The Swiss Rules of International Arbitration & the Swiss Rules of Commercial Mediation: A Flexible Procedure for Dispute Resolution

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Key features of the Swiss Rules of International Arbitration (1)

- Globally recognised
- Available for all commercial disputes
- Flexible: much room for the parties’ choice of:
  - Applicable law
  - Language
  - Number of arbitrators
  - Seat of the arbitration
  - Counsel
Key features of the Swiss Rules of International Arbitration (2)

- Light but efficient administration
  - Fast decisions by Committee/Special Committee
  - Appointment of arbitrators
  - Control on fees and costs of arbitrators
  - No administrative costs if dispute ≤ CHF2M (GBP1.3 M)
Key features of the Swiss Rules of International Arbitration (3)

- Emergency interim relief available prior to the constitution of the Tribunal
  - E.g. order to maintain status quo, preserve assets, preserve evidence, order delivery of goods, etc.
  - Decision within 15 days
  - Possibility of ex parte preliminary order
  - Requirement to commence arbitration within 10 days
  - Advantages: speed, neutrality, confidentiality
Key features of the Swiss Rules of International Arbitration (4)

- Expedited procedure: Art. 42
  - Chosen by the parties / automatic dispute ≤ CHF1M (GBP650K)
  - Award within 6 months (enforced; opting out)
Complementary Rules of Commercial Mediation (1)

- Available for commercial disputes
- Chambers may be seized even absent a mediation agreement
- Appointment of a mediator
  - By the parties
  - If no agreement, by the Chambers: at least three names shortlisted, or directly appointed
Complementary Rules of commercial Mediation (2)

- Med-Arb:
  
  Mediation first, then arbitration
  
  - E.g. if no settlement by mediation within [60] days, settlement of dispute by arbitration
  - Or at any time
  - Need agreement to arbitrate and a dispute
  - Award on agreed terms
  - Mediator cannot act as arbitrator, unless the parties expressly agree
Complementary Rules of commercial Mediation (3)

- Arb-Med:
  - Arbitration started first, then mediation
    - At any time
    - Award on agreed terms
    - Arbitrator cannot act as mediator, unless the parties expressly agree
    - Arbitrator as a settlement facilitator
      - Common in civil law jurisdictions
      - Requires agreement and specific waivers
Thank you

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