

Arbitration Rules of the European Court of Arbitration

(Corte Arbitrale Europea, Cour Européenne d'Arbitrage,
Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof).

PREAMBLE

1. The European Court of Arbitration (Cour Européenne d'Arbitrage, Corte Arbitrale Europea, Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof) (hereinafter called the "Court of Arbitration" or "Court") is an emanation of the European Centre of Arbitration (Centre Européen d'Arbitrage [CEA] having its seat in Strasbourg at 3, Quai Jacques Sturm) (see its Statutes and Internal Rules) and is not a legal entity different from it

The Court is managed by an Executive Committee composed of 5 members of the Council of the European Centre of Arbitration (CEA); these are the President of the Council and four other members appointed by the Council.

The Court has Secretariats (Greffes-Geschäftstellen-Segretariati della Corte) at the following addresses:

- 3, Quai Jacques Sturm, F-67000 Strasbourg (France)
- 3, Viale Cassiodoro, I-20145 Milan (Italy)
- Unsoldstr. 20, D-80538 München (Germany)

National delegations also exist in other countries (Appendix 1), each one run by a National Executive Committee.

2. The Court shall administer the organisation of domestic and international arbitral proceedings in conformity with the present Rules (and/or other rules set out by the European Centre of Arbitration or by a Delegation of the same with the Court's approval) submission to which the parties will have agreed.
3. For disputes of an international character such as those for which a national delegation is not competent (see articles 2 and 3 of the Internal Rules of the Court) or which the parties have expressly referred to, the Executive Committee of the Court has the power to and may
 - appoint arbitrators
 - organise and supervise the arbitral proceedings
 - fix the amount of the advance payments and tax the arbitration costs according to the Arbitration Rules and to the attached Schedule (Appendix 4)
 - control the activity of the secretariats.
4. The National Delegations of the Court shall administer the organisation of the domestic arbitral proceedings which are within their jurisdiction.

5. All references to the Court refer to the National Executive Committee of a National Delegation in respect of arbitral proceedings which fall within the jurisdiction of such National Delegation and otherwise to the Executive Committee of the Court.
6. The adoption by the parties of the Court's Arbitration Rules shall constitute acceptance by the parties of the Internal Rules which govern the functioning of the Court, of the Executive Committee of the Court and of its National Delegations, within their respective areas of jurisdiction.
7. For each dispute referred, the Court will form an Arbitral Tribunal which shall conduct the arbitral proceedings.
8. These rules apply to all arbitral proceedings which come within the jurisdiction of the Court of Arbitration.
Subject to the approval of the European Centre of Arbitration, each National Delegation may propose the adoption of arbitration rules, differing from the Rules of the Court for the purpose of administering arbitral proceedings which fall within its jurisdiction.
In the absence of such rules, the Arbitration Rules of the Court will apply.
9. Any applicable mandatory statutory procedural provisions shall as relevant automatically replace any conflicting provisions of these Rules.
10. The terms "European Court of Arbitration", "Court of Arbitration" and "Court" will refer to the body of the Centre which is responsible for administering arbitral proceedings (directly or via its national delegations even through a member of the relevant Executive Committee designated for this purpose) and for exercising the other functions provided for by these Rules as well as by the Internal Rules of the Court.
The term "Arbitral Tribunal" refers to a sole arbitrator or to more than one arbitrator, confirmed or appointed by the Court to determine a particular dispute.
11. The term "Secretariat" refers to the Secretariat Arbitral unique defending price circumstances share both penteval of the court or of its national delegations which has jurisdiction over that dispute.

FIRST PART

Article 1 - GENERAL RULES

1. Any disputes referred to the Arbitral Tribunal will be determined in accordance with the following Rules.
2. By agreeing to refer a dispute under these Rules, the parties undertake to contribute to a quick and proper determination of their dispute and to refrain from doing anything which might cause unreasonable delays or raise unnecessary obstacles to the development of the proceedings.
3. The proceedings and the award are confidential.
Notwithstanding the requirement of confidentiality, the Court is authorized by the parties to

publish the substance of an award subject to preserving the anonymity of the parties.

4. The Court has made available a number of standard clauses which include two standard arbitration agreements, one providing for a right to appeal - by way of rehearing - to an appellate arbitral tribunal and the other one without such right of appeal.

Unless the parties have excluded it by adopting by mutual agreement the standard clause which does not provide for arbitral appellate proceedings or by expressly excluding it before the final hearing, the award will be open to arbitral appellate proceedings, subject to any applicable mandatory provisions to the contrary.

5. If one of the parties refuses to take part in the arbitral proceedings, such proceedings will nevertheless continue, subject to the possible application of article 8.

6. Appendix 3 of the Rules provides a recommended timetable for the timing of the proceedings. The Court will use its best efforts to maintain the time limitations as provided by these Rules and to ensure their compliance by all participants.

Save for mandatory time provisions, the Arbitral Tribunal may extend or vary other time limits after receiving a request from one or more of the parties or of its own volition. The Tribunal shall use its best efforts to ensure that the proceedings maintain, as much as possible, the time limits established by these Rules and as provided by Appendix 3.

Article 2 - *ARBITRATION AGREEMENT*

1. Following the filing of the request for arbitration as per art 3, the Court shall decide whether or not there exists "prima facie" an arbitration agreement

If the Court takes the view that such an agreement does not prima facie exist, or is manifestly void or does not refer the dispute to the Court, the Court will inform the parties of its findings.

If the parties maintain referral of the dispute to the Court, the parties shall enter into a new arbitration agreement in writing.

2. If one party submits that the contract containing the arbitration agreement is null and void or has not come into existence or that the arbitration agreement itself is null and void or non-existent, while the Court had found the agreement to be prima facie in existence and valid, the Arbitral Tribunal shall remain seized and have power to determine at any time in the proceedings as to the non-existence or nullity of the contract and or the arbitration agreement. The Arbitral Tribunal may make such a determination in its final award.

PART TWO : THE INITIAL PART OF THE ARBITRAL PROCEEDINGS

Article 3 - *REQUEST FOR ARBITRATION OR SUBMISSION*

1. The Court is empowered to act upon a request for arbitration based on an arbitration agreement, or a submission to arbitration, subject to the provisions of the applicable law

For domestic arbitrations within each country, the request or submission to arbitration shall be filed with the secretariat of the relevant National Delegation, where such exists.

In all other cases, the request or the submission shall be filed with the Strasbourg Secretariat of the Court

2. The arbitral proceedings shall be deemed to commence on the day of receipt of the request by the Secretariat of Strasbourg or by the Secretariat of the Executive Committee of the relevant National Delegation, as per article 3.1. Hereinafter, references to the Secretariat will mean to the Secretariat of the Court for arbitral proceedings within the jurisdiction of the Executive Committee of the Court, and to the Secretariat of the National Delegation for arbitral proceedings within the jurisdiction of the Executive Committee of that delegation (see articles 2 and 3 of the Court's Internal Rules).

The request for arbitration is to be filed together with the following:

- the original arbitration agreement or a copy thereof to be certified according to the law of the State where the agreement was made;
 - two complete files containing the request, and the documents tendered to support it, and as many copies as there are parties and arbitrators. If the number of arbitrators has not yet been decided, three copies are to be submitted for the arbitrators;
 - an original certificate of the Registry of Commerce or an equivalent document for legal entities and a certified copy of a document proving identity of physical persons;
 - where the Claimant has elected to be represented by an attorney at law, an original power of attorney issued in favour of the attorney at law instructed to represent the Claimant, certified in the manner required by the law of the State where the power of attorney is issued;
 - the standard form containing the administrative particulars related to the arbitral proceedings (Appendix 2);
 - a cheque for a sum equivalent to 25% of the minimum fees of the arbitrator or of the arbitrators, if their number has been established or if the appointment of more than one arbitrator has been decided, and 25% of the administrative dues as established in the schedule scale relevant to the dispute. The amount of the fees is fixed, in accordance with that scale and will be adjusted in the event of the number of arbitrators being changed. Except if another party objects, a photocopy may be produced in lieu of the original.
3. The Strasbourg Secretariat or the Secretariat of the Executive Committee of the relevant National Delegation will send a copy of the Claimant's file to each Defendant within 7 working days after receipt of the request, in accordance with article 6, inviting each of them to file his/its Statement of Defence.
 4. Upon recording the request, the Secretariat will verify that the file is complete, will allocate to it an administrative reference number and will acknowledge receipt within 7 days after its receipt, together with any possible comments as to form requirements as well as with a possible request to complete the file.
 5. Payment in respect of balance of costs and fees is to be made pursuant to article 8.4.
 6. The Secretariat shall inform the Court of what above as soon as possible.

Article 4 - *STATEMENT OF DEFENCE*

1. The Court will fix a time-limit for the Defendant to file his Statement of Defence advising him that if the Defendant fails to do so the arbitral proceedings will continue.
The time limit for filing shall be 4 weeks.
The Court may extend the time limit if it considers it necessary and justified to do so.

2. In accordance with Article 6 the Secretariat shall forward to the Claimant a copy of the Statement of Defence lodged by the Defendant together with the supporting documents and a request for the costs and fees to be paid by the parties to the dispute, in accordance with Article 3.2 above.
3. In accordance with Article 3.2 the Defendant is required to pay 25% of the costs and fees stated by the schedule in force at that time and applicable to proceedings in which no counterclaim is made. In the event of a counterclaim being made, the Claimant shall pay an additional 25% of the costs and fees based on its claim and the Counterclaimant will pay 50% of the costs and fees based on its counterclaim.
Any party joining the proceedings - if it is so allowed - or making an additional claim, will also pay an advance of half of the costs and fees based on its claim as provided in the Schedule marked Appendix 4.
4. The Claimant shall inform the Court within 10 days after receipt of the Statement of Defence of its intention to file a Reply to the Statement of Defence.
The Reply must be forwarded to the Secretariat within three weeks after receipt by Claimant of the Statement of Defence together with the List of Questions as required under article 12. The proceedings shall continue whether or not that notice and a Reply is filed within the time limit stated above.
5. Any possible Rebutter shall be submitted in compliance with the Rules as they apply to the Statement of Defence.
6. The Secretariat shall send a copy of the files received by it to the Executive Committee or to the person appointed by the Executive Committee for the purposes of administration of those arbitral proceedings .

Article 5 - *ADDITIONAL CLAIMS AND CLAIMS BY PARTIES JOINING THE PROCEEDINGS*

1. Claims made by the parties may be amended in the course of the proceedings provided such amended claims remain within the ambit of the arbitration agreement and provided that the facts and acts upon which such claims are founded remain sufficiently proximate to the original claims.
2. The defendant may make a counter/claim.
This must be submitted at the same time as the submission of Statement of Defence. Its form and contents must comply with the same requirements set out in articles 3 and 4 for all other claims.
3. The joinder of a third party to arbitral proceedings may only take place if the parties to the arbitration and the third party concerned agree in writing and the joinder is accepted by the Arbitral Tribunal.
4. The rules as provided in article 4 shall apply to all additional claims, counterclaims and claims by parties joining the proceedings.
The Defendant to the counterclaim will have the right to reply to the counterclaim within the time limit provided for in article 4 (1). The counterclaimant will be entitled to reply according to article 4 (4) and (5).

Article 6 - *NOTIFICATIONS*

1. The Secretariat will confirm any receipt and give any notice to the parties by fax or by e-mail, unless notice by fax or by e-mail is excluded by the law of the recipient's State. The fax or e-mail will be confirmed by registered letter with return receipt.
2. All pleadings and other procedural pleadings of the parties must be sent to the Secretariat by fax unless notice by fax is excluded by the law of the recipient's State.
They will also be sent by registered post (with return receipt) to the parties entitled to receive them; a further copy being sent to each arbitrator and two copies to the Secretariat of the Court.
3. All other communications the parties may wish to make directly to the arbitral tribunal will be made as provided for under sub-par 2 above, with a copy to the other parties and to the Secretariat.
4. The Arbitral Tribunal shall forward to the Secretariat of the Court two copies of all correspondence exchanged between themselves and the parties.

Article 7 - *TIME-LIMITS*

1. The Court shall ensure that the proceedings will take place within the time limits provided for by art 1 (6).
2. When an act or a formality required under the present Arbitration Rules or required by the Arbitral Tribunal must be completed before a nominated deadline, time runs from the date of the act or of the event or of the decision or service which gives rise to it.
If the deadline is expressed in days, that of the event, decision and service is not taken into account. If the deadline is set in months then the deadline expires in the last month on the day with the same date as the event, decision, act or service which gave rise to it. If there is not such a day, the deadline expires on the last day of the month. If the time limit is in months and days, the months are counted then the days.
Deadline compliance shall be satisfied by delivering the requested document or the information by hand, by mail or by courier, prior to midnight of the last day of that time limit.
If the time limit expires on a Saturday or Sunday or on an official holiday in the State where service must take place, then it will be deemed to expire at the end of the next working day.
3. The time limits shall be applied by the Arbitral Tribunal without restricting the rights of the defence nor violating the imperative requirement of expedition of the proceedings.
4. No pleadings nor documents may be produced after the date fixed by the Arbitral Tribunal having regard to the time schedule of the proceedings, save for documents relating to facts occurring after the said date, such as death, supervening disability, changes in the standing, insolvency procedure against one party or like impediments.
5. As a general rule, any party causing an unjustified delay of the proceedings arising from late production of documents and/or late amendments to its claim may be charged with all costs and fees resulting from such a conduct.

Article 8 - ADMINISTRATIVE DECISIONS OF THE COURT OF ARBITRATION

1. If the dispute is manifestly not arbitrable, the Court of Arbitration will not to continue the proceedings. In all other cases the Court will continue the proceedings by appointing arbitrators, in accordance with article 9.

2. In compliance with the terms of article 9 and in the absence of a choice by the parties, the Court will determine the number of arbitrators, and shall appoint them according to art 9 (2) The Court shall notify the parties of its decision.

The Arbitral Tribunal shall be formed according to article 9, including, where and if appropriate, in the situations provided for by art 5.

Even if the date determined for the filing of the Statement of Defence has been postponed, the Arbitral Tribunal will in any event be appointed within ten days following the preliminary meeting.

3. If the parties have not agreed otherwise, the Court shall fix the place of arbitration having regard to all the circumstances of the dispute, including the place of residence of the parties, the place where the interests involved in the dispute are located, the requirements for taking evidence, and more generally all the aspects of the dispute, avoiding, in so far as it will be possible to do so, putting any party to a disadvantage by the Court's choice.

If the Court limits itself to the choice of the State in which the arbitral proceedings will take place, it will be for the Arbitral Tribunal to select the situs of arbitration within that State.

The Arbitral Tribunal may hear witnesses and take evidence other than at the situs of the proceedings, subject to a contrary agreement by the parties and to any applicable mandatory provisions.

Nevertheless, the hearings for oral debate will have to take place at the venue of the proceedings; likewise the award shall be made at the situs of the proceedings.

4. After taking into account previous payments against fees and costs made by the parties, and subject to para 6 of this article, the Court shall fix the balance of the fees and costs due by the parties (and the deadline for their payment) in accordance with to the scale of the Court as set forth in Appendix 4 based upon the claims and counterclaims, and in addition any subsequent claim.

Such sums shall be paid to the Secretariat of the Court of the European Centre of Arbitration - and marked for the attention of its Court of Arbitration - as follows:

- in the absence of a counterclaim, the balance consisting of 50% of the sum taxed shall be paid in equal parts by Claimant and Defendant within two weeks of the request for payment made by the Secretariat;

- in the event of a counterclaim each party will pay the sum taxed based on the amount of its own claim.

The proceedings will not continue until the sums as provided above are paid to the Court

Any additional claim by the parties or by a party joining the proceedings will be subject to further taxation of costs and fees, which will be provisionally charged to the party making such claim.

If one party refuses to pay the sum owed by it, the other party may pay the sum required within 15 days after the expiry of the time limit set out above, to enable the claim in issue to be dealt with.

5. Following the appointment or confirmation of the Arbitral Tribunal in accordance with Articles 8 and 9, the Court shall transfer to the Arbitral Tribunal the entire file.

The Tribunal shall confirm receipt of the file.

The Court shall inform the Arbitral Tribunal, at the appropriate time, of its receipt of the sums due under articles 3 (2), 4 (3) and 8 (4).

The Court may make full payment of the costs and fees as provided under article 8 (4), a precondition for the carrying forward of the proceedings.

If payment of the fees is not made within the two time-limits provided for in article 8 (4) the Arbitral Tribunal shall assume that the parties have agreed to end the arbitral process.

In the event of partial payment and in the absence of a counterclaim, the proceedings may be stayed pending payment in full.

In the event of a counterclaim or of other claims, the proceedings may continue only as to those claims as to which full payment as required has been made.

6. The Court may during the proceedings require the parties to make payments, in addition to the fees and costs already advanced, not only in the event of additional claims or of admissible amendments to the previous claims, but also in the event of a new or special complexity of the dispute which justifies an increase in the arbitrators' fees and administrative costs.

The scale in Appendix 4 may only be exceeded by order of the Court made with reasons.

7. The Secretariat shall issue invoices for costs and fees in the name of the European Centre of Arbitration-Court of Arbitration. The remuneration of the arbitrators shall be in accordance with Article 9 of the Court's Internal Rules.

8. If failure to pay costs and/or fees has resulted in a stay of proceedings by the Court for a period longer than 6 months, the arbitrators will be discharged of their duty to make the award and the proceedings will be filed away by the Court.

The Court will inform the arbitrators and the parties of such discharge and action.

In this event, the Court, in addition to the fees due to the arbitrators, shall retain as payment for its dealing with the file a lump sum equivalent to between 20% and a maximum of 80% of the administrative costs as otherwise provided by the relevant scale. The parties shall pay besides this lump sum the fees due to the arbitrators. The Court shall return to the parties any balance remaining to the parties, leaving to them to apportion such amount finally as between themselves.

Article 9 - *THE ARBITRAL TRIBUNAL*

1. The parties shall be summoned by the Secretariat to a preliminary meeting chaired by the member of the Executive Committee designated for this purpose unless such a meeting is clearly unnecessary.

At this meeting the parties will be invited by the Court to form the Arbitral Tribunal.

If the parties have agreed to appoint three arbitrators, each party will nominate one arbitrator. The third arbitrator, who shall act as the Chairman of the Arbitral Tribunal, will be jointly nominated by the parties by consent.

In the absence of an agreement by the parties as to the Chairman, his nomination will be made by the two party-appointed arbitrators or, in event of disagreement between them continuing

for 10 days after the preliminary meeting, the Chairman will be appointed by the Court. If, by agreement of the parties, the number of arbitrators is to be three and the parties agree that the arbitrators be appointed by the Court, the function of the preliminary meeting will be to receive the views of the parties as to the constitution of the Arbitral Tribunal, before the Court's appointment of the arbitrators and the Chairman.

2. A written record reporting the comments and decisions as required above will be drawn and signed by the parties and by the member of the Executive Committee and will be sent to the parties and to the Secretariat.
3. Other than in exceptional circumstances, the Court shall confirm the nomination of the arbitrators made by the parties.
In the event of lack of a required nomination of the arbitrators by the parties for any reason, or where the Court fails to confirm nominations made by the parties, the Court shall appoint the Arbitral Tribunal in accordance with Article 8 (2).
4. Disputes will be settled by an Arbitral Tribunal comprising a sole arbitrator or comprising an odd number of arbitrators. The Arbitral Tribunal shall be chaired by the arbitrator appointed for this purpose. All references in these Rules to the Chairman of the Tribunal shall be read as applying to a sole arbitrator.
5. If the parties have not specified the number of arbitrators, the Court shall decide their number, having regard to the nature of the dispute and to the specific problems and features of the dispute.
Except in very special cases, as a rule, the Court shall appoint a sole arbitrator to facilitate a speedier settlement of the dispute and lower costs of the proceedings.
6. If there are more than two parties and agreement on a sole arbitrator has not previously been made by the parties, two or more of the parties may propose the appointment of a common arbitrator.
The Court shall ensure that such an agreement will not affect the rights of any of the parties, including those which have proposed the appointment of a common arbitrator.
If it appears that there is the possibility of one or more of the parties not receiving equal treatment as to the appointment of arbitrators or if it appears impossible to constitute a Tribunal, the Executive Committee of the Court or the National Executive Committee having jurisdiction shall appoint a sole arbitrator.
7. The Chairman of the Tribunal will be appointed by the Court, unless otherwise appointed pursuant to Article 9 (1).
8. As soon as the Court has definitely appointed or confirmed the nomination of the arbitrators made by the parties, the Court shall notify them of the constitution of the Arbitral Tribunal.
9. The arbitrators shall be, have been, and in future during the arbitration proceedings remain completely independent of the parties and act impartially in their role as arbitrators.
Within the ambit of the arbitral proceedings, the arbitrators shall have formal contacts with counsel for the parties and with the parties themselves only as provided by the arbitral proceedings.
In the event of exchange of correspondence between a party and the Arbitral Tribunal the Tribunal shall ensure that each party's rights to have full knowledge of the statements made

by the other party or parties are met in all circumstances.

10. The Court shall notify the arbitrators of their appointment and shall invite them to advise, within five working days of receipt of notice of appointment, whether they accept the appointment as arbitrator and to undertake to abide by the applicable Arbitration Rules. Such notice by the arbitrators shall be forwarded by facsimile transfer or by e-mail or by recorded mail delivery with return receipt.

Upon acceptance, the arbitrators shall provide the Court with a statement confirming their complete impartiality and independence from the parties, from their management and shareholders and from anyone directly or indirectly connected with them including their counsels and legal advisors, or setting forth any connections they may have had with any of them, and definitely confirming their acceptance to be governed by the Arbitration Rules of the Court and the Court's Internal Rules.

Absent acceptance by the arbitrator within five working days of receipt of notice of appointment and in the absence of any communication by the arbitrator to the Court within 3 working days following the subsequent reminder which if necessary will be sent to the arbitrator by the Court, such absence shall be taken as an indication that the appointed arbitrator is not prepared to act and shall automatically effect revocation of his appointment as arbitrator.

11. The Secretariat shall send to the parties a copy of the arbitrator's acceptance and of his declaration of impartiality and independence, as well as of any subsequent information received in this respect.

The Court shall immediately invite the parties to make their comments within 7 working days of receipt of the Court's notice. The Court will then decide on the challenge.

If an arbitrator is unable to accept the appointment for any reason as provided in subparagraphs (9) and (10) of this article, another arbitrator will be appointed in his place by the Court. If, at any stage of the proceedings new matters raising questions as to the impartiality or independence of one or more arbitrators become known, the Arbitral Tribunal shall inform the Court.

Article 10 - *CHALLENGE AND REPLACEMENT OF ARBITRATORS*

1. The parties may challenge any arbitrator not appointed by them if they consider that they have grounds to cast serious doubts on his impartiality or independence or any other reason exists which would prevent him from effectively participating in the activity of the Arbitral Tribunal.

2. An arbitrator nominated by a party may not be challenged by it except by leave of the Court.

3. The challenge shall be filed with the Secretariat in duplicate copy.

The challenge must contain the alleged grounds for the challenge.

To be admissible the challenge must be filed within the mandatory time-limit of 15 days following communication to the parties of the composition of the Arbitral Tribunal or the discovery of grounds for the challenge.

The Secretariat shall send the challenge to the Executive Committee.

4. The Court shall rule on the admissibility and merits of the challenge after having heard the arbitrator and the parties, unless all the parties agree to waive their right to be heard.
In exceptional circumstances, where hearing the arbitrator may give rise to difficulties and threatens to result in a delay in the arbitral proceedings, then this hearing may be dispensed with and the Court may rule without hearing him.
5. By a decision of the Executive Committee, the Court may replace an arbitrator if he does not fulfil his obligations under these Rules, is in serious breach of them and has failed to promptly cure the breach notwithstanding being requested to do so.
6. Upon a valid challenge of an arbitrator or his removal, the Court shall appoint a new arbitrator without consultation of the parties.
7. Following the removal or replacement of an arbitrator, the new Arbitral Tribunal shall decide, after having heard the views of the parties if and to what extent parts of the proceedings already conducted are to be repeated.
8. If the Chairman of the Tribunal is replaced, the Court shall appoint his successor.
9. The decision to replace or remove an arbitrator will be communicated to the parties who shall treat it in confidence.
10. The Court needs not to disclose the reasons of its decision to the arbitrator, who will receive only an excerpt of the decision to remove or replace him.
11. All decisions by the Court as to the constitution of the arbitral tribunal shall be final.

PART THREE: THE PROCEEDINGS

Article 11 - *GENERAL RULES*

1. The rules governing the proceedings are set out in these Rules.
Where these rules are silent and the parties have not agreed otherwise, the Arbitral Tribunal shall decide on any additional procedural rules to be applied.
2. Where deemed necessary by the Arbitral Tribunal, the Tribunal shall issue procedural orders. Those orders cannot be appealed, unless such an appeal is available under the mandatory provisions of the applicable procedural law.
3. The parties may agree upon the substantive law applicable to their dispute.
If the parties have not so agreed, the Arbitral Tribunal shall apply the substantive law determined by application of the conflict of law rules common to the legal systems of the respective parties, unless such the substantive law is contrary to the reasonable expectations of the parties. In the absence of any common conflict of laws rules, the Arbitral Tribunal may apply the law of the State with which the contract is most closely connected; in the absence of that, it shall be free to apply another criterion.
If any provisions of the substantive law as chosen by the parties or by the arbitrators are in conflict with mandatory provisions of public policy of the *lex fori*, such mandatory provisions take precedence over the relevant substantive law chosen by the parties or by the arbitrator.

4. If the parties cannot agree on the procedural language (s), it/they will be determined by the Arbitral Tribunal, having regard also to the language predominantly used by the parties in their contractual relationships.

The Arbitral Tribunal shall avoid a language which would cause a manifest disadvantage to one of the parties.

The Arbitral Tribunal may, in exceptional circumstances, decide upon the use of two languages, but it shall ordinarily favour the choice of only one procedural language.

Oral argument will be in the language (s) which has / have been selected.

Article 12 - *TASKS OF THE ARBITRAL TRIBUNAL*

1. After consideration of the written submissions and following the first preliminary hearing, the Arbitral Tribunal shall forward to the Court and to the parties a "List of the Questions to Be Resolved" in order to determine the dispute, and a timetable in accordance with Art 1 (6) and Appendix 3.
2. This List will be drawn up by the Arbitral Tribunal within 20 days after its receipt of the file including the Request for Arbitration, the Statement of Defence and the other documents. If considered necessary, the Court may extend this time-limit.
3. The List required by sub-paragraph (1) above shall be forwarded to the Court and to the parties.
4. The Tribunal shall resolve the dispute in accordance with the arbitration agreement and these Rules and any other rules agreed upon by the parties and any mandatory procedural provisions of the *lex fori*.
5. If the parties so agree, the Tribunal may conduct and determine the dispute as *amiable compositeur*, i.e., decide *ex aequo et bono*, therefore according to natural justice.
6. The Tribunal shall invite the parties to reach a settlement, at the commencement of the arbitral proceedings and during the proceedings at any time which the Arbitral Tribunal deems appropriate.

Article 13 - *JURISDICTION*

The Arbitral Tribunal shall rule on the validity and construction of the arbitration agreement and on its own jurisdiction and its ambit in respect of the dispute referred.

Article 14 - *THE ARBITRAL PROCEEDINGS*

1. The Arbitral Tribunal shall convene a first hearing under para 1 of this article within three weeks after the filing of the Rebuttal or within any extended time limit as it deems necessary in order that the initial phase of the proceedings be completed.
2. The Arbitral Tribunal shall ensure that the conduct of the proceedings complies with these Rules, and shall apply all necessary measures to ensure this, including if deemed necessary by way of orders made under the provisions of Art 11 (2).

3. During the proceedings, the Arbitral Tribunal will:
 - convene a hearing to organize proceedings and to draw up the timetable in accordance with Appendix 3. The Arbitral Tribunal shall issue an order on any available evidentiary measures in accordance with subparagraph 1 above,
 - hold, if necessary, a second hearing for the evidentiary stage. This hearing is to be held at a date as close to the first meeting as is practicable,
 - fix the time-limit for the production of documents and the time limit for the final written pleadings before the hearing for final oral arguments in accordance with article 15 (5),
 - establish the date of the hearing for the final oral argument, to be communicated with reasonable notice to the Executive Committee and to the parties.
4. The Arbitral Tribunal shall invite the parties to attend the various hearings by stating to them the precise date, time and place of each hearing.
Each hearing shall be confirmed to the parties at least two weeks in advance of such hearing unless a particular urgency requires a lesser notice of confirmation.
The parties may waive such confirmation.
5. It is recommended that the parties be represented at the hearings by an attorney at law. They may also be accompanied and assisted by consultants.
6. Notwithstanding that a hearing has been duly convened, if the Claimant fails to appear in person or through Counsel without having given any reasonable grounds for his absence, then the matter may be struck off the hearing roll until the proceedings are either resumed or abandoned unless, the Defendant requests the Arbitral Tribunal to decide on the respective claims of the parties.
7. The Arbitral Tribunal may at any time require the parties to answer any queries and/or to produce documents and additional evidence.

Article 15 - *THE HEARINGS*

1. Before and during any hearing, and in particular during the final hearing, the Arbitral Tribunal will take such measures as to enable a fast and disciplined debate in adherence to these Rules and their Appendices, particularly the timetable as set forth at Appendix 3.
2. Subject to any contrary agreement by the parties, only the members of the Tribunal, the Secretary of the Arbitral Tribunal, if appointed, the parties, their duly authorized officers as well as their Counsel and consultants may attend the hearings.
3. A written record of proceedings will be taken at the hearings.
In the absence of a secretary having been appointed, as necessary, the Chairman of the Arbitral Tribunal shall designate, at the commencement of the hearing, the person responsible for this function for the remaining proceedings.
The written record of the hearing will be signed by the Chairman and by the Secretary, if appointed.
If the Arbitral Tribunal so deems, the hearings may be recorded and later transcribed, if considered necessary.
4. The Arbitral Tribunal shall ensure that the parties have been duly convened and confirm their

regular attendance at the hearings.

5. At the hearing for oral argument, the parties shall argue in the order previously decided upon by the Arbitral Tribunal.
The parties shall then answer any questions the arbitrators may put to them.
6. A detailed list of all the documents produced during the proceedings shall be submitted by each party at least fifteen days before the final hearing.
7. A pleading containing the final written argument may be filed not later than fifteen days before the final hearing, subject to contrary provisions of the applicable procedural law at the place of arbitration.
8. Where the applicable procedural or customary law so allow, the Arbitral Tribunal may allow, upon request of all of the parties, the filing, instead of the final written argument, of "cotes de plaidoirie", i.e. special files prepared for oral argument, each dealing with an issue and containing comments, reference to the previous procedural steps as well as photocopies of precedents and of legal writings and the documents produced during the proceedings.
Copies of the "cotes" must be delivered to the Court, to the arbitrators and to each of the parties within the time-limit set out for lodging the final written argument.
The "cotes" shall be a résumé and restatement of the pleadings, in view of oral argument, divided into subfiles one for each issue. Such issues must have already been raised by such party during the proceedings.
9. The pleading containing the final written argument or the "cotes de plaidoirie" may only contain a summary, that is a development of the claims, objections and other matters raised during the proceedings, unless a mandatory provision of the applicable procedural law allows the parties to present new elements.
If the submission of new elements is permitted by such a mandatory provision of the applicable procedural law, the party desiring to take advantage of this provision must give notice to the other parties in writing at the time of the first hearing both as to the possible contents of the new elements and as to the time limit for producing them, provided for by such provision, and that is intended to avail itself of it.
10. If a party makes such a submission on new elements, a reply by the other parties shall always be allowed. Such reply shall be delivered to each other party and to the arbitrators at least five days before the final hearing.
11. In the absence of such a written notice, any such new element contained in the final written argument or in the "cotes de plaidoirie", shall be strictly excluded as being in breach of due process and the arbitrators shall not take such new elements into consideration in their award.
12. The Arbitral Tribunal may, where considered necessary, order a new hearing to continue the gathering of evidence for its future decision or for discussion.
13. The Arbitral Tribunal may also, if it deems it convenient to do so and consistent with the principle allowing each party to respond on elements raised by the other parties, order the proceedings to be reopened after the scheduled final hearing.

14. The arbitrators shall keep their decisions confidential.

Article 16 - *THE EVIDENCE STAGE*

1. To enable the establishing of the relevant facts, the Arbitral Tribunal may take such steps as it may deem appropriate and necessary, and issue such orders in respect of the taking of any evidence which it may deem to be useful. The Arbitral Tribunal may with its order apply fines which may be based upon each day of non-compliance and as quantified by the Arbitral Tribunal, where the applicable statutory procedural law so allows.
If the Arbitral Tribunal is not empowered to apply or quantify fines, the amount of any allowable fine may be fixed by the competent state court.
2. If not empowered in its own right the Arbitral Tribunal shall request state courts to assist it to take evidence and to obtain from a third party or from the Administration such information as may be needed.
Any fine based on each day of non compliance allowed by the applicable procedural law may be ordered by the Arbitral Tribunal as it deems fit.
3. The Arbitral Tribunal is free to assess the weight to be given to the evidence submitted to it. Subject to any contrary mandatory provision, all differing forms or classes of evidence shall carry equal weight and will not be applied by higher or lower ranking.
4. The purpose of the evidence taking phase of the proceedings is, as far as possible, to establish the truth in the most efficient and fair possible manner.

Article 17 - *APPEARANCE IN PERSON - WITNESS EVIDENCE -INSPECTION*

1. Counsel for the parties - or the parties themselves if they are not represented - may call upon the parties to depose and/or call witness evidence including her/his Client provided no mandatory provision of the *lex fori* forbids the giving of such evidence.
2. The parties may examine witnesses and the parties directly before the Arbitral Tribunal. The Arbitral Tribunal shall ensure the proper order of such examination at the hearing.
3. A cross-examination of the witnesses and of the parties shall be permitted.
4. The Arbitral Tribunal may after that put questions to the witnesses and to the parties as it deems appropriate.
5. The Arbitral Tribunal may disallow any unnecessary evidence by witnesses and parties or any questions which are not admissible, not pertinent or superfluous.
6. The written record of the hearing will be made and signed by the arbitrators, the parties who have deposed, the witnesses and the secretary, if appointed.
7. Written statements by witnesses may be admitted as evidence.
A party against whom a witness statement has been produced may apply for that witness to be examined at the expense of the party which has produced the statement.
8. If permitted by the *lex fori*, the witnesses shall be sworn by the Arbitral Tribunal; if not so per-

mitted and one of the parties requests it, they will be sworn by the competent state court of the place where the evidence has to be taken.

If the witness has valid reasons for refusing to be sworn in the form provided for, the witness shall make an affirmation on his honour to be truthful.

9. If the witness does not appear or he refuses to depose as required, the Arbitral Tribunal may request the competent state court to order that he appears before the Arbitral Tribunal.

If the witness does not comply with such an order, the Arbitral Tribunal may require the party who has called the witness in question to request the competent state court to take evidence from the witness if that is allowed by the *lex fori* of said state court.

Where the mandatory rules of the *lex fori* permit, the Arbitral Tribunal itself may apply to the competent state court to take evidence from a witness.

The record of the court hearing shall be delivered to the Arbitral Tribunal. If no record is filed, such evidence will be deemed as not having been provided.

10. The Arbitral Tribunal, may order that the Arbitral Tribunal, or one of the arbitrators appointed by the Arbitral Tribunal for this purpose, and the parties be given access to a nominated place.

Article 18 - *PRODUCTION OF DOCUMENTS AND OF OTHER EVIDENCE*

1. The parties shall voluntarily produce the documents and related evidentiary material which support their claims, together with a list of such documents.

The documents, material and list shall be filed with the Secretariat of the Court together with copies for each of the arbitrators and for each party.

2. The Arbitral Tribunal may order a party to produce documents, or classes of documents or other relevant evidence, subject to the penalties for non-compliance as provided in Article 16 above.
3. The Arbitral Tribunal may empower an expert to examine such documents or other evidence.
4. If permitted by the law of the State where such evidence is to be taken, the Arbitral Tribunal may require third parties to produce documents, classes of documents or other evidence, applying, as appropriate, penalties for non-compliance in accordance with Art 16.

Article 19 - *EXPERTS*

1. The Arbitral Tribunal may, if requested by a party, order that an expert file a report.

Following submissions by the parties the Arbitral Tribunal shall appoint the expert, define his terms of reference after having heard the parties and fix a time-limit for the lodging of the report.

Where permitted, the party tendering this form of evidence shall request that the expert be sworn by the Arbitral Tribunal or by the state court of competent jurisdiction save for experts already sworn by a state court or when a new oath is not necessary.

The Arbitral Tribunal shall direct the party which sought the appointment of an expert to make an advance payment. The amount of such payment shall be fixed upon advice from the expert so chosen.

The advance payment must be deposited with the Secretariat of the Court within the time limit set by the Arbitral Tribunal, and will be paid to the expert at the appropriate time.

Where the deposit of the advance payment is not made within the limit set, the party being in default shall be considered as having abandoned its request that such an expert be appointed.

2. The Arbitral Tribunal may appoint an expert of its own volition, in the manner provided in sub-clause 1 above.
In this event, the amount of fees for the expert shall be equally divided among the parties.
3. Where deposit of the advance payment of its proportion of the expert's fees is not made by one of the parties, the other party may pay in lieu.
4. If such payment in lieu is not made the appointment of the expert may be postponed, unless the Arbitral Tribunal orders by way of an interim award the party in default to pay the necessary sum required.
5. The expert's report shall be filed with the Secretariat, which will send a copy of it to each arbitrator and to each party.
6. The Arbitral Tribunal, or the parties, may request the examination of the expert, who may be questioned by the Arbitral Tribunal or the parties or by the experts of the parties in accordance with the general provisions for witness evidence of Article 17.

Article 20 - *ADJOURNMENT OF THE HEARING*

In exceptional situations, the Arbitral Tribunal may order adjournment of a hearing to a future date, fixed by the Arbitral Tribunal, where the circumstances are determined by the Arbitral Tribunal as being a serious and legitimate reason.

The Tribunal is not bound to give reasons for such as a decision.

Article 21 - *CONSERVATORY MEASURES AND INTERLOCUTORY INJUNCTIONS*

1. It is desirable that the decision whether to grant or not, upon a party's application, conservatory measures or interlocutory injunctions, be made by the Arbitral Tribunal rather than by state courts. However the existence and terms of an arbitration agreement shall not act to prevent a party to such agreement from applying to state courts for conservative measures or interim injunctions.
2. If one of the parties applies to a state court for a conservatory measure or interlocutory injunction aiming to protect its present or future rights or if one of the parties has already obtained such a measure from a state court, the Arbitral Tribunal and the Court must be immediately informed of that occurrence.
3. The Arbitral Tribunal shall maintain its jurisdiction over the dispute and may, at the request of one or the other of the parties or on its own motion, review interim decisions of state courts within the ambit of a decision taken by the Arbitral Tribunal on the merits of the dispute.

4. The Arbitral Tribunal, as necessary, may grant conservatory measures and interlocutory injunctions including the requiring of the posting of a security when an urgent application for such measures is made, and the applicable procedural governing law and/or the *lex fori* so allow.
5. Before the arbitral proceedings have commenced, a party may apply for pre-arbitral interlocutory injunctions, subject to any contrary mandatory procedural provisions.

PART FOUR: THE ARBITRAL AWARD

Article 22 - *TYPES OF AWARD*

1. Prior to making its final award, the Arbitral Tribunal may make partial or interim awards and issue interlocutory injunctions in accordance with art. 21 (4).
2. Where the Arbitral Tribunal considers that a severable part of the dispute may be determined, the Arbitral Tribunal may so determine subject to any contrary mandatory procedural provision.
3. Upon request from the parties, the Arbitral Tribunal may also draw up a record of an award by consent, recording the settlement of the whole or part of the dispute arrived at by the parties and providing, by using proper terms, that the parties are bound to perform under such settlement. An award by consent will commit the parties to the terms of that award.

Article 23 - *THE AWARD*

1. The award shall be filed with the Secretariat, in a number of originals equal to the number of parties plus one original for the Court, within the mandatory time-limit of 9 months after the transfer of the file to the arbitrators, save for express extensions of time given by the Court. In exceptional circumstances, the Court may, pursuant to a fully reasoned and justified request, grant extensions up to a maximum of 6 months.
Any request(s) by the Arbitral Tribunal for an extension of the 9 months time limit for submission of the arbitral award must be filed by the Arbitral Tribunal with the Court.
The Court shall rule on the admissibility and merits of any request for extension, after the parties have been duly notified and heard.
2. Awards will be made by majority vote of the Arbitral Tribunal.
3. Awards will be issued in the language used in the proceedings.
4. The award shall contain:
 - the forename and surnames of the arbitrators and of any secretary appointed under article 15 (3),
 - the forename, surnames and addresses of the parties, of their possible representatives, attorneys at law and consultants as well as a description of their respective roles in the proceedings,
 - a reference to the terms of the arbitration clause or agreement,
 - the venue of the arbitral proceedings,
 - a brief summary of the claims and applications submitted by the parties,
 - the outcome of the taking of evidence,
 - an analysis of the facts upon which the decision is based,
 - the legal basis of the decision, except when the arbitrator had to act and determine as an *amiable compositeur*,
 - the findings of the award,
 - the ruling on costs, under art. 27,

- the place and time of issue of the award,
- the signatures of the arbitrators.

The findings of the decision must also comply with the rules and practice of the governing procedural law

5. The award must be signed by all the arbitrators.

However, if one of the arbitrators does not sign, is unable to sign or refuses to do so, this must be mentioned in the award together with the reasons for his failing to do so.

The signatures will, upon request by one of the parties and at its expense, be notarized and legalised.

If required the Court shall issue certified copies of the award, which may bear also the Apostille.

6. The Secretariat shall make a record of the filing of the award, informing the parties of such filing and will ensure that the parties have made all due payments and, in default, will require all due payments to be made.

7. The parties accept that actual delivery of the award by the Secretariat will only be made after full payment of the fees, administrative costs and other payments requested by the Court

8. If one of the parties fails to pay the sum owed, the other party or parties must pay such amounts in its place.

All parties to the proceedings are jointly and severally liable and responsible to the Court for payment of the administrative costs, arbitrators' fees and of (any other) expenses of the proceedings.

9. Upon full payment, the Secretariat of the Court or the Secretariat shall send an original of the award to each party at the same time by registered delivery with return receipt

10. If the arbitrator or one of the arbitrators directly delivers the award to one party or to the parties, he will forfeit the right to payment of his fees from the Court and will be liable to the Court and to the other arbitrators respectively for payment of the administrative costs and of their fees not already fully paid by one or the other of the parties.

11. The arbitral award shall have the characteristics and force conferred on it by the applicable procedural law

12. By acceptance of these Rules, the parties expressly waive their right to any redress against the award, except where the right of appeal - by rehearing - by an Appellate Arbitral Tribunal has not been excluded and is instituted by application to the Court, which finds that the requirements for the admissibility provided for by article 28 below are satisfied, and /or certain attacks against the arbitral award or the appellate award may not be validly waived by the parties pursuant to mandatory provisions of the applicable procedural law.

13. A party disputing the first instance award assumes the risks and consequences of a possible inadmissibility and/or dismissal, for any reason whatsoever, of its appeal to the Appellate Arbitral Tribunal including any mandatory or public policy provisions which might be raised by the other party or which may be raised by the Appellate Arbitral Tribunal on its own motion.

It may be in the interest of the parties to ensure that any other possible attacks, available at the time of the issue of the first instance award or after it, be preserved.

Article 24 - *FILING OF AWARD*

If and as required by a mandatory provision of the applicable procedural law and/or by the *lex fori*, the award shall be filed by the Court or by the parties with the state court having jurisdiction over the place of arbitration or with such institution as is required by such provisions.

Article 25 - *FAILURE TO DECIDE, REQUEST FOR CORRECTION OF A CLERICAL ERROR AND SUPPLEMENTARY AWARD*

1. Mistakes and strictly clerical errors may be remedied by the Arbitral Tribunal which made the award, provided the matter has not been referred to an Appellate Arbitral Tribunal. The Arbitral Tribunal which made the award may act upon simple application of one of the parties or by a common request of the parties.

The Arbitral Tribunal may also raise this issue of its own volition.

The Arbitral Tribunal will decide upon correction after having heard the parties or after having summoned them.

An application for correction must be filed within one month of the award having been delivered. The decision on an application for correction shall be written on the original award and on the authenticated copies of the award and will become an integral part of it

An application for correction shall only be examined where such application does not conflict with the requirements of applicable mandatory procedural provisions.

Apart from applications for correction, in all circumstances the parties are permitted to challenge an award under the provision of these Rules

2. An Arbitral Tribunal which has not ruled on one of the claims may still complete its award provided this does not affect the finality of an earlier award on other claims. In such circumstance the Arbitral Tribunal may be seized as provided by paragraph 1 above

Article 26 - *FILING AWAY OF THE RECORD*

The file of the arbitral proceedings will be deposited with the Secretariat having jurisdiction where it will be maintained for a period of 10 years from the day the award was made.

The available originals of the documents tendered in the arbitration will be collected by the parties or may be sent to the parties subject to reimbursement of the costs.

Article 27 - *PROCEDURAL COSTS*

1. The procedural costs are made up of the administrative costs of the Court and of the arbitrators' fees and disbursements, of the experts, translators, interpreters and stenotypists fees and of any other expenses related to the arbitral proceedings.
2. The administrative costs of the Court the arbitrators' fee and any other costs of the prod-

ceedings shall be fixed by applying the schedule of such fees in effect on the day of filing of the request for arbitration and in accordance with the relevant scale (Appendix No 4) which forms an integral part of these Rules.

3. The disbursements are taxed based on evidence of disbursements actually made.
4. The Arbitral Tribunal shall determine in its findings the party bearing the costs of the proceedings.
The arbitrators shall have the power to award the costs against a party or parties in such proportion as the Arbitral Tribunal deems appropriate.
5. If the Arbitral Tribunal fails to rule on the costs, the parties may request the Arbitral Tribunal to issue a supplementary award under the provisions of article 25 above.
6. The parties are jointly responsible for the payment of all procedural costs.
7. Irrespective of the substantive determination of the dispute on the merits; the Arbitral Tribunal may order against one of the parties the costs, disbursements and the part of the fees caused or arising from any unjustified and dilatory procedural conduct of that party.
8. The unsuccessful party shall reimburse to the successful party that party's costs and attorney's reasonable fees.
In appropriate circumstances, the Arbitral Tribunal may order the unsuccessful party to pay only a proportion of the successful party's fees and costs.
The Arbitral Tribunal may also order that each party pay its own costs and attorneys' fees.

Article 28 - *APPELLATE ARBITRAL PROCEEDINGS*

1. Subject to any contrary provision of applicable mandatory law, and unless expressly excluded by agreement of the parties, the Award is subject to the right of appeal to an Appellate Arbitral Tribunal by way of rehearing.
2. A party intending to apply for appellate arbitral proceedings against an award rendered according to the present Rules, shall file a request with the Secretariat of the Court in Strasbourg, within a mandatory time-limit of 40 days from service of the first instance award made by means of service conforming to the procedural requirements of the Defendant's country of residence. The Court in Strasbourg has sole jurisdiction in arbitral appellate proceedings.
3. The appeal will be admissible only if it is accompanied, unless otherwise directed by the Court by order made with reasons and based on exceptional circumstances, by the deposit by the appellant with the Secretariat of the Court in Strasbourg of the principal sum, and such interest and costs as may have been awarded against it by the award under appeal.
The appellant may lodge with the Secretariat of the Court in Strasbourg in lieu of such a deposit a guarantee payable unconditionally upon demand issued by a primary bank with registered or operating offices in Strasbourg as per standard form approved by the Court, payable in accordance with the instructions which shall be given to that bank by the Arbitral Tribunal or by the Secretariat of the Court in Strasbourg.
Where it is not possible to establish an express money sum as required above and/or where

the appellant was partially successful in the first instance award, the appellant shall lodge the amount or a guarantee on demand as provided above as may be determined by the Court for the purposes of ensuring appropriate enforcement of the contemplated appellate award.

4. The appellate arbitral proceedings shall allow a full review of the dispute by way of rehearing including dealing in particular with admissibility, the facts and the merits.
5. The Court will appoint an Appellate Arbitral Tribunal consisting of three arbitrators and will fix the place of arbitration.
6. The procedural rules to be applied, in addition to what is expressly provided for hereabove for second instance proceedings, will be those governing the first instance arbitral proceedings under these Rules.
7. The Appellate Arbitral Tribunal shall make its award within nine months of receipt of the file. This time-limit may be extended as provided for in article 23.
8. The appellate award is subject to no attacks save for those which the parties may not validly waive under the applicable mandatory procedural provisions.
9. The Appellate Arbitral Tribunal has the power to deal with the funds deposited and as appropriate with the guarantees lodged, to the benefit of the party found by it entitled to them. At the time it makes its award, the Tribunal will give instructions to the Secretariat of the Court, and where appropriate to the guaranteeing bank, to return the funds deposited or to cancel the guarantee, or to cause the funds or guarantees to be returned, or to pay them in part or in full to the party entitled to them under the appellate award, and shall deliver to the guaranteeing bank the appellate award.
10. This shall authorise the bank referred in sub-paragraph (3) above to validly deal with the monies under the guarantee issued by it, in accordance with the instructions which shall be given to it by the Arbitral Tribunal or by the Secretariat of the Court

Article 29 - *PROVISIONAL PROVISION*

Any arbitral proceedings in existence at the time when these Rules take effect will be regulated by the Rules in effect at the time the request for arbitration was filed.

Internal Rules of the Court of Arbitration of the European Court of Arbitration

(Corte Arbitrale Europea, Cour Européenne d'Arbitrage, Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof).

1. *The Centre*

The European Arbitration Centre (hereinafter called The Centre) is an association registered with the *Tribunal d'Instance* (County Court) of Strasbourg and is a legal entity under the law applicable in Alsace and Moselle. Its registered offices are at 3 Quai Jacques Sturm, Strasbourg.

The Centre is administered and governed in accordance with the statutory provisions as may currently be in force and with its By-Laws which are filed with the *Tribunal d'Instance* of Strasbourg.

The Centre primarily runs an arbitration institution called the European Court of Arbitration (hereinafter called the Court). Its name is used in French, Italian, English, Spanish and German.

The Court has three Secretariats:

- F 6700 Strasbourg (at the headquarters of the Association) in France,
- I 20145 Milan (3, Viale Cassiodoro) in Italy,
- D 80538 München (Unsoldstr. 20) in Germany.

The three Secretariats shall be recorded in the above order in the documents of the Centre and of the Court and will be preceded by the words Secretariat - Greffes - Segretariati della Corte - Geschäftsstellen.

The Court has National Delegations (hereinafter called National Delegations) which are domiciled at their respective Secretariats.

The National Delegations in existence on May 28, 2004 are the French, Italian, German, Belgian, Swiss, Spanish, Portuguese and Turkish delegations.

They have the powers conferred on them by the Centre.

The Council of the Centre may create other national delegations where it sees fit to do so, subject to ratification by the General Meeting of the Centre.

The administration of national and international arbitral proceedings, of mediation, of documents only arbitration, of pre-arbitral referee (hereafter "the proceedings") is entrusted to the bodies detailed below, as provided for hereafter.

2. *Applicable Rules*

In order to establish the competence of a National Delegation or that of the Court, the European Court of Arbitration and its National Delegations will in respect of a given State consider as domestic all proceedings, between two or more parties domiciled or having the nationality of said State, taking place in the said State and being governed in addition to these Rules by the procedural law in force in that State.

All other proceedings will be considered by the Court, and by its National Delegations, as international.

3. *Bodies Competent in the Administration of the Proceedings*

The bodies which have competence and jurisdiction to administer the proceedings are:

- for those proceedings which, in accordance with Article 2, are domestic in respect of a State or which the parties have chosen to submit to the competence of the National Delegation of that State, the Executive Committee (as defined by Article 5 below) of the National Delegation of that State, if one exists, and its Secretariat,
- for all other proceedings and those at an appellate level, the Executive Committee of the Court and the Secretariat at Strasbourg,
- for those proceedings for which mediation is foreseen, the Executive Committee of the Mediation Division of the Court,
- for disagreements in the field of franchise, the Executive Committee of the Franchise Division of the Court,
- for disagreements which fall within the ambit of a specialised Division, the Executive Committee of that Division, except for domestic matters, for which the Executive Committee of the National Delegation involved will have competence

4. *Composition and Resolutions of the Executive Committee of the Court*

The Executive Committee of the Court, as appointed by the Council of the Centre, is the body responsible for the administration of the proceedings.

The Executive Committee is composed of five persons, of which four are Council members elected by the Council and the fifth is the President of the Centre, who is a member as of right.

The President of the Centre chairs the Executive Committee.

A meeting of the Executive Committee shall be convened by the Chairman with at least five clear days notice before such meeting. Resolutions of the Executive Committee will be effective if the Chairman and at least two other members are present in person at a meeting or attend by teleconference or videoconference.

Matters for resolution will be determined by majority vote of those in attendance.

The Chairman of the Executive Committee may take urgent decisions in his own right subject to later ratification by the Executive Committee.

Nevertheless, in the event that an arbitrator, mediator or referee is the subject of a challenge, the decision on the challenge must be made by the Executive Committee itself.

5. *Aims of the Executive Committee of the Court*

The Executive Committee shall deal with the administrative and financial aspects of any proceedings which are not within the competence of any one National Executive Committee.

It supervises, if necessary through one of its members or such other person as it may designate for the purpose, the handling of administrative and accounting aspects of such proceedings as are submitted to the National Executive Committees, as well as the proper functioning of the national delegations.

The Executive Committee submits to the Council an annual report on its activities.

6. *Composition and Decisions of the National Executive Committees of the National Delegations*

The Executive Committee of each national delegation is designated by the Executive

Committee of the Court, which will define its tasks. The Executive Committee of a national delegation is made up of 3 to 9 members from whom the Executive Committee of the Court will choose its Chairman. Its decisions are valid if more than half its members attend in person or by teleconference or videoconference. Decisions are taken by majority vote of those in attendance. The Chairman of the Executive Committee may by himself take all urgent decisions, subject to ratification by the Executive Committee. The National Executive Committee must decide on the challenge of an arbitrator made in proceedings which fall within its competence.

7. *Tasks of the National Executive Committees*

Each National Executive Committee will handle the administrative and accounting aspects of domestic proceedings which fall within its competence as well as those which the parties have entrusted to it. It will apply the Rules in force and, for domestic proceedings, its national rules if the parties have so chosen.

8. *Administrative Dues and Arbitration Fees*

Any amendments to the schedule of administrative dues and of arbitrators, mediators and referees fees in proceedings administered by the Executive Committee of the Court or of a National Delegation will be made by the respective Executive Committee which will inform the Council of the Centre.

The Secretariat in Strasbourg, for the procedures administered by the Executive Committee of the Court, or the Secretariat of a National Delegation as to the domestic proceedings entrusted to it, will invite the parties to pay advances and to liquidate the outstanding balance of the administrative dues and of the fees respectively of arbitrators, mediators and referees.

9. *Payment of Fees*

The Secretariat in charge of the proceedings will, subject to presentation of an invoice, pay the arbitrators' mediators' and referees' fees as taxed by the Executive Committee of the Court or by the National Executive Committee as to proceedings which fall within its competence.

10. *Amendments to International Rules, Arbitration Rules and Other Rules Including Appendices*

The General Meeting of the Centre has exclusive competence to decide, upon a proposal by the Council, any amendment to these rules and appendices.

11. *Accounts*

The accounts of the Court are kept by the Secretariat in Strasbourg under the control of the Treasurer of the Centre. Each National Delegation will keep its own accounts with the aid of its Secretariat and under the control of the Secretariat of the Court and of the Treasurer of the Centre.

12. *Financial Administration of National Delegations*

Each National Delegation will independently manage its own budget

It will receive no financial aid, neither from the Court nor from the Centre, nor, subject to any specific decisions to the contrary by the Centre, will it pass to them any possible benefits.

The Court will not be responsible for any debts or undertakings made by a National Delegation which have not been previously expressly approved and accepted as binding the

Court. Such an approval will be by decision of the President of the Centre up to an amount not exceeding € 3,000. A decision by the Council will be necessary for a sum from € 3,001 up to € 15,000; as to any greater sum the authorisation of the General Assembly will be required.

13. *Financial Responsibility of the Court and of National Delegations*

The Court and its National Delegations will bind themselves and be bound only when the proposed undertaking has been ratified by the President of the Centre, or by a Council resolution, or a resolution of the General Meeting of the Centre, according to the requirements and within the limits fixed by article 12 above.

Rules of Documents Only Arbitration of the European Court of Arbitration

(Corte Arbitrale Europea, Cour Européenne d'Arbitrage,
Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof).

Article 1 - *REQUIREMENTS AND CONSEQUENCES OF THE APPLICATION OF THESE RULES*

These Rules apply to arbitral proceedings arising from disputes of a domestic or international nature (as defined by the Internal Rules of the Court) submitted by the parties to the European Court of Arbitration and meeting all the following conditions:

- a value in dispute not exceeding € 5,000, unless expressly agreed otherwise by the parties,
- a dispute of a nature and complexity which allows an appropriate solution by arbitration based on documents only, as assessed in accordance with article 5 below by the appointed arbitrator.

By deferring to the Rules of Documents Only Arbitration of the Court, the parties acknowledge adoption of the Rules of Documents Only Arbitration and the Internal Rules of the Court in effect at the time the application for arbitration is made to the Court.

The adoption by the parties of the Rules of Documents Only Arbitration shall constitute a waiver to being heard orally, to have witnesses heard and to address the arbitrator orally, for the purposes of allowing the resolution of the dispute prospectively within a reduced time period and at a much reduced cost with respect to that which might be incurred by arbitral proceedings involving meetings of the parties, the hearing of evidence and oral argument.

For a particular arbitration, should any provision of these rules conflict with the international public policy of the place of arbitration, such provisions will be replaced by the Court by embodying the said public policy unless to do so disrupts the Rules of the Court.

Where a such replacement becomes necessary, the most appropriate replacement provision will be suggested to the parties for their consent to adoption.

Article 2 - *REQUEST FOR ARBITRATION*

All parties who wish to have recourse to Documents Only Arbitration shall, after the dispute has arisen submit their Request for Arbitration together with an express confirmation, after the dispute has arisen, of their agreement to have recourse to these Rules. Such request shall be forwarded, by registered letter with return receipt to the Secretariat of the Court. If the Court considers the dispute to be domestic, it will forward the Request to the National Delegation in the State concerned, where such Delegation exists.

The term "Secretariat" as provided in the Rules will mean the Secretariat of the National Delegation if the dispute is within the jurisdiction of a National Delegation, otherwise the Secretariat in Strasbourg.

The Request for Arbitration shall be forwarded by registered letter with return receipt to the other parties to the arbitration agreement.

The Request shall contain a brief statement of the facts alleged and of the arguments of the Claimant in support together with a statement agreeing to waive the right to be heard personally, to call witness evidence, to the appointment of experts and to oral address, on condition that Defendant or Defendants also agree that the dispute be decided under these Rules.

In the absence of agreement of all of the parties to be bound by these Rules, the dispute will be determined in accordance with the general Arbitration Rules of the Court.

Article 3 - *DOCUMENTS AND PAYMENT OF THE COSTS OF THE PROCEEDINGS*

The claimant shall attach to his Request for Arbitration all documents which it deems necessary for the settlement of the dispute, together with proof of payment of 50% of the costs of Documents Only Arbitration in accordance with the Schedule of the Court in effect at the time the Request is made. The Secretariat shall provide to the parties information related to the Schedule.

Within 5 working days of receipt of the Request, the Secretariat shall send to the other party/ies a copy of the Request for Arbitration and of the documents attached to it.

Article 4 - *ANSWER TO THE REQUEST*

Within 15 days of receipt of the Request, the Defendant shall submit to the Secretariat and to the Claimant by special delivery, courier or by registered mail with return receipt its Answer which must contain a brief statement of all the facts and arguments relied upon and all relevant documents together with the proof of payment to the Court of 50% of the costs of the proceedings in accordance with the fees and costs stated by the Secretariat of the Court based on the Schedule in force at the relevant time.

The Defendant shall declare its acceptance that the dispute be resolved under the Documents Only Arbitration Rules expressly waiving the right to be heard, to have witnesses heard, that experts be appointed and to oral argument. A draft of the form of declaration forms part of these Rules as Enclosure 1. Within 5 working days after receipt of the Answer, the Secretariat of the Court will send the Answer and annexed documents to the Claimant.

In default of the declaration by the parties respectively in the Request and in the Answer that they waive the right to be heard, to have heard witnesses heard, to the appointment of experts and to oral argument, the dispute will be resolved by applying the general Arbitration Rules of the Court.

Article 5 - *APPOINTMENT OF THE ARBITRATOR AND COMMENCEMENT OF THE PROCEEDINGS*

Save where there is prima facie a lack of agreement for Documents Only Arbitration, or one or more of the parties has failed to make the statement waiving rights as provided in Art. 2 and Art. 4 hereof, and within 5 working days of receipt by the Court of the Answer to the Request for Arbitration, the Court shall select and appoint a sole arbitrator to determine the dispute acting in accordance with the law, with the power to mitigate it should it be too strict.

The Court shall inform the arbitrator and the parties of his appointment by fax or telegram.

and shall transmit to him the file, also informing the parties by fax or by cable. The place of arbitration will be determined by the Court with preference to the arbitrator's place of business.

The arbitrator shall notify the Court of his acceptance of appointment by fax or telegram within 2 working days of receipt of notice of appointment. Failure of the arbitrator to respond in this time period shall be taken as refusal of the proposed appointment.

The appointed arbitrator may be replaced by the Court at any time, for objective reasons such as non-compliance with his duties or non-availability.

If, in the opinion of the arbitrator, the nature of the dispute is such that it cannot be reasonably and appropriately resolved without hearing witnesses and/or the parties or without the intervention of experts, or without oral argument, or if it appears too complex for a Documents Only Arbitration, the arbitrator will communicate this to the parties and to the Secretariat by fax or by telegram cable within 7 working days of receipt by the arbitrator of the file.

If so, the Court shall return to the parties 70% of the sums paid by them under these Rules retaining 30% to cover its administrative costs and the arbitrator's fees.

The parties may however request that the Court apply its general Arbitration Rules to the dispute, and this shall occur when all parties consent in writing.

Article 6 - *PROCEDURAL RULES AND TIMETABLE*

The arbitrator shall be free to choose the procedural rules applicable to the dispute, subject to compliance with these Rules and with any applicable mandatory provisions and affording to the parties due process.

The arbitrator may in his discretion issue directions to regulate the proceedings.

By submitting to these Rules, the parties are reminded that they waive their right to be personally heard, to hear witnesses, to all enquiries, expertise and to oral argument and that they undertake to develop all their arguments in writing.

The arbitrator will follow the timetable set forth in Appendix 2 in so far as it is possible to do so.

Article 7 - *PLEADINGS*

Any party may ask that the arbitrator authorizes it to file a pleading. Such authorised pleading shall be sent to all other parties and to the Secretariat, within 15 working days of the receipt of such authorisation.

If such authorisation is given, the other party may lodge a pleading within 15 days of being notified of the authorisation having been given to the other party/ies.

Each party may ask the arbitrator to authorize the giving of a succinct reply to be lodged within 5 working days of receipt of the opposing party's pleading and responding to the arguments or facts stated in that pleading.

All pleadings shall be sent to the arbitrator and to the other parties, with a copy to the Secretariat, by courier or by recorded delivery with return receipt.

Article 8 - *WITNESS STATEMENTS*

The arbitrator will not hear witnesses and shall not appoint experts.

Within the time limits set for the lodging of pleadings the parties may produce to the arbitrator, together with a copy to the Secretariat and the other party/ies, statements drawn up by witnesses concerning the facts of the dispute.

Such a witness statement must incorporate, at its conclusion, a declaration by the witness as signatory certifying that the statement contains the whole truth and that the witness is aware that the statement will be produced before the arbitrator. The declaration shall further acknowledge that the witness is conscious that he will incur liability in the case of a false statement and that this may amount to a criminal offence.

A photocopy of an identity document of the signatory, bearing his signature, must be attached to the statement.

Article 9 - *TIME-LIMIT FOR ISSUE OF THE AWARD*

The arbitrator must make his award within 30 days from receipt of the last above pleading and of any possible reply authorized by the arbitrator but in all cases within 90 days of acceptance of his appointment as arbitrator.

In exceptional circumstances, the Court may grant the arbitrator one extension only up to a maximum of one month. The award of the arbitrator shall be final.

The parties undertake to give effect to it without delay and waive the right to all challenges which they may have in accordance with the law of the place of the arbitral proceedings and of the place where the award is to be enforced and which may be waived.

Article 10 - *FILING OF THE AWARD*

Additional to any filing of the award which is mandatory under the law of the place of arbitration, the award will be filed in three originals with the Secretariat of the Court within the time-limit specified in article 9 for the issue of the award. The Secretariat will notify the parties of the filing by registered letter with return receipt within 5 working days of the filing of the award.

The parties acknowledge that the Secretariat will not deliver the award until the fees of the arbitrator and the administrative dues of the Court have been fully paid.

Article 11 - *ISSUES NOT COVERED BY THESE RULES*

For matters which are not covered by these Rules, the arbitrator shall adopt such measures as he may deem appropriate, consistent with the need for speed and efficiency which characterize these Rules.

Appendix 1

STANDARD DECLARATION TO BE ANNEXED TO THE REQUEST AND TO THE ANSWER

Confirmation of reference to Documents Only Arbitration

Sirs

With the following we confirm that we wish to refer to your Court for determination, in accordance with your Documents Only Arbitration Rules as in force at the time when our Request for arbitration is addressed to you the dispute which has arisen between us and _____ within the framework of the agreement entered into on _____.

Due to its simplicity and to the small value in dispute, this dispute can be resolved without recourse to full arbitral proceedings, the costs and duration of which would be inappropriate. Having carefully considered the nature and specific features of this dispute, it appears desirable and possible that our arguments be expressed only in writing and that the facts which support them be proven only by the production of documents and possibly of witness statements.

We hereby waive, in full awareness, the right to be personally heard, to have witnesses heard, to any request for the appointment of experts and to oral argument.

This letter constitutes a request to the Court and coincidentally acceptance that the dispute be resolved solely by documents in compliance with the Court's Rules for Documents Only Arbitration.

Appendix 2

STANDARD TIMETABLE FOR DOCUMENTS ONLY ARBITRAL PROCEEDINGS

For receipt of the Request for Arbitration	5	working days
For the Answer to the Request and confirmation of adoption of the Rules	15	working days
For receipt of the Answer and of the confirmation of the adoption of the Rules	5	working days
For appointment of the arbitrator and transferral of the file	5	working days
For acceptance by the arbitrator	2	working days

For possible Directions by the arbitrator	10	working days
For receipt of the Directions by the parties	5	working days
For the drawing up of a possible Reply	15	working days
For receipt of the Reply	5	working days
For a possible Rebuttal	5	working days
For receipt of the Rebuttal	5	working days
For the filing of the award with the Secretariat	30	working days
For sending to the parties the award or a request to complete their payment of the fees and administrative dues	8	working days
Total	115	working days.

SCHEDULE OF FEES AND ADMINISTRATIVE DUES OF THE COURT

DOCUMENTS ONLY ARBITRATION

Value in dispute	Fees of the arbitrator (to be divided among the parties)	Administrative dues (to be divided among the parties)
Up to € 5,000	Euro 500	Euro 200

Pre-Arbitral Referee Rules of the European Court of Arbitration

(Corte Arbitrale Europea, Cour Européenne d'Arbitrage,
Corte Europea de Arbitraje, Europäischer Schiedsgerichtshof).

These Rules shall apply as well as the Internal Rules of the Court as well as the National Delegation having jurisdiction over a national dispute to Pre-Arbitral Referee proceedings organised by the European Court of Arbitration, having its seat in Strasbourg (hereinafter the Court).

The applicable rules shall be those in force at the time the application for the Pre-Arbitral Referee proceedings is made.

A mandatory provision or public policy rule applicable at the place of the proceedings shall take precedence over and replace any provisions of these Rules where any conflict exists between a provision of the Rules and said mandatory provisions or public policy rule.

Article 1 - *NATURE OF THE PROCEEDINGS*

These proceedings consist in appointing a person (the Pre-Arbitral Referee) entrusted and empowered with the authority to apply on behalf of the parties a solution of urgent matters or preliminary conservatory or interlocutory measures (any of them referred to thereafter as the "solution"). The intervention of the Pre-Arbitral Referee may be requested only before an arbitral tribunal is appointed or, in the absence of an arbitration agreement, before a state court is seized with the matter.

Article 2 - *RECOURSE TO A REFEREE SITTING AS A PRE-ARBITRAL REFEREE*

Any agreement made by the parties to have or allow recourse to a Pre Arbitral Referee on urgent matters which may arise before the appointment of the Arbitral Tribunal or before a state court is seized must be made in writing.

Article 3 - *APPLICATION FOR APPOINTMENT OF A PRE-ARBITRAL REFEREE*

A party wishing to submit an urgent matter to a Pre-Arbitral Referee under these Rules, must send to the Secretariat of the European Court of Arbitration or to the Secretariat of the National Delegation having jurisdiction, where the dispute is domestic, within the meaning of this term set out by art. 2, Internal Rules of this Court (hereafter the Secretariat) an Application with two copies for the Court together with sufficient copies for all parties to the agreement enabling and empowering a pre-arbitral referee procedure.

A copy of all documents in support of the Application must be attached to each copy of the Application.

The submission by way of application must contain:

- the name or corporate name and the address or registered offices of each party;
- a certificate from the relevant Companies Registry or from the relevant Chamber of Commerce or equivalent body for an applicant which is a corporate legal entity,
- a statement of the facts upon which the Application is based,
- the identification of the matter upon which the disagreement between the parties has arisen,
- the solution conservatory measures or interlocutory injunctions sought and the detailed grounds supporting the Application,
- the agreement providing for the pre-arbitral referee procedure or the contract containing such an agreement, bearing the signature of the parties,
- the name of the attorney at law who will represent the applicant,
- the name of the possible expert who will assist the parts,
- the names of the persons whom the Pre-Arbitral Referee is requested to hear as witnesses,
- the amount in dispute inasmuch as it can be established.

The Application must be in the language agreed upon by the parties, or in the absence of such an agreement, in the language of the Pre-Arbitral Referee agreement or, if none of these two criteria can help, in the usual language utilized in the contractual relations between the parties.

Article 4 - *PROVISION FOR COSTS*

The applicant shall pay to the Court of Arbitration an amount being 50% of the total sum due for the proceedings as established by the schedule for the Referee's fees and the administrative dues of the Court attached to and forming part of the Pre-Arbitral Referee rules in force at the time the Application is made. The other party/ies shall pay the balance of 50% of the Referee's fees and of the administrative dues of the Court.

By agreeing to this procedure, the parties undertake to pay all the costs and fees of the Referee, the administrative dues of the Court (and the costs and fees of a possible expert appointed), in accordance with the schedule established by the Court in the above mentioned Appendix.

Payment in full is to be made before the Referee delivers his solution.

Article 5 - *ANSWER*

Each other party to the Pre-Arbitral Referee agreement shall send to the Secretariat its Answer in response with supporting documents by fax or by courier, within ten days of receipt of the Application. Each party will also send a copy to the applicant.

The requirements for documents and payments as set forth in respect of the Application shall also apply to the Answer in response.

Article 6 - *TASK OF THE SECRETARIAT*

The Secretariat shall:

- check that the Application and the Answer comply with the current rules,
- record the Application or, if it is a domestic dispute, transmit it to the relevant National Delegation of the country concerned, if there is such a National Delegation,
- ensure that the payment of the advances on fees and costs is made,
- request an additional payment of fees and costs where necessary including to allow the enforcement of any conservatory or interlocutory injunctions ordered,
- verify that the Application and Answer have been received by the other party,
- where there is no agreement for a Pre-Arbitral Referee, request the other party if it accepts these proceedings and the Pre-Arbitral Referee Rules of the Court, requiring confirmation of acceptance in writing,
- inform the Executive Committee of the Court or of the National Delegation monthly on the state of the proceedings,
- deliver to the person who is delegated for this purpose by the Executive Committee copies of the Application, of the Answer and of the documents and annexes.

Article 7 - *APPOINTMENT OF THE PRE-ARBITRAL REFEREE*

The parties may jointly nominate the Pre-Arbitral Referee.

If this is done, the Executive Committee or its duly appointed representative, following establishing the prima facie existence of the agreement for a Pre-Arbitral Referee and verifying that the appointed Pre-Arbitral Referee satisfies the requirements stated herein, will appoint the Pre-Arbitral Referee and notify such appointment to the parties, with a copy to the Secretariat. Failing nomination by the parties, the Executive Committee of the Court, or as applicable of the relevant National Delegation, will appoint the Referee after having verified his independence and impartiality and after having taken into account any criteria proposed by the parties as a requirement for appointment, his possession of the experience required to deal with this matter, the possible proposals made by the parties and his time availability.

The Secretariat will immediately notify the parties in writing of the appointment of the Referee and will attach to the notice the Order of Appointment made by the Court and the curriculum vitae of that Referee.

The Referee shall accept appointment in writing, within 4 working days of his receipt of the notice issued by the Secretariat.

The Referee shall send to the Secretariat acceptance by fax or by courier, and shall include the declaration of independence and impartiality as well as an undertaking to comply with these Rules. Failure by the Referee to accept within the time limit shall be taken as a refusal to accept the appointment.

Article 8 - *CHALLENGE AND REPLACEMENT OF THE REFEREE*

Each party may challenge the Referee on the basis of a lack of impartiality, independence, competence or time availability. A challenge to the Referee must be received by the Secretariat within 7 days of receipt by that party of notice of appointment of the Referee.

The Secretariat shall then invite the other party to comment on the challenge within 5 working days of his receipt of the challenge.

The Executive Committee having jurisdiction or its appointed representative will determine the challenge within 7 working days running from the expiry of the period allowed for party comment on the challenge if no comment is made or from receipt of comments if lodged earlier.

The Executive Committee or its appointed representative may make the determination without giving reasons.

Any determination made is final and may not be appealed.

The determination will be communicated concurrently to the parties with the appointment of the possible new Referee.

A new Referee will also be appointed if the initially appointed Referee does not proceed with diligence or is unable to duly carry out the tasks of Referee for any other reason.

Article 9 - *THE PROCEEDINGS*

9.1. The Referee is responsible for adopting on behalf of the parties a solution for which he has authority to act.

9.2. The Referee shall conduct the proceedings in the manner which he deems appropriate, provided that the parties are given an equal opportunity to express their opinions, to produce documents and to comment on the position taken by the other party.

9.3. The Referee may visit any place, hear the parties or any other person, request any documents and ask the advice of an expert.

9.4. Any attempts by a party to delay the proceedings will be rejected by the Referee where such delay is inconsistent with the speed of this Pre-Arbitral Referee process.

The parties shall be requested to attend any Pre-Arbitral Referee hearing. However their unavailability to attend or failure to make comments shall not oblige the Referee to delay.

Article 10 - *LANGUAGE USED IN THE PROCEEDINGS*

The proceedings shall be conducted in the language as determined in accordance with the provisions of Article 3 above.

Article 11 - *SEAT OF THE PROCEEDINGS*

The Referee will sit in the place indicated by the competent Executive Committee when the appointment as Referee is made. The Referee may carry out investigations and hold meetings in places other than that decided as the seat of the reference. However his decision shall always be rendered at the seat of the proceedings.

Article 12 - *EFFECT OF THE APPOINTMENT OF AN ARBITRATOR*

If an Arbitral Tribunal is appointed after an application for a Pre-Arbitral Referee has been made, the parties agree that the Referee will continue the Pre-Arbitral Reference proceedings and adopt his solution on behalf of the parties. Such Pre-Arbitral Referee solution shall

be submitted to the Arbitral Tribunal for its review.

If an Arbitral Tribunal has already been validly seized of the dispute before the request for Pre-Arbitral Referee procedure is filed the Request for the Arbitral Referee procedure shall be of no effect.

If the dispute is brought before a state court after the request for a Pre-Arbitral Referee has been made, the Pre-Arbitral Referee may continue with the proceedings unless prevented from doing so by the *lex fori*.

Article 13 - *DEADLINE FOR THE REFEREE'S SOLUTION*

The Referee shall adopt his solution within 40 working days commencing from the day of his receipt of the file.

The Executive Committee having jurisdiction may give the Referee only one extension of a maximum of 15 working days and only if absolutely necessary.

Article 14 - *THE REFEREE'S SOLUTION*

The Referee may put to the charge:

- of one party to the Pre-Arbitral Referee agreement to make a payment to another party to the said agreement,
- of one party to carry out an act, transaction or specific operation or that it abstains from doing so; or apply,
- conservatory measures or interlocutory injunctions necessary to prevent a damage or to ensure that the performance of a contract is not unduly delayed or interrupted, or to ensure that the behaviour of one of the parties is not in flagrant conflict with its contractual undertakings, or to protect the rights and property of a party, or adopt any other solution to an urgent problem,
- any other urgent measure, especially in anticipation of the enforcement of an award or judgment on the merits or likely to be rendered in the future,
- all measures necessary to obtain urgently needed evidence.

The Referee may not order any measures other than those requested by the parties, unless the application to appoint him expressly allows him to adopt such measures as are most appropriate to the requirements of the dispute.

The Referee will give only very concise reasons for his solution.

Article 15 - *CONDITIONAL SOLUTIONS*

The Referee may make his solution conditional upon the production of a guarantee or upon any other act, behaviour or measure that he may consider appropriate.

Article 16 - *PROVISIONAL NATURE OF THE REFEREE'S SOLUTION*

The Referee's solution is provisional.

Therefore the solution of the Referee shall not prevent the parties, having complied with it,

from submitting the same matter to the finally competent jurisdictional body. However, any solution of the Referee will remain effective until it has been reviewed by the said competent jurisdictional body.

Article 17 - *CONFIDENTIALITY*

The parties and the Referee shall not reveal to any third party the existence of the proceedings or of any document referring to it, unless it is necessary in order to continue the proceedings.

The documents concerning the proceedings may be produced before a body of competent jurisdiction which may be later seized with the matter.

Article 18 - *COSTS*

The Executive Committee having jurisdiction shall set the costs and fees of the Referee and the administrative dues of the Court

Article 19 - *PROHIBITION OF THE PRE ARBITRAL REFEREE ACTING AS ARBITRATOR*

The Referee may not act as an arbitrator in the same matter.

Any future arbitrator may request the Referee in writing to give details of his involvement in the matter, giving notice of this to the parties.

Article 20 - *RECEIPT OF THE SOLUTION AND COMMUNICATIONS TO THE PARTIES*

The Referee will file his decision with the Executive Committee having jurisdiction.

The Secretariat shall confirm that the fees of the Referee and the administrative dues of the Court have been fully paid.

If the fees of the Referee and the administrative dues have not been paid the parties agree that the solution of the Referee will not be issued to them until the Court has received full payment from the parties or from one of them.

Article 21 - *COMMITMENT BY THE PARTIES TO ENFORCE THE REFEREE'S SOLUTION*

By submitting to these Rules each party undertakes to perform without delay the solution established by the Referee, without prejudice to its right to later submit the dispute to the competent jurisdictional body. The solution of the Pre-Arbitral Referee may be enforced including by application to the state court having competent jurisdiction at the place of enforcement. Enforcement proceedings may also provide for penalties for non-performance.

SCALE OF FEES AND ADMINISTRATIVE DUES OF THE COURT PRE-ARBITRAL REFEREE PROCEEDINGS

Value in dispute	Fees of the Pre-Arbitral Referee (to be divided among the parties) Euro	Administrative Dues (to be divided among the parties) Euro
Up to € 5,000	305€	107€
Between € 5,001 and € 9,000	535€	137€
Between € 9,001 and € 15,000	764€	183€
Between € 15,001 and € 23,000	1,070€	245€
Between € 23,001 and € 30,000	1,680€	305€
Between € 30,001 and € 45,000	2,597€	458€
Between € 45,001 and € 90,000	2,902€	535€
Between € 90,001 and € 150,000	3,666€	550€
Between € 150,001 and € 225,000	4,277€	611€
Between € 225,001 and € 300,000	5,040€	993€
Between € 300,001 and € 450,000	5,805€	1,222€
Between € 450,001 and € 500,000	7,332€	1,833€
Between € 500,001 and € 600,000	8,401€	2,597€
Between € 600,001 and € 750,000	9,929€	2,902€
Between € 750,001 and € 1,200,000	12,220€	4,277€
Between € 1,200,001 and € 1,500,000	14,206€	5,346€
Between € 1,500,001 and € 2,250,000	15,275€	5,805€
Between € 2,250,001 and € 3,000,000	19,858€	6,110€
Between € 3,000,001 and € 3,250,000	22,913€	7,637€
Between € 3,250,001 and € 4,500,000	24,440€	7,026€
Between € 4,500,001 and € 5,000,000	27,495€	7,180€
Between € 5,000,001 and € 6,000,000	30,550€	7,485€
Between € 6,000,001 and € 6,750,000	33,606€	8,096€
Between € 6,750,001 and € 7,500,000	36,661€	8,401€
Between € 7,500,001 and € 9,000,000	39,716€	8,860€
Between € 9,000,001 and € 10,000,000	44,146€	9,165€
Between € 10,000,001 and € 12,000,000	45,826€	9,929€
Between € 12,000,001 and € 13,500,000	48,117€	10,235€
Between € 13,500,001 and € 15,000,000	51,936€	10,693€

For greater amounts in dispute the fees and administrative charges shall be provided upon request. The fees and administrative dues for each dispute shall be those specifically stated in the scale range which covers the amount of the dispute. The fees and charges for lower scale ranges shall not be in addition.

The amount of the fees are in Euro and may be subject to alteration by the Court, or by the competent National Delegation, to take into account fluctuation of financial markets which may affect the value of the Euro.