

Explanatory Note: Conciliation, mediation and arbitration procedures of ISF Chamber

AUGUST 2025

Disclaimer: This document is only a summary. The full ISF Procedure Rules for Disputes settlement must be read for complete information

Executive Summary:

- The ISF Arbitration Rules embody the long-standing spirit of arbitration, mediation, and conciliation as trusted and constructive alternative dispute resolution mechanisms within the international seed trade. Rooted in principles first established in 1930, these procedures aim not only to resolve conflicts efficiently but to preserve trust and cooperation among business partners.
- Mediation and conciliation, as voluntary and confidential processes, encourage dialogue and mutual understanding, allowing parties to reach their own agreement under the guidance of neutral experts.
- When necessary, arbitration provides a final and binding resolution, based on fairness, equity, and industry practice rather than rigid legal formalism.
- The creation of the ISF Arbitration Chamber in 2024 ensures consistent, professional, and impartial case management. Each stage, from initial negotiation to final award, upholds confidentiality, impartiality, and respect.

Links

- [Decision tree](#)
- [Flowchart](#)

Important note:

Access to ISF alternative dispute resolution mechanisms is **NOT** limited to ISF members or to members of national seed associations affiliated with ISF. These procedures are open to all companies active in the seed sector.

Foreword

Following the expansion of the seed industry in the early 20th century, the seed community first gathered in 1924 to develop a common set of rules for international seed trade, back then mainly directed to forage and vegetable seeds.

To solve disputes arising from the execution of sales contracts, the first FIS rules for international arbitration procedures were adopted in 1930. Over the years, the rules have been regularly reviewed, and the concepts of mediation and conciliation have been added, as well as specific rules to solve disputes related to the management of intellectual property rights in the field of plant breeding.

The use of arbitration to resolve disputes has grown significantly over the years, gaining increasing success due to its speed, cost-effectiveness, and reliability, as decisions are made by professionals with expertise in the relevant field.

The last version of the “Procedure Rules For Dispute Settlement For The Trade In Seeds For Sowing Purposes and for The Management of Intellectual Property, Mediation, Conciliation, Arbitration” (referred as ISF Arbitration Rules) has been adopted by the General Assembly in 2024, with a major change: to harmonize decisions and renders the process more consistent, the organization of the disputes resolutions now lies with the newly created ISF Arbitration Chamber (except for a few countries¹ who decided to maintain their capacity to organize conciliation/mediation/arbitration).

ISF members are constantly reviewing the rules to best fit to the numerous evolutions of the seed sector, however it is critical to keep in mind that the goal of arbitration remains identical over the past decades: it is not only to resolve disputes fairly and efficiently, but also to preserve and strengthen the long-standing business relationship between both parties. Every issue should be approached with mutual respect and a spirit of honest and constructive dialogue, ensuring that trust and collaboration remain long after an arbitration sentence. Arbitrators are not bound by strict legal rules but instead base their decisions on what is fair and consistent with established practices in the seed trade. It is important to note that arbitration is confidential and does not generate jurisprudence or binding precedents, each case is considered individually, based on the judgment of the selected arbitrators.

¹ France, the Netherlands, Germany, Italy, Australia, Argentina

Overview of the process

Parties experiencing a disagreement arising from the execution of their contract, are encouraged to:

- 1) Try to solve the dispute by bilateral communication (in-person meetings, calls between CEOs, internal lawyers...)
- 2) Request the intervention of a mediator or a conciliator to help conduct a solution-oriented dialogue, as a first step
- 3) Request an arbitration in case no positive result came out of the first 2 steps

A. Mediation and conciliation: a recommended first step in dispute resolution

The outcome of mediation and conciliation is not a judgment establishing who is right and who is wrong. It is simply an agreement between the parties. These non-binding techniques will allow the parties themselves to control both the process and the outcome. They are typically voluntary and private methods of resolving disputes in which an impartial third party does not replace the parties but helps them negotiate a settlement.

- Definitions:

Mediation is a negotiation carried out with the assistance of a neutral third party –the mediator– who does not have the authority to give an award or to impose a decision on disputing parties. The mediator acts as a facilitator, just helping them to reach an agreement.

Conciliation is a process in which the neutral third party –the conciliator– not only attempts to motivate the parties towards a final settlement but also could be asked to give the parties a nonbinding opinion. This opinion will remain confidential and will not affect the subsequent arbitration.

- Which conflicts can be submitted to a mediator / conciliator?

In general, disputes related to seed trade and/or seed production. When the words “ISF” (a minima, or ISF Rules, ISF Trade Rules or ISF Procedure Rules or ISF Arbitration Rules for Disputes Settlement) have been embodied in a contract, or any communication, any dispute arising from that contract must be referred to ISF dispute resolution, but parties

can also mutually decide to address a conflict to ISF, given that the topic remains related to seed business.

- Who are the mediators / conciliators of ISF Arbitration Chamber?

Amongst the arbitrators, the ISF Board of Directors has appointed some of them to act as a conciliator or mediator [link to the list]. Parties can also jointly nominate their own conciliator/mediator.

- What is the procedure?

Applications should be addressed to ISF Secretariat or the relevant National Arbitration Chamber and should include: detailed contact info, a description of the dispute, preferred method (mediation or conciliation), and other logistical preferences (time limit, language, online or physical meetings). One conciliator / mediator is jointly chosen by the Parties, either from the list provided by ISF / the National Chamber of Arbitration or externally. The fee (5000 CHF) must be paid to the organizing Chamber by the Party requesting the dispute resolution, but costs are generally shared equally between Parties.

Parties may be assisted by counsel of their choice and at their own expense.

- What happens at the end of a conciliation/mediation?

In general, conciliation or mediation proceedings conclude when the parties reach and sign a settlement agreement.

However, the process may also end without a resolution—such as when a party decides to withdraw, the mediator/conciliator determines that no settlement is likely, or the agreed time limit expires.

If no agreement is reached, the dispute may proceed to arbitration, upon request to one of the Parties. Importantly, the content of the conciliation/mediation process remains confidential and cannot be used as evidence in subsequent proceedings. **Additionally, the mediation/conciliation process suspends the time limit for initiating ISF arbitration.**

B. Arbitration: a flexible path to final dispute resolution

- Definition

Arbitration is a process in which each side presents its case to an arbitration tribunal for a final and binding decision.

- Which conflicts can be submitted to arbitration?

Except otherwise agreed by the parties, when the words “ISF” (a minima, or ISF Rules, ISF Trade Rules or ISF Procedure Rules or ISF Arbitration Rules for Disputes Settlement) have been embodied in a contract, or any communication, any dispute arising from that contract must be referred to ISF arbitration. Parties may also agree, without that clause in their contract, to refer any dispute among them relating to seed trade and/or production to ISF arbitration.

Arbitrators remain free to accept a case or not, after assessment of the topic of the dispute.

- Who are the arbitrators of ISF Arbitration Chamber?

ISF Board of Directors has appointed a list of arbitrators, chosen for their expertise in different crops and various backgrounds (CEO, seed business experts, company lawyers). The list should be updated every 5 years.

Arbitrators undergo specialized training to ensure they fully understand the significance of their role and responsibilities. They also sign a Code of Ethics (page 32 of the ISF Arbitration Rules) which requires them to conduct the arbitration with integrity, fairness, and independence. They must also disclose any personal interest, connection, or circumstance that could affect their impartiality or create even the appearance of bias.

It is important to realize that **arbitrators will resolve disputes based on fairness rather than strict legal rules**. ISF Arbitration Rules are based on the principles of:

- **Ex aequo et bono:** what is just and fair or according to equity and good conscience; the power of the arbitrators to dispense with consideration of the law and contemplate solely what they consider to be fair and equitable in the case at hand
- **Amiable compositeurs:** agreement permitting the arbitrators to decide the dispute according to the legal principles they believe to be just, without being limited to any particular national law; arbitrators are authorized as amiable compositeurs to disregard legal technicalities and strict constructions and to take into account the usages and habits of the seed trade.

This approach allows for flexible, equitable decisions tailored to the context of the dispute. It is also important to note that cases are handled privately, and the decisions (awards) do not create legal precedent. Each arbitration case is confidential, decided on its own facts, and the resulting award applies only to that dispute without creating precedent.

Each arbitration case is handled by a panel of three arbitrators: each party appoints one, and the Secretariat of the Arbitration Chamber appoints the third, who serves as Chair of the Arbitral Tribunal. A party may challenge an arbitrator if there are valid reasons to question their impartiality or independence. The Secretariat of the Arbitration Chamber will review the reasons and decide whether the challenge is justified. It is important to note that arbitrators do not represent the interests of the party that appointed them.

- How to request an arbitration?

Application for arbitration must be made within 365 calendar days after the first communication between the parties concerning the dispute. The potential mediation/conciliation process suspends the time limit for initiating ISF arbitration.

If the national association of the seller's or multiplier's country has kept its capacity of Arbitration Chamber², documents to request for arbitration must be sent to the Secretariat [link to document of national contacts] and the arbitration will be organized at the national level.

In any other cases, application for arbitration must be addressed to the ISF Secretary General. The ISF Secretary General will be responsible to organize the arbitration under the ISF Arbitration Chamber.

The application sent by the Claimant, written in English, must contain:

(a) A request that the dispute be referred to arbitration; the request should also indicate if the parties have tried to settle the dispute amicably, for example through mediation or conciliation. If mediation and conciliation have not been tried, ISF Secretariat (or the national Arbitration Chambers) will encourage parties to do so.

(b) The names and contact details of the parties

(c) A copy of the contract making reference to ISF Rules, or a copy of the agreement to refer the dispute to ISF arbitration;

(d) A brief description of the claim, an indication of the amount involved, if any, and a clear statement of the questions/request asked to the arbitrators;

² France, the Netherlands, Germany, Italy, Australia, Argentina

- (e) The relief or remedy sought;
- (f) Copies of all the documents on which the claimant wishes to base its case;
- (g) Proof of payment of the deposit (8000CHF)

Parties may be assisted by counsel of their choice and at their own expense.

- How is handled a case by ISF Chamber of Arbitration?

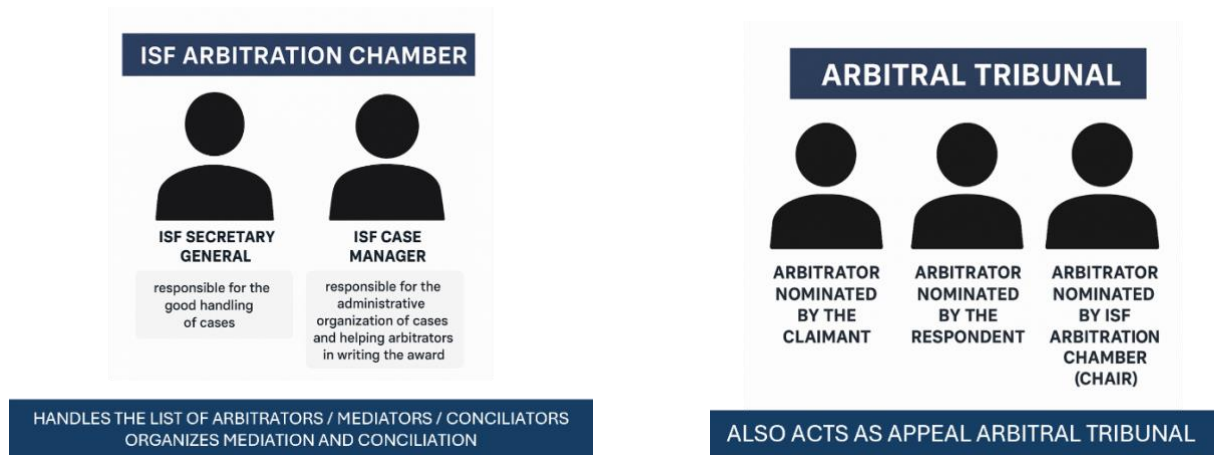
ISF Chamber of Arbitration is composed of: ISF Secretary General who is responsible for the Chamber of Arbitration and the Case Manager who facilitates communication between the parties and arbitrators and oversees the procedural administration of the case.

Once a request for arbitration is received, the Case Manager will forward it to the respondent, who then has 20 working days to submit a brief summary of their defense. If the respondent does not respond or chooses not to participate, the arbitration will still move forward. In that case, the facts and documents submitted by the claimant will be considered as undisputed.

The respondent may file one or more counterclaims if they stem from the same relationship as the original claim. These must be submitted with the response and include details of the dispute and the relief sought.

After the parties have appointed two arbitrators and the ISF Arbitration Chamber has appointed the third one, the Arbitral Tribunal is officially constituted. After a written exchange of documents and argumentations, hearings will be organized. Virtual hearings are encouraged, unless agreed by Parties and arbitrators.

The Arbitral Tribunal decides what evidence is allowed and, once both parties have had a fair chance to present their case, it closes the proceedings. A final award is issued within two months, either by majority or, if no majority is reached, by the chairman alone. All arbitrators must sign the award and keep the deliberations confidential.



Note: an expedited procedure with shorter delays and only one arbitrator can be requested for clearly defined amounts that do not exceed CHF 250,000.

- How much does an arbitration case cost?

The demanding Party has to pay a deposit of 8000 CHF, to cover some of the costs.

The deposit generally covers:

- Remuneration of the arbitrators: 1000 CHF / arbitrator
- ISF administration costs: 5000 CHF (administrative assistance, postage costs...)

However, depending on how a case is handled (face to face or virtual hearings, national or international cases, external experts needed...) additional costs may occur and extra payments would be asked by ISF Arbitration Chamber.

The arbitrators specify in the award how the costs are to be shared between the parties.

- What happens at the end of an arbitration?

The financial and other obligations falling upon the parties should be fulfilled within 30 calendar days that follow the receipt of the award.

If a party fails to comply with its obligations, ISF Secretary General will communicate the failure to all ISF members and the national associations will be asked to inform all their members. The failing party will also be barred from participating in any ISF activities and congresses.

Each party may also appeal against the award not later than 30 calendar days after receipt of the award and shall deposit 25% (max 100 000CHF) of the amount awarded in first instance as a security to ISF bank account. Appeals are only organized by ISF Arbitration Chamber (not by national Arbitration Chambers) with 3 arbitrators, different from the first

instance. Hearings will be organized online and no new evidence will be allowed (unless otherwise decided by the Appeal Arbitral Tribunal)

C. Specific rules for IP

- Which conflicts can be submitted to arbitration?

ISF Arbitration Rules also provides a specialized arbitration, mediation, and conciliation framework for resolving disputes related to intellectual property rights in the seed sector.

These procedures are particularly suited for disputes arising from the implementation, interpretation, or performance of contracts involving research collaboration, licensing, and the management or transfer of IPRs, including disputes on Essentially Derived Varieties (EDVs).

It is necessary that both Parties agree to use ISF Arbitration Rules, either by a specific clause in their contract or by signing an arbitration agreement. ISF Dispute settlement mechanism cannot apply within the framework of penal or civil litigation concerning counterfeit use of intellectual property rights, in the case of infringement of PVP or patents rights.

- Who are the arbitrators of ISF Arbitration Chamber?

ISF Board of Directors has appointed a list of arbitrators, experts in the domain of intellectual property and EDV.

In the case of a dispute related to EDV, arbitrators will take a decision based on the latest consensus on the concept, that has been approved by the General Assembly in 2025 [link to the latest version of the IP Rules].

They will also follow the guidelines of EDV threshold developed by ISF members over the years and available on ISF website [link to the tab IP and EDV].

- How to request an arbitration?

The conciliation/mediation/arbitration process is very similar to the one related to Trade Rules but organized only by ISF Arbitration Chamber.

A deposit of CHF 5,000 must be paid to the ISF Secretariat at the time of making the application.

Awards by the ISF Arbitration Chamber may be the subject of an appeal, under the same conditions as a trade arbitration.