

RULES

The Copenhagen Adjudication
and Arbitration Committee for the Grain
and Feedstuff Trade

Danish Chamber of Commerce

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RULES

Adopted 1912; additions and amendments made in August 1914 and 1917, January 1924, September 1955, April 1960, June 1961, March 1963, May 1968, April 1971, May 1974, March 1977, May 1981, March 1987, August 1989 and January and November 1990, January 1991, January 1995, January 1998, January 2000, March 2004 and October 2011.

GENERAL PROVISIONS

Clause 1

The terms of reference of the Committee are to examine and settle any dispute in the grain and feedstuff trade which may arise between seller and buyer in relation to the quality or condition of the goods or other issues, and where the parties have agreed on arbitration before the Committee or have otherwise committed themselves to a final settlement of the dispute by the Committee.

The Committee and the judgment committees under Clause 4 reside in Copenhagen. Meetings may be held outside the domicile.

Unless otherwise agreed among the parties, cases are settled under Danish law.

Clause 2

The Danish Chamber of Commerce provides the number of members of the Committee and appoints the members from among active, qualified persons within the grain and feedstuff trade on the recommendation of DAKOFO (The Danish Grain- and Feed Trade Association) and of ProAgro. The President and vice presidents may also recommend members for the Committee.

The Committee members or any of their organisations must be members of the Chamber of Commerce, unless this requirement may be derogated from by the Chamber upon recommendation by the President.

The membership shall run until one of the parties gives notice of withdrawal, but shall expire automatically at the end of the year in which the member concerned attains the age of 70.

Clause 3

The Committee is governed by an executive committee consisting of the President and 3-6 vice presidents.

The President of the Committee shall be appointed by the Danish Chamber of Commerce, while the vice presidents of the Committee shall be appointed by the entire Committee. The President as well as the vice presidents must be members of the Committee.

The Executive Committee is assisted by a secretariat.

If a special event should arise, the President and vice presidents may by simple majority derogate from the ordinary business procedure and admit parties other than those mentioned above under Clause 1 to submit their disagreements before the Committee, if the dispute is suitable for settlement under these present rules.

Clause 4

Cases exclusively dealing with quality and/or condition are heard by a judgment committee consisting of a president or a vice president and two or four other members of the Committee.

Other cases are heard by a judgment committee consisting of the President or a vice president and four other members of the Committee.

All members participating in a judgment committee must be independent and impartial.

Clause 5

The President is in charge of the administrative management of the activities of the Committee and distributes incoming cases between the President himself and the individual vice presidents. One of the vice presidents shall perform the functions of the President in the event of his inability to attend.

In their capacity as acting president the President and vice presidents lead the hearing of cases distributed to them. The secretariat assists in the preparation of the case.

Should the President and vice presidents be disqualified on grounds of partiality or for any other reason be disqualified from hearing a case, the Danish Chamber of Commerce may appoint a member of the Committee to hear the case in question.

For the cases distributed to them, the President and vice presidents shall determine which members are to participate in the decision of the case at hand. Consideration shall be made in each individual case for the members appointed to be considered to have expert knowledge of cases of the same nature as the one submitted to them and for circumstances that will ensure that the members concerned are independent and impartial.

Upon recommendation of the acting president, the Danish Chamber of Commerce may select persons other than the members of the Committee to participate in the settlement of a concrete matter provided that such persons meet the requirements under Clause 4(3) and that the parties are informed of such decision.

The parties to the case shall not be informed in advance of which members of the Committee will take part in the hearing of the case.

A list of all members of the Committee may be published on the website of the Chamber of Commerce and may be submitted to the parties on request. A list submitted may contain information on members who may not be able to participate in the hearing of the case.

A party may object to the participation of one or more Committee members in the hearing of the case concerned only if that party finds that there are circumstances present which give rise to justified doubts about the impartiality or independence of that member or about the expert knowledge of that member into cases of the same nature. Justified objection shall be submitted in writing to the Committee no later than at the time of the defence.

If, on the basis of the objection, the acting President makes a decision to that effect the members concerned may not participate in the hearing of the case.

If a member considers himself too biased to take part in the hearing of the case to which he has been appointed, he shall report this forthwith to the President in charge of the matter in question, who will decide whether the member concerned ought to be released from his task and replaced by another member.

Clause 6

Cases are settled on the basis of written evidence.

If the acting President finds it advisable, oral evidence may be called.

Clause 7

The deliberations on the case shall be conducted verbally.

The members shall observe absolute secrecy about the voting and deliberations.

Awards which must be in writing are made in accordance with the submission from the majority of the participating members and in a way that the awards will indicate "a majority found" or "a unanimous Committee found".

The award must include sufficient grounds.

The award is dated and states where the arbitration has taken place. The award is signed by the participating members and sent to each of the parties by registered letter.

The Executive Committee may decide that an award of principle importance can be published in anonymous form.

Provisions in this Clause 7 shall also apply to amendments and supplementary awards.

Clause 8

Members of the Committee and the individual judgment committees act without consideration.

HEARING OF THE CASE

Clause 9

A case is opened by a submission of a complaint (statement of claim) to the Committee, address: Børsen, DK-1217 Copenhagen K.

To the extent this follows from the agreement between the parties, the plaintiff must previously or on the same day make a statement of complaint to the opponent, just as any agreed deadlines for notice of arbitration and submission of statement of claim have to be observed.

The letter of complaint, which must always be signed, and related exhibits may be submitted by hand, by ordinary mail or be sent by fax/email provided the original complaint and all exhibits are simultaneously delivered by hand or by ordinary mail. The Committee may request submission of original documents, copies of which may have been used as exhibits.

The complaint must be accompanied by:

- a) Documentation for the agreement concerning the hearing before the Committee, (contract, agreement or other basis of agreement cf. Clause 1).
- b) Other contract bases relied upon.
- c) A selling sample in so far as it is referred to at the conclusion of the deal and is necessary for the assessment.
- d) Any other required documents and samples taken in the prescribed manner.

The complaint must contain the full names and addresses of the parties, one or more precisely formulated claims or assertions about which the Committee's award is requested, a presentation of the factual and legal circumstances upon which the claims or assertions rely, including a precise presentation of any asserted defects and a statement of the documents and other evidence relied upon by the plaintiff.

If the complaint does not meet the requirements mentioned above, the case is dismissed or a new deadline is fixed for performance of the requirements mentioned. Any dismissal under this provision shall not prevent the plaintiff from resubmitting, at some future time, a complaint concerning the same claim, provided that relevant agreed deadlines are observed.

The defendant will be notified about the case as early as possible and will have a suitable time limit for submitting a signed defence which may be delivered by hand, forwarded by ordinary mail or sent by fax/email, provided the original defence and all exhibits are simultaneously delivered by hand or forwarded by ordinary mail. The Committee may request submission of original documents, copies of which may have been used as exhibits.

The defence must contain the defendant's claims or assertions and his decision on the claims or assertions of the complaint, any counterclaims, a statement of the factual and legal circumstances upon which the claims or assertions rely, and a statement of the documents and other evidence relied upon by the defendant. The defence must also include any objections against the competence of the Committee where these have not previously been submitted in writing to the Committee.

The deadline for defence may be extended upon substantiated request.

In the event that a defence that meets the requirements above is not received before the determined deadline, the Committee will make its decision at its best and will make an award on the basis of the submitted complaint and the material otherwise at hand.

Where a defence is given, reply and rejoinder and such further pleadings determined by the secretariat will be allowed.

If the acting President for the case in question finds that a dispute is unsuitable for settlement by the Committee, whether or not the complaint meets the requirements under Clause 9, the Executive Committee shall decide whether the case shall be dismissed or it shall be considered in accordance with the rules of the Committee. If the case is dismissed, either party shall be at liberty to demand that the case be settled before the courts.

If the Executive Committee holds that a case affects the personal interests of the other members of the Committee to such an extent that it may be difficult to appoint the Committee members necessary according to the rules of Clause 5 for hearing the case in the Committee and the Court of Appeal, the Executive Committee is entitled to dismiss the case, and either party shall then be at liberty to take steps to have the case settled before the courts.

Clause 10

The parties must be treated equally and each party shall have full opportunity to present his case.

Clause 11

The judgment committee shall be entitled to request the parties to supply further particulars and submit such documents as the Committee may deem necessary to decide the matter.

ASSESSMENT OF CONDITION OR QUALITY

Clause 12

In cases concerning assessment of condition or quality, the issues below also apply:

If the dispute concerns the assessment of the condition of goods, this must be stressed in the statement of claim (complaint), and this has to be accompanied by samples taken in the prescribed manner.

As soon as the statement of claim (complaint) and the samples are received by the Committee, and if the acting President considers an early assessment hereof to be necessary, the members to act are summoned. The acting President may also call in one or more independent experts. In this case, the assessment will, if possible, take place on the same day.

Award is not made until the case is sufficiently clarified.

If the assessment is exclusively taking place on the basis of samples which are sealed or plumbed with the seller's as well as the buyer's seal or plumb, an award may be made forthwith. This also applies to assessment of samples which upon mutual agreement by the parties are taken and sealed or plumbed by representatives appointed by the Danish Chamber of Commerce.

COSTS

Clause 13

A fee fixed by the judgment committee shall be paid for awards. The fee shall always be paid to the judgment committee by the party who has requested arbitration no matter which party is held liable for the payment of the fee according to the award.

Generally, the fee will be imposed on the party whose claim is dismissed; however, the judgment committee may apportion the fee between the parties at its discretion. The parties shall be jointly and severally liable for the fee. The President may demand that an amount which he may find suitable shall be paid as a deposit upon the submission of the request for arbitration.

A fee shall be paid for cases which are brought before the Committee but are withdrawn before the award is made; this fee shall be fixed in each particular case at the discretion of the acting President and otherwise in accordance with the above rules.

Award fees accrue to the Danish Chamber of Commerce.

The judgment committee may order the parties to pay other expenses of the Committee in connection with the hearing of the case according to the above rules.

APPEAL

Clause 14

Awards made by a judgment committee in respect of the condition of the goods contracted for cannot be appealed against.

An appeal against an award can only be lodged with the Court of Appeal attached to the Committee, for which the rules set out below shall apply:

- a) The Court of Appeal shall be composed of the President of the Committee and six members of the Committee. The six members shall be appointed in each particular case by the President of the Committee.

No member who has acted as an arbitrator in respect of the award appealed against shall have a seat in the Court of Appeal.

The hearing of cases shall be chaired by the President of the Committee, who shall likewise lay down the procedure of the Court of Appeal. If the President has presided over the proceedings before the Committee, or if he is prevented from performing the functions as president, or is disqualified, the Danish Chamber of Commerce shall appoint a president of the Court of Appeal from among the members of the Committee (preferably a vice president), who shall act instead of the President and thus also nominate the other members of the Court of Appeal.

- b) Information about appeal is made by letter forwarded or delivered by hand, by fax or email to the Arbitration Committee. Such information shall be received by the Arbitration Committee not later than 21 days after the award by the Arbitration Committee has been sent by registered mail to the person concerned. Following this, the secretariat of the Arbitration Committee informs the appellant of a suitable deadline for submission of a letter of appeal.
- c) The signed letter of appeal and related exhibits may be delivered by hand, by ordinary mail or be sent by fax/email provided the original letter of appeal is simultaneously delivered by hand or by ordinary mail. The letter of appeal must be received by the Committee prior to the deadline fixed by the secretariat. The Court of Appeal may request submission of original documents, copies of which may have been used as exhibits.

If the request for appeal is lodged by one party only, the Committee shall, without delay, notify the other party of the appeal.

The appellant may be given a grace to expand on his appeal and relevant documents.

When requisitioned by either party, the Court of Appeal shall decide whether the conditions prescribed for appeal exist and whether the appeal was properly lodged in due time. If the Court of Appeal decides that the appeal cannot take place or

that it has not been properly lodged in due time, the award of the Judgment Committee shall remain in force.

The Court of Appeal may, in special cases, and at the request of one of the parties, decide that an award cannot be appealed against unless the appellant furnishes security, as deemed appropriate by the Court of Appeal, for the amount which the appellant is liable to pay under the award, including the costs of the award.

- d) The parties shall observe the rules and regulations of the Court of Appeal, including the submission of particulars and other matters.
- e) The award shall be made in accordance with the recommendation made by a majority among the members of the Court of Appeal.
- f) The appeal shall be paid for by twice the fee of the award in the first instance unless the Executive Committee determines otherwise.
- g) The rules under Clauses 6-11 and Clause 13 shall also apply to the Court of Appeal unless otherwise determined.

OTHER PROVISIONS

Clause 15

By submitting themselves to the adjudication and arbitration of the Committee, the parties shall unconditionally accept the award made by the Committee (including the award, if any, made by the Court of Appeal) both in form and in substance, and this award shall not in any way be overruled or set aside by the courts under the rules of the law on arbitration. The parties cannot by taking legal action obtain information from the Committee (including the Court of Appeal) or its members about the proceedings in the Committee (including the Court of Appeal).

A party who is aware that a provision under this set of rules has not been observed and who is a party to the arbitration case without making an objection without undue delay, may not subsequently rely upon the objection.

Clause 16

If a party to a decided case fails in due time to honour the award made by the Committee (including the Court of Appeal), the President of the Committee may report this to the Danish Chamber of Commerce, which shall then decide whether the circumstance shall be published on the website of the Danish Chamber of Commerce or by blacklisting the name of the person concerned. The publication is to be struck once the award has been honoured.

Clause 17

Every year, the Danish Chamber of Commerce shall prepare accounts of revenue and expense of the Committee. The accounts shall be audited by the auditors appointed by the Danish Chamber of Commerce.

Clause 18

The Danish Chamber of Commerce may alter the rules of the Committee in agreement with the Executive Committee.

Clause 19

These rules shall apply to cases instituted or appealed to the Court of Appeal after 15 October 2011.