

深圳国际仲裁院谈判促进规则

2023年05月23日起施行

“谈判促进+仲裁”示范条款(一):争议发生前

凡因本合同所引起的或与本合同有关的任何争议和谈判事项,各方同意提交深圳国际仲裁院谈判促进中心进行谈判促进。

谈判促进成功的,各方同意将和解协议提交深圳国际仲裁院,请求根据深圳国际仲裁院仲裁规则依照和解协议的内容作出裁决书。

一方当事人不愿进行谈判促进或谈判促进不成功的,应提交深圳国际仲裁院进行仲裁。

“谈判促进+仲裁”示范条款(二):争议发生前

凡因本合同所引起的或与本合同有关的任何争议和谈判事项,各方同意提交深圳国际仲裁院谈判促进中心进行谈判促进。

一方当事人不愿进行谈判促进或谈判促进不成功的,应提交深圳国际仲裁院进行仲裁。

“谈判促进+仲裁”示范条款(三):争议发生后

对于本争议,各方同意提交深圳国际仲裁院谈判促进中心进行谈判促进。

谈判促进成功的,各方同意将和解协议提交深圳国际仲裁院,请求根据深圳国际仲裁院仲裁规则依照和解协议的内容作出裁决书。

一方当事人不愿进行谈判促进或谈判促进不成功的,应提交深圳国际仲裁院进行仲裁。

(说明:即使合同中没有谈判促进条款或仲裁条款,一方或多方当事人也可以就已发生的争议,包括侵权纠纷,申请深圳国际仲裁院谈判促进中心进行谈判促进。)

“谈判促进+仲裁”示范条款(四):争议发生后

对于本争议,各方同意提交深圳国际仲裁院谈判促进中心进行谈判促进。

一方当事人不愿进行谈判促进或谈判促进不成功的,应提交深圳国际仲裁院进行仲裁。

(说明:即使合同中没有谈判促进条款或仲裁条款,一方或多方当事人也可以就已发生的争议,包括侵权纠纷,申请深圳国际仲裁院谈判促进中心进行谈判促进。)

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深圳国际仲裁院谈判促进规则

第一条 宗旨

为规范谈判促进活动,明确谈判促进程序,促进当事人快速和谐解决争议或达成谈判事项,根据《深圳国际仲裁院管理规定(试行)》和《深圳国际仲裁院仲裁规则》的相关规定,特制定本规则。

第二条 谈判促进原则

谈判促进应当遵循下列原则:

- (一)在当事人自愿、平等、保密的基础上进行;
- (二)不违背法律、法规和国家政策。

第三条 规则适用

当事人同意将争议或谈判事项提交深圳国际仲裁院谈判促进中心(以下简称“中心”)或实际参加中心谈判促进程序的,均视为同意适用本规则。

各方当事人对谈判促进规则另有约定的,从其约定。

第四条 适用范围

本规则所涉及的争议或谈判事项包括但不

限于：

（一）城市更新等改建活动所涉及的争议或谈判事项；

（二）棚户区改造所涉及的争议或谈判事项；

（三）公司治理所涉及的争议或谈判事项；

（四）债务重组所涉及的争议或谈判事项；

（五）知识产权所涉及的争议或谈判事项；

（六）国际投资、国际贸易所涉及的争议或谈判事项；

（七）中心认为其他可以适用本规则的争议或谈判事项。

第五条 启动申请

本规则第四条所涉争议或谈判事项的任何一方或多方当事人均可向中心提出谈判促进申请。

当事人向中心提出谈判促进申请时，应提交谈判促进申请书。谈判促进申请书应包括关于争议事实或谈判事项的简要说明及法律法规依据，并附具各方当事人或其代理人的联络方式等其他相关材料。

第六条 单方申请的受理

中心收到当事人单方谈判促进申请后，应

自申请之日起合理期限内以适当方式向其他当事人发送本规则等相关材料,征询其是否愿意参加谈判促进程序。

中心也可根据单方当事人的申请,以适当方式直接介入。

第七条 多方申请的受理

多方当事人共同申请谈判促进的,中心应当于收到谈判促进申请之日起合理期限内以适当方式向其他当事人发送相关材料,邀请其加入谈判促进程序。

第八条 磋商程序

谈判促进程序正式启动后,根据争议或谈判事项的具体情况,中心可以设置一定期限的磋商期、提供必要的场地和协助,由各方当事人自行磋商。

第九条 谈判专家的确定

当事人认为已无磋商必要,或磋商期限届满后各方当事人仍未达成协议的,进入由谈判专家主持的谈判促进程序。

根据谈判实际需要,中心指定一名或多名谈判专家成立谈判专家组,除非当事人另有约定。中心可以组成工作组独立或协助谈判专家

组开展工作,也可以以其他适当方式开展工作。

中心可以制定谈判专家名册,也可以提供谈判专家推荐名单,供当事人选择。

第十条 信息披露

谈判专家应及时、主动向中心及当事人披露可能影响其独立性、公正性的情形。

第十一条 谈判专家的回避和替换

当事人可以在专家组开始运作之前,要求谈判专家回避,是否回避由中心决定。

谈判专家因回避或其他原因无法继续履行职责的,应按照本规则第九条规定重新确定谈判专家,各方当事人另有约定的除外。

第十二条 谈判专家组的运作

谈判专家组成立后,可以采用其认为有利于当事人达成一致意向的方式开展工作:

(一)制作涉及争议或谈判事项的问题单,并要求当事人作出回应;

(二)充分听取各方当事人的意见,制定恰当的谈判促进时间进度表,并依据时间进度表开展谈判促进工作;

(三)分别听取各方当事人的诉求,为其提

供一定的法律参考意见；

(四)充分听取各方当事人的诉求后,谈判专家组内部协商,为各方当事人提供若干可供参考的谈判方案；

(五)谈判方案初定后,分别与各方当事人交换意见；

(六)召开各方当事人都参加的谈判会议；

(七)邀请相关证人、评估专家参加谈判专家组的讨论会；

(八)谈判专家组认为必要的其他方式。

第十三条 协议

当事人就谈判促进的成果达成一致意向后,应在谈判专家组的主持下制作协议,该协议一经签署即对签署各方发生法律效力。当事人另有约定的除外。

第十四条 仲裁裁决

当事人达成协议的,为使协议的内容具有可强制执行的法律效力,任何一方当事人可依据协议中的仲裁条款,向深圳国际仲裁院申请按照协议内容依法作出和解裁决。

第十五条 谈判促进程序的终止

出现下列情形之一的,谈判促进程序终止：

(一)各方当事人达成协议或已获得具有终局效力的司法或仲裁文书;

(二)任何一方当事人书面声明退出谈判促进程序;

(三)任何一方当事人在收到征询函之日起五个工作日内未予回复的或以其它方式表明拒绝谈判的;

(四)谈判专家组认为谈判促进已无可能,决定终止的;

(五)自谈判专家组成立起三个月的,除非各方当事人一致同意延长;

(六)中心认为谈判促进程序需要终止的其它情形。

第十六条 保密

除非各方当事人另有约定或因谈判类型的实际需要,谈判促进应当不公开进行。

谈判专家、各方当事人及其代理人、中心工作人员以及其他参与谈判促进的人员对于谈判事项均负有保密义务,除非各方当事人另有约定或法律另有规定。

第十七条 谈判促进费用

当事人应在收到中心发出的预缴谈判促进费用通知之日起合理期限内预缴谈判促进费

用。谈判促进费用原则上由申请人预缴,中心也可根据实际情况决定预缴费用的当事人,各方当事人约定按比例共同预缴的,从其约定。

相关费用标准参见附表。

第十八条 第三方资助的谈判促进程序

在理由正当充分的情况下,中心可以接受由第三方资助的谈判促进申请。

第三方资助的谈判促进程序,可以参照本规则规定的程序进行。

第三方资助的谈判促进程序中,第三方不应当作为谈判促进程序的当事人,除非谈判促进程序的当事人一致书面同意。

第十九条 谈判促进程序的独立性

任何一方当事人不得在之后的仲裁程序、司法程序或者其他任何程序中援引对方当事人或谈判专家在谈判促进过程中的任何陈述、自认、意见、观点、建议或可行性方案及材料作为其主张的依据。

谈判专家不得在就同一或相关争议进行的

仲裁或诉讼程序中担任仲裁员、一方当事人的代理人或证人,各方当事人书面同意的除外。

第二十条 实施与解释

本规则自2023年05月23日起实施,由中心负责解释。

附件：

《深圳国际仲裁院谈判促进费用表》

争议金额 (人民币)	机构管理费用 (人民币)	谈判专家报酬 (人民币)
50万元及以下	1,000元	6,000元
500,001元至 1,000,000元	1,000元+争议金额 500,000元以上部分 的0.2%	6,000元+争议金额 500,000元以上部分 的0.2%
1,000,001元至 5,000,000元	2,000元+争议金额 1,000,000元以上部分 的0.12%	7,000元+争议金额 1,000,000元以上部分 的0.13%
5,000,001元至 10,000,000元	6,800元+争议金额 5,000,000元以上部分 的0.04%	12,200元+争议金额 5,000,000元以上部分 的0.07%
10,000,001元至 50,000,000元	8,800元+争议金额 10,000,000元以上部分 的0.03%	15,700元+争议金额 10,000,000元以上部分 的0.06%
50,000,001元至 100,000,000元	20,800元+争议金额 50,000,000元以上部分 的0.02%	39,700元+争议金额 50,000,000元以上部分 的0.05%
100,000,001元至 500,000,000元	30,800元+争议金额 100,000,000元以上部分 的0.015%	64,700元+争议金额 100,000,000元以上部分 的0.02%
500,000,001元至 1,000,000,000元	90,800元+争议金额 500,000,000元以上部分 的0.014%	144,700元+争议金额 100,000,000元以上部分 的0.015%
1,000,000,001元至 3,000,000,000元	160,800元+争议金额 500,000,000元以上部分 的0.001%	219,700元+争议金额 100,000,000元以上部分 的0.01%
3,000,000,001元 以上	180,800元	419,700元

说明：

1. 申请谈判促进时, 当事人应向中心缴付注册费用人民币1,000元。该费用在任何情形下不予退还。
2. 申请谈判促进时争议金额不明确的, 由中心根据争议所涉及权益的具体情况、争议复杂程度等因素确定预先收取的谈判促进费用数额。
3. 当事人预缴的谈判促进费用为外币时, 按《谈判促进费用表》列明的标准计算与人民币等值的外币。
4. 中心可以根据促进谈判需要另行收取境内外谈判专家差旅费、外地谈判场所租赁费等其他合理的实际开支。
5. 各方当事人和谈判专家就谈判专家报酬另有约定的, 从其约定, 但应经中心核准。
6. 当事人约定两名或者两名以上谈判专家的, 谈判专家报酬按照增加的人数加倍计算。
7. 谈判不成的, 中心可结合谈判促进所花费时间、争议金额、争议复杂程度等因素酌情退回有关费用, 但收取的机构管理费用不少于人民币1,000元, 谈判专家报酬不少于人民币6,000元。
8. 经中心谈判促进, 当事人根据《深圳国际仲裁院仲裁规则》申请仲裁的, 当事人预交的机构管理费用可冲抵仲裁费的相应金额。

- to the corresponding RMB value specified in this schedule shall be paid.
4. The Centre may charge other necessary expenses such as travel expenses of domestic or foreign negotiation experts, rental of foreign negotiation venues, etc. as needed to facilitate the negotiations.
5. If the parties and the negotiation experts have agreed otherwise on the remuneration of the negotiation experts, the agreement shall prevail, subject to the approval of the Centre.
6. If the parties agree to invite two or more negotiation experts, the remuneration of the negotiation experts shall be increased according to the number of extra negotiation experts invited.
7. If the negotiation fails, the Centre may issue a refund of the relevant fees as appropriate by considering factors such as the workload of the negotiation facilitation, the amount in dispute, the complexity of the dispute, etc., provided that the administrative fee collected is no less than RMB 1,000 Yuan and the remuneration of the negotiation experts is no less than RMB 6,000 Yuan.
8. If the parties apply for arbitration under the SCIA Arbitration Rules after the negotiation facilitation of the Centre, the administrative fees paid in advance may then be calculated as the arbitration fees of the corresponding amount.

100,000,001 to 500,000,000	30,800 + 0.015% of the AID above 100,000,000	64,700 + 0.02% of the AID above 100,000,000
500,000,001 to 1,000,000,000	90,800 + 0.014% of the AID above 500,000,000	144,700 + 0.015% of the AID above 100,000,000
1,000,000,001 to 3,000,000,000	160,800 + 0.001% of the AID above 500,000,000	219,700 + 0.01% of the AID above 100,000,000
3,000,000,001 or above	180,800	419,700

Notes:

1. While applying for negotiation facilitation, the parties shall pay a registration fee of RMB 1,000 Yuan to the Centre. This fee is nonrefundable under any circumstances.
2. Where no monetary claim is specified or the amount in dispute is not clear at the time of application for negotiation facilitation, the Centre shall determine the amount of the negotiation facilitation fee to be collected in advance based on factors such as the specific rights and interests involved in the dispute, the complexity of the dispute, etc.
3. If the negotiation facilitation fee is charged in a foreign currency, an amount of the foreign currency equivalent

Appendix

Schedule of Fees and Costs of Negotiation Facilitation

Amount in Dispute ("AID") ("RMB")	500,000 and below	500,001 to 1,000,000	1,000,001 to 5,000,000	5,000,001 to 10,000,000	10,000,001 to 50,000,000	50,000,001 to 100,000,000
Administrative Fees ("RMB")	1,000	1,000 + 0.2% of the AID above 500,000	2,000 + 0.12% of the AID above 1,000,000	6,800 + 0.04% of the AID above 5,000,000	8,800 + 0.03% of the AID above 10,000,000	20,800 + 0.02% of the AID above 50,000,000
Remuneration for Negotiation Experts ("RMB")	6,000	6,000 + 0.2% of the AID above 500,000	7,000 + 0.13% of the AID above 1,000,000	12,200 + 0.07% of the AID above 5,000,000	15,700 + 0.06% of the AID above 10,000,000	39,700 + 0.05% of the AID above 50,000,000

Article 19 Independence of the Procedures

No party shall invoke any statement, self-admission, view, opinion, recommendation or feasibility report in the course of negotiation facilitation as a basis to support its claims in any subsequent arbitration procedures, judicial process or any other proceedings.

A negotiation expert shall not be an arbitrator, agent of a party or witness in any other arbitration or litigation proceeding concerning the identical or related disputed facts, unless otherwise agreed by all the parties in writing.

Article 20 Implementation and Interpretation

The Rules shall be effective as from 23 May 2023 and shall be interpreted by the Centre.

parties' agreement on the proportion of the payment shall prevail.

The parties shall pay the negotiation facilitation fees and costs in accordance with the List of Fees attached.

Article 18 Third Party Funded Negotiation Facilitation Procedures

Based on sufficient and reasonable grounds, the Centre may accept a third party's application to fund the negotiation facilitation procedures.

Third party funded negotiation facilitation procedures may refer to the procedures under the Rules.

In the course of third party funded negotiation facilitation, the funding third party shall not be any party in the negotiation facilitation procedures, unless otherwise agreed by all the parties in writing.

The parties shall pay the negotiation facilitation fees in advance within a reasonable period from the date of receipt of the notice of payment issued by the Centre. In principle, the applicant shall pay the negotiation facilitation fees in advance. The Centre may determine which party to prepay the negotiation facilitation fees according to actual situations. The

Costs

Article 17 Negotiation Facilitation Fees and

Unless otherwise agreed by the parties or subject to the actual needs, the negotiation facilitation procedures shall be open to the public. The experts, parties and their agents, staff of the Centre and other persons involved in the negotiation facilitation procedures shall be obligated to keep the negotiation confidential, unless otherwise agreed by the parties or otherwise provided by law.

Article 16 Confidentiality

- (4) the Panel considers the negotiation facilitation to be unobtainable and has decided to terminate the procedures;
- (5) the negotiation facilitation procedures have been undertaken for three months since the formation of the Panel, unless all the parties agree to extend the procedures; or
- (6) under circumstances where the Centre considers the termination imperative.
- to join negotiations by any other means;

Article 13 Agreement

Upon reaching a consensus, the parties shall draw up a negotiation agreement hosted by the Panel. The duly executed negotiation agreement shall take immediate legal effect and be binding on all signatories, unless otherwise agreed by all parties.

Article 14 Arbitral Award

Once the parties have reached a negotiation agreement, any party may make the negotiation agreement enforceable by invoking the arbitration clause in the negotiation agreement and applying for Shenzhen Court of International Arbitration to render a consent award in accordance with the content of the negotiation agreement.

Article 15 Termination of the Negotiation Facilitation Procedures

The pending negotiation facilitation procedures shall be terminated if any of the following circumstances occurs:

- (1) all parties have agreed on a negotiation agreement or a final and binding judicial/arbitral decision has been obtained;
- (2) any party has announced to withdraw from the negotiation in written forms;
- (3) any party has not replied in five (5) business days after reception of the letter of request to join the negotiation; or if any party has explicitly refused

A negotiation expert shall be replaced in accordance with Article 9 of the Rules if he/she becomes unable to fulfill his/her functions due to being challenged or other reasons, unless otherwise agreed by all parties.

Article 12 Operation of the Panel

Once formed, the Panel may resort to approaches it considers beneficial for the parties to reach a consensus. The Panel may:

(1) form question lists concerning the disputes or issues for negotiation and request the parties to respond thereto;

(2) with due respect to all parties' opinions, propose an appropriate timeline to carry out the negotiation facilitation procedures and conduct the negotiation facilitation activities in accordance with the timeline;

(3) respond to each party's concerns and needs and provide certain suggestions for their reference;

(4) after hearing all parties' concerns and needs, host internal consultations and provide negotiation plans for all parties' reference;

(5) after making preliminary decisions on the proposed negotiation plan, exchange opinions with all parties;

(6) host negotiation attended by all parties;

(7) invite relevant witnesses and appraisal experts; and

(8) take any other measure the Panel considers necessary to facilitate the negotiation.

Article 9 Appointment of Negotiation Experts

If the parties consider it unnecessary to continue with the consultation, or if the parties fail to reach an agreement upon the expiration of the consultation period, the Centre shall initiate the negotiation facilitation procedures held by the appointed expert(s).

Based upon the actual needs of negotiation facilitation, the Centre may appoint one or more negotiation expert(s) to form a panel of negotiation experts (the “Panel”), unless otherwise agreed by the parties. The Centre may also form workgroups to facilitate the negotiations independently or to assist the Panel, or in any other appropriate manners.

The Centre may stipulate a name list of negotiation experts or provide the parties with a recommended name list of negotiation experts.

Article 10 Disclosure

The Panel shall promptly and proactively disclose to the Centre and the parties any situation that may affect his or her independence or impartiality.

Article 11 Challenge and Reappointment of Negotiation Experts

Before the negotiation facilitation of the Panel commences, the parties may challenge the negotiation expert(s). The Centre has the authority to decide on the challenge.

Article 6 Acceptance of Unilateral Application

Upon acceptance of an unilateral application for negotiation facilitation, the Centre shall, within a reasonable amount of time after the application, send a copy of the Rules and other relevant documents to all other parties in an appropriate manner and request if they would consent to participate in the negotiation procedures.

The Centre may also directly intervene in the negotiated issues in an appropriate manner based upon one party's unilateral application.

Article 7 Acceptance of Multi-Parties'

Application

If multiple parties apply to initiate the negotiation facilitation procedures, the Centre shall, within a reasonable amount of time upon acceptance of the negotiation facilitation application and in an appropriate manner, send the relevant documents to all other parties and invite them to participate in the negotiation facilitation procedures.

Article 8 Consultation Procedures

After the official commencement of the negotiation facilitation procedures, the Centre may set a certain period as the consultation period in accordance with the circumstances of the dispute or the issue for negotiation. During the consultation period, parties may hold private consultations among themselves and the Centre shall provide the necessary facilities and assistance for the consultations.

If the parties have agreed otherwise on the negotiation facilitation, their agreed rules shall apply.

Article 4 Scope of Application

The disputes or issues for negotiation under the Rules include but are not limited to disputes or issues concerning:

- (1) urban renewal or other kinds of reconstruction;
- (2) shantytown area reconstruction;
- (3) corporate governance;
- (4) debt restructuring;
- (5) intellectual property;
- (6) international investment or international trade;
- and
- (7) other disputes or issues the Centre considers the Rules may apply to.

Article 5 Application to Initiate the Negotiation Facilitation Procedures

Any party from any dispute or issue under Article 4 of the Rules is entitled to submit an application to the Centre to initiate the negotiation facilitation procedures.

The parties shall submit a Negotiation Facilitation Application when they apply to initiate negotiation facilitation procedures at the Centre. The Negotiation Facilitation Application shall include a brief introduction, the relevant laws and regulations, all parties and their agents' contact information and other related documents.

SCIA Negotiation Facilitation Rules

Article 1 Purposes

The Rules hereunder (the “Rules”) are enacted to regulate negotiation facilitation, clarify the negotiation facilitation procedures and facilitate the parties to settle their disputes or agree upon issues for negotiation in a prompt and friendly manner, in accordance with the *Provisions on the Administration of Shenzhen Court of International Arbitration (for Trial Implementation)* and *Shenzhen Court of International Arbitration Rules*.

Article 2 Principles

The facilitation of negotiations shall follow the following principles:

(1) conducted on a voluntary, equal and confidential basis; and

(2) conducted in accordance with laws, regulations and policies.

Article 3 Application of the Rules

When the parties agree to submit the disputes or issues for negotiation to the Negotiation Facilitation Centre of the Shenzhen Court of International Arbitration (the “Centre”), or if the parties have de facto participated in the negotiation facilitation procedures at the Centre, the parties are deemed to have agreed to apply the Rules.

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(SCIA) for negotiation facilitation.)

"Negotiation Facilitation + Arbitration"

Model Clause III: after the dispute

"The parties agree to submit the dispute to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration (SCIA) for negotiation facilitation.

If the negotiation facilitation turns to a settlement, the parties agree to submit the settlement agreement to the SCIA to request that an arbitral award be rendered in accordance with the Arbitration Rules and based on the terms of the settlement agreement.

If any party quits the negotiation facilitation or the negotiation facilitation fails, the dispute shall be submitted to the SCIA for arbitration."
(Note: Even if there is neither Negotiation Facilitation Clause nor Arbitration Clause in the contract, any party has the right to submit the existing dispute, including infringement dispute, to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration (SCIA) for negotiation facilitation.)

"Negotiation Facilitation + Arbitration"

Model Clause IV: after the dispute

"The parties agree to submit the dispute to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration (SCIA) for negotiation facilitation.

If any party quits the negotiation facilitation or the negotiation facilitation fails, the dispute shall be submitted to the SCIA for arbitration."
(Note: Even if there is neither Negotiation Facilitation Clause nor Arbitration Clause in the contract, any party has the right to submit the existing dispute, including infringement dispute, to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration

"Negotiation Facilitation + Arbitration" Model Clause I : before the dispute

"Any dispute arising from or in connection with this Contract shall be submitted to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration (SCIA) for negotiation facilitation.

If the negotiation facilitation turns to a settlement, the parties agree to submit the settlement agreement to the SCIA to request that an arbitral award be rendered in accordance with the Arbitration Rules and based on the terms of the settlement agreement.

If any party quits the negotiation facilitation or the negotiation facilitation fails, the dispute shall be submitted to the SCIA for arbitration."

"Negotiation Facilitation + Arbitration" Model Clause II: before the dispute

"Any dispute arising from or in connection with this Contract shall be submitted to Negotiation Facilitation Centre of Shenzhen Court of International Arbitration (SCIA) for negotiation facilitation.

If any party quits the negotiation facilitation or the negotiation facilitation fails, the dispute shall be submitted to the SCIA for arbitration."

SHENZHEN COURT OF
INTERNATIONAL ARBITRATION
NEGOTIATION FACILITATION RULES

Effective as from 23 May 2023