further testimony of evidentiary submission and upon receiving negative replies or if satisfied that the record is complete, the tribunal may declare the hearing closed.
7. The arbitral award should be speaking award, stating reasons upon which it is based.
8. The award may be expressed in currency as referred to by the claimant/plaintiffs. The Arbitral Tribunal may order that simple interest shall be paid by any party on any sum awarded at such rates as the Arbitral Tribunal determines to be appropriate & keeping in view the ruling interest rates of Banks.
9. In case communications, Notice etc. sent to party(ies) is returned to Association undelivered it may be sent by E-mail, on Fax.

CAI Testing Laboratory

1. On receipt of sealed samples for testing, the laboratory in charge will carry-out testing as per procedure laid down and send test report duly signed, marked confidential to Secretary.
2. The balance portion of the cotton samples so tested will be packed & sealed with proper identification mark and preserved safely in Survey Room till arbitration proceedings /appeal is not disposed off.
3. Only on receipt of written communication from Secretary, the samples so preserved will be disposed off.

SURVEY/QUALITY CERTIFICATION CHARGES

**Item
No.
(I)**

FEES RE. ARBITRATIONS, APPEALS, ETC.

◆ **INDIAN COTTON**

Fees for Arbitration as to quality under By-law 36(1) :
(By-law 41) **Rs.**

Members	For first 55 bales or less	1000/-
	For every additional 55 bales or less	500/-

Non-Members	For first 55 bales or less	1500/-
	For every additional 55 bales or less	800/-

Fees for Appeals against Survey Awards (By-law 36(1)) :
(By-law 41) **Rs.**

Members	For first 55 bales or less	2000/-
	For every additional 55 bales or less	1500/-

Non-Members	For first 55 bales or less	3000/-
	For every additional 55 bales or less	2000/-

