CEPANI

ARBITRATION

RULES
of CEPANI,

The Belgian Centre

for **A**rbitration and Mediation

Text in force as from 1 July 2020

STANDARD ARBITRATION CLAUSE

The parties who wish to refer to the CEPANI Arbitration Rules are advised to insert the following clause in their contracts:

ENGLISH

"Any disputes arising out of or in connection with this agreement shall be finally settled under the CEPANI Rules of Arbitration by one or more arbitrators appointed in accordance with the said Rules"

The following provisions may be added to this clause:

"The Arbitral Tribunal shall be composed of (one or three) arbitrators"1
"The place of the arbitration shall be (town or city)"
"The arbitration shall be conducted in the (…) language"
"The applicable rules of law are (…)"

The parties that so wish may also stipulate that the arbitration must necessarily be preceded by a mini-trial or by an attempt to mediate.

In the event that the parties involved are not Belgian, within the meaning of Article 1718 of the Belgian Judicial Code, they may also stipulate the following:

"The parties expressly exclude any application for setting aside the Arbitral Award"

FRENCH

«Tous différends découlant du présent contrat ou en relation avec celui-ci seront tranchés définitivement suivant le Règlement d'Arbitrage du CEPANI par un ou plusieurs arbitres nommés conformément à ce Règlement."

1 Delete as appropriate.

Cette clause peut être complétée par les dispositions suivantes :

«Le Tribunal Arbitral sera composé (d'un ou de trois) arbitre(s)»2
«Le lieu de l'arbitrage sera (ville)»
«La langue de la procédure sera le (…)»
«Les règles de droit applicables sont (…)»

Les parties qui le souhaitent peuvent également prévoir que l'arbitrage doit nécessairement être précédé d'un mini-trial ou d'une tentative de médiation.

S'agissant de parties qui ne sont pas belges au sens de l'article 1718 du Code judiciaire, elles peuvent en outre préciser que :

«Les parties excluent expressément toute action en annulation de la Sentence Arbitrale»

DUTCH

«Alle geschillen die uit of met betrekking tot deze overeenkomst mochten ontstaan, zullen definitief worden beslecht volgens het Arbitragereglement van CEPANI, door één of meer arbiters die conform dit Reglement zijn benoemd.»

Dit type beding kan worden aangevuld met de volgende bepalingen:

«Het Scheidsgerecht zal uit (een of drie) arbiters bestaan»3
«De plaats van de arbitrage is (stad)»
«De taal van de arbitrage is (…)»
«De toepasselijke rechtsregels zijn (…)»

2 Biffer la mention inutile.

3 Schrappen wat niet past.

De partijen die dit wensen, kunnen eveneens bepalen dat de arbitrage noodzakelijkerwijs moet worden voorafgegaan door een mini-trial of een poging tot mediatie.

Wanneer het om partijen gaat die niet Belgisch zijn in de zin van artikel 1718 van het Gerechtelijk Wetboek, kunnen zij bovendien preciseren:

«De partijen sluiten uitdrukkelijk iedere vordering tot vernietiging van de Arbitrale Uitspraak uit»

GERMAN

„Alle aus oder in Zusammenhang mit dem gegenwärtigen Vertrag sich ergebenden Streitigkeiten werden nach der Schiedsgerichtsordnung des CEPANI von einem oder mehreren gemäß dieser Ordnung ernannten Schiedsrichtern endgültig entschieden."

Diese Klausel kann noch durch die folgenden Bestimmungen ergänzt werden:

„Das Schiedsgericht besteht aus (einem einzigen oder drei) Schiedsrichter(n)"4
„Der Ort des Schiedsverfahrens ist (Stadt)"
„Die Verfahrenssprache ist (…)"
„Die anwendbare Rechtsregeln sind (…)"

Die Parteien können vereinbaren, dass vor Einleitung des Schiedsverfahrens ein Mini-Trial Verfahren oder ein Mediationsversuch durchgeführt werden muss.

Wenn die am Schiedsverfahren beteiligten Parteien nicht *gemäß* Artikel 1718 des Gerichtsgesetzbuchs als belgische Partei gelten, können sie auch folgendes vereinbaren:

„Die Parteien schließen ausdrücklich jede Aufhebungsklage gegen den Schiedsspruch aus"

UNCITRAL ARBITRATION CLAUSE

The Belgian Centre for Arbitration and Mediation (CEPANI) shall act as appointing authority under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), if the parties have so agreed. In such case, it is recommended that the parties stipulate the following model clause in their contracts :

ENGLISH

"Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules.

(a) The appointing authority shall be the Belgian Centre for Arbitration and Mediation (CEPANI)
(b) The number of arbitrators shall be … [one or three]
(c) The place of arbitration shall be … [town and country]
(d) The language to be used in the the arbitral proceedings shall be …"

If the parties wish to exclude recourse against the Arbitral Award that may be available under the applicable law, they may add a provision to that effect as suggested below, considering, however, that the effectiveness and conditions of such an exclusion depend on the applicable law.

4 Nichtzutreffendes streichen.

“ Waiver

The parties hereby waive their right to any form of recourse against an Award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law ”

FRENCH

« Tout litige, différend ou réclamation né du présent contrat ou se rapportant au présent contrat, ou à son inexécution, à sa résolution ou à sa nullité, est tranché par voie d’arbitrage conformément au Règlement d’arbitrage de la CNUDCI.

(a) L’autorité de nomination est le Centre belge d’arbitrage et de médiation (CEPANI)
(b) Le nombre d’arbitres est fixé à …. (un ou trois)
(c) Le lieu de l’arbitrage est … (ville et pays)
(d) La langue à utiliser pour la procédure est… »

Si les parties souhaitent exclure les voies de recours que la loi applicable leur offre contre la Sentence Arbitrale, elles peuvent ajouter à cet effet une clause du type proposé ci-dessous, en tenant compte toutefois du fait que l’efficacité et les conditions d’une telle exclusion dépendent de la loi applicable.

« Renonciation

Les parties renoncent par la présente à leur droit à toute forme de recours contre une Sentence devant une juridiction étatique ou une autre autorité compétente, pour autant qu’elles puissent valablement y renoncer en vertu de la loi applicable »

DUTCH

“Elk geschil, dispuut of vordering die uit of met betrekking tot deze overeenkomst, de schending, de beëindiging of ongeldigheid ervan, mocht ontstaan, wordt beslecht door middel van arbitrage overeenkomstig het Arbitragereglement van UNCITRAL.

(a) De benoemingsinstantie is het Belgisch Centrum voor Arbitrage en Mediatie (CEPANI)
(b) Het scheidsgerecht bestaat uit [één/drie] arbiter(s)
(c) De plaats van de arbitrage is … [stad en land]
(d) De taal van de procedure is…”

Indien de partijen iedere mogelijkheid van verhaal tegen de Arbitrale Uitspraak die het toepasselijk recht hen biedt wensen uit te sluiten, kunnen zij een bepaling toe te voegen zoals hierna bepaald. Zij dienen er evenwel mee rekening te houden dat de doeltreffendheid en de voorwaarden van dergelijke uitsluiting afhangen van het toepasselijk recht.

“ Afstand

De partijen doen hierbij afstand van hun recht op iedere vorm van verhaal tegen een Arbitrale Uitspraak bij een rechtbank of bevoegde autoriteit, voor zover dergelijke afstand geldig gedaan kan worden volgens het toepasselijk recht ”

INTRODUCTORY PROVISIONS

Article 1. – Belgian Centre for Arbitration and Mediation

The Belgian Centre for Arbitration and Mediation ("CEPANI") is an independent body which administers arbitration proceedings in accordance with the Arbitration Rules of CEPANI (the "Rules") and its schedules (the "Schedules"). It does not itself resolve disputes and it does not act as an arbitrator.

Article 2. – Definitions

In the Rules:

(i) "Secretariat" means the secretariat of CEPANI.

(ii) "President" means the president of CEPANI.

(iii) "Appointments Committee" means the appointments committee of CEPANI.

(iv) "Challenge Committee" means the challenge committee of CEPANI.

v) "Arbitral Tribunal" means the arbitrator or arbitrators.

(vi) "Claimant" and "Respondent" means one or more claimants or respondents.

(vii) "Award" means a partial or final arbitral award.

(viii) "days" means calender days.

COMMENCEMENT OF THE PROCEEDINGS

Article 3. – Request for arbitration

1. The party wishing to have recourse to arbitration under the Rules shall submit its request for arbitration to the Secretariat. The request for arbitration shall include, *inter alia*, the following information:

a) the name in full, description, address and other contact details of each of the parties;

b) the name in full, description, address and other contact details of any person representing Claimant in the arbitration;

c) a description of the nature and circumstances of the dispute giving rise to the claims;

d) the relief sought, a summary of the grounds for the claims, and the amounts of any quantifiable claims and, to the extent possible, an estimate of the monetary value of any other claims;

e) all relevant information that may assist in determining the number of arbitrators and their choice in accordance with the provisions of article 15 and any nomination of the arbitrator which it has to make according to this provision;

f) any comments as to the place and the language of the arbitration as well as to the applicable rules of law.

The request should be accompanied by a copy of the arbitration agreement and all other useful documents.

2. Claimant shall attach to the request for arbitration proof of the notification to Respondent of the request and the documents annexed thereto.

3. The date on which the Secretariat receives the request for arbitration, as well as the documents annexed thereto and the payment of the registration costs, such as determined under paragraph 2 of Schedule I, shall be deemed to be the date of commencement of the arbitral proceedings. The Secretariat shall notify the date of commencement of the arbitration to the parties.

Article 4. – Answer to the request for arbitration and counterclaims

1. Within a period of 30 days counting from the notification provided for in article 3, paragraph 3 of the Rules, Respondent shall send the answer to the request for arbitration to the Secretariat. The answer shall include, *inter alia*, the following information:

a) the name in full, description, address and other contact details of each of the parties;
b) the name in full, description, address and other contact details of any person representing Respondent in the arbitration;
c) Respondent's comments on the nature and circumstances of the dispute that gives rise to the claims;
d) the response to the relief sought;
e) the comments concerning the number of arbitrators and their choice in the light of Claimant's proposals, as well as the nomination of the arbitrator(s) that Respondent has to make;
f) any indications as to the place and the language of the arbitration as well as to the applicable rules of law.

The answer shall be accompanied by all useful documents.

2. Respondent shall attach to the answer proof of the notification within the same time limit of 30 days to Claimant of the answer and the documents annexed thereto.

3. Any counterclaim shall be filed with the answer to the request for arbitration and shall, *inter alia*, include:
a) a description of the nature and circumstances of the dispute giving rise to the counterclaims;
b) the object of the counterclaims, a summary of the grounds and the amounts of any quantifiable counterclaims and, to the extent possible, an estimate of the monetary value of any other counterclaims.

The counterclaims shall be accompanied by all useful documents.

4. Claimant may submit written observations on the counterclaims within a period of 30 days from receipt of the counterclaims.

Article 5. – Extension of the time limits for the answer and for observations on the counterclaims

The Secretariat may extend the time limits mentioned in article 4 further to a reasoned request of one of the parties or on its own motion.

Article 6. – *Prima facie* lack of an arbitration agreement

If Respondent fails to answer within the 30-day period set out in article 4 or disputes the existence of an arbitration agreement under the Rules, the President shall conduct a *prima facie* review of the existence of an arbitration agreement under the Rules. The arbitration will take place if and insofar as, *prima facie*, the President considers it possible that there exists an arbitration agreement under the Rules.

Article 7. – Effect of the arbitration agreement

1. Where the parties have agreed to resort to arbitration under the Rules, they thereby submit to the Rules, including the Schedules, which are in effect on the date of commencement of the arbitral proceedings as determined in accordance with article 3, paragraph 3 of the Rules, unless they have expressly agreed to submit to the Rules in effect on the date of their arbitration agreement.

2. If, notwithstanding the *prima facie* determination of an arbitration agreement under the Rules, one of the parties refuses to submit to arbitration, or fails to take part in the arbitration, the arbitration shall nevertheless proceed.

3. If, notwithstanding the *prima facie* determination of an arbitration agreement under the Rules, a party against which a claim has been made does not submit an answer or a party raises one or more pleas concerning the existence, validity or scope of the arbitration agreement or concerning whether all the claims made in the arbitration may be determined together in a single arbitration, the Arbitral Tribunal shall itself rule on its jurisdiction or on whether the claims may be determined together in a single arbitration.

4. The determination by the Arbitral Tribunal that the contract is null and void does not automatically by law render the arbitration agreement null and void.

Article 8. – Written notifications or communications and time limits

1. The submissions and other written communications presented by the parties, as well as all documentary evidence, shall be sent by each of the parties simultaneously to all the other parties and to each of the arbitrators. The Secretariat shall receive a copy of all the said communications and documentary evidence as well as of the communications of the Arbitral Tribunal to the parties.

2. The request for arbitration, the answer to the request for arbitration, the submissions, the appointment of the arbitrators and all other communications made pursuant to these Rules, with the exception of the communication referred to in article 34, paragraph 2 of the Rules may be validly made in electronic form or by any other means of written communication. In all circumstances the sender bears the burden of proof of the sending.

3. If a party is represented by counsel, all communications shall be made to the latter.

4. Communications shall be validly made if sent to the last address of the addressee, as notified either by the latter or, as the case may be, by another party.

5. A communication made in accordance with paragraph 2, shall be deemed to have been made when it is received, or should have been received, by the party itself, its representative or its counsel.

6. Time periods specified in these Rules, shall start to run on the day following the date a communication is deemed to have been made in accordance with the previous paragraph. When the day following such date is an official holiday, or a non-business day in the country where the notification or communication is deemed to have been made, the period of time shall commence on the first following business day. Official holidays and non-business days are included in the calculation of the period of time. If the last day of the relevant period of time granted is an official holiday or a non-business day in the country where the notification or communication is deemed to have been made, the period of time shall expire at the end of the first following business day.

A communication dispatched in accordance with paragraph 2 prior to, or on the date of, the expiry of the time limit shall be deemed timely made.

7. The Arbitral Tribunal may, after consultation with the parties, decide on rules that deviate from the provisions of this article.

MULTIPLE PARTIES, MULTIPLE CONTRACTS, INTERVENTION AND CONSOLIDATION

Article 9. – Multiple parties

1. An arbitration may take place between more than two parties when they have agreed to have recourse to arbitration under the Rules.

2. Each party may make a claim against any other party, subject to the limitations set out in article 24, paragraph 8 of the Rules.

Article 10. – Multiple contracts

1. Claims arising out of or in connection with more than one contract may be made in a single arbitration, irrespective of whether such claims are made under one or more than one arbitration agreement under the Rules. In deciding on whether the claims can be determined in a single arbitration in accordance with article 7, paragraph 3 of the Rules, the Arbitral Tribunal may take into account any circumstances it considers to be relevant.

2. Within a single arbitration each party may make a claim against any other party, subject to the limitations set out in article 24, paragraph 8 of the Rules.

Article 11. – Request for intervention – Request for joinder

1. A third party may request to intervene in the proceedings and any party to the proceedings may seek to have a third party joined.

The intervention or joinder may be allowed when the parties to the proceedings and the third party have agreed to have recourse to arbitration under the Rules.

2. No intervention or joinder may take place after the Appointments Committee or the President has appointed or confirmed each of the members of the Arbitral Tribunal, unless all the parties, including the third party, have agreed otherwise.

3. The request for intervention or joinder shall be addressed to the Secretariat and, if it is already constituted, to the Arbitral Tribunal. The party requesting intervention or joinder shall enclose with its request proof of the notification of the request to the parties to the proceedings, as the case may be, to the third party whose joinder is requested and, if it is already constituted, to the Arbitral Tribunal.

4. The request for intervention or joinder shall *inter alia* include the following information:

a) the name in full, description, address and other contact details of the party requesting the intervention or joinder, of each of the parties and, in case of a request for joinder, of the third party;
b) the name in full, description, address and other contact details of any person representing the party requesting the intervention or joinder in the arbitration;
c) a description of the nature and circumstances of the dispute giving rise to the request;
d) the relief sought by the request for intervention or joinder, a summary of the grounds for the claims and the amounts of any quantifiable claims and, to the extent possible, an estimate of the monetary value any other claims in the request for intervention or joinder;
e) any comments as to the place and language of the pending arbitration proceedings as well as to the applicable rules of law.

The request for intervention or joinder should be accompanied by a copy of the arbitration agreement that binds the parties and the third party and all other useful documents.

5. The intervening or joined third party may make a claim against any other party, subject to the limitations set out in article 24, paragraph 8 of the Rules.

Article 12. – Jurisdiction of the Arbitral Tribunal

1. The Arbitral Tribunal shall rule on all disputes as to its own jurisdiction, including those in connection with articles 9 to 11 of the Rules.

2. The decisions of the Appointments Committee or the President as to the appointment or the confirmation of the members of the Arbitral Tribunal shall not prejudice any determination on jurisdiction.

Article 13. – Consolidation

1. The Appointments Committee or the President may order the consolidation of two or more related or indivisible arbitrations pending under the Rules.

This decision is taken either, prior to any other plea at the request of the most diligent party or at the request of the Arbitral Tribunals or any one of them.

In any event no decision is taken without the parties and the Arbitral

Tribunal or, as the case may be, the Arbitral Tribunals being invited to present their written observations within the time limit fixed by the Secretariat.

2. The request for consolidation shall be granted if it is presented by all the parties and they have also agreed on the manner in which the consolidation shall occur. If this is not the case, the Appointments Committee or the President may grant the application for consolidation, after having considered, *inter alia*:

a) whether the parties have not excluded consolidation in the arbitration agreement;
b) whether the claims made in the separate arbitrations have been made pursuant to the same arbitration agreement;
c) where the claims have been made pursuant to more than one arbitration agreement, whether the arbitration agreements are compatible and whether the arbitrations involve the same parties and concern disputes arising from the same legal relationship;
d) where the claims have been made under more than one arbitration agreement, whether the arbitration agreements are compatible and whether the relief sought arises out of the same series of connected legal relationships;
e) the progress made in each of the arbitrations and notably whether one or more arbitrators have been appointed or confirmed in more than one of the arbitrations and, whether, the fact that the persons appointed or confirmed are the same;
f) the place of arbitration provided for in the arbitration agreements.

In its assessment the Appointments Committee or the President shall have regard to article 15 of the Rules.

3. Except if agreed otherwise by the parties with regard to consolidation and the manner in which it shall occur, the Appointments Committee or the President may not order consolidation of arbitrations in which a preliminary decision, a decision on admissibility or as to the merits of a claim has already been rendered.

THE ARBITRAL TRIBUNAL

Article 14. – Impartiality, independence and obligation of the arbitrators to fulfill their task

1. Only those persons who are independent of the parties and of their counsel and who comply with the rules of good conduct set out in Schedule II, may serve as arbitrators in an arbitration under the Rules.

Once the arbitrator has been appointed or confirmed the arbitrator undertakes to remain independent until the end of its task. The arbitrator is impartial and undertakes to remain so and to be available.

2. Prior to the appointment or confirmation the proposed arbitrator shall sign a statement of acceptance, availability and independence. The proposed arbitrator shall disclose in writing to the Secretariat any circumstances likely to give rise to justifiable doubts as to independence or impartiality. The Secretariat shall provide such information to the parties in writing and fix a time limit for any observations from them.

3. An arbitrator shall immediately disclose in writing to the Secretariat and to the parties any facts or circumstances of a similar nature as those mentioned in paragraph 2 which may arise during the arbitration.

4. By accepting the task, the arbitrator undertakes to carry it out until the end thereof in accordance with the Rules.

Article 15. – Appointment and confirmation of arbitrators

1. The Appointments Committee or the President shall appoint or confirm the Arbitral Tribunal in accordance with the following rules. It shall take into account, *inter alia*, the availability, the qualifications and the ability of the arbitrator(s) to conduct the arbitration in accordance with the Rules.

2. Where the parties have agreed to have their dispute resolved by a sole arbitrator, they may nominate the sole arbitrator by mutual consent for confirmation by the Appointments Committee or the President.

Should the parties fail to agree within one month of the notification of the request for arbitration to Respondent, or within such additional time as may be allowed by the Secretariat, the Appointments Committee or the President shall appoint the sole arbitrator.

If the Appointments Committee or the President refuses to confirm the nominated arbitrator, the Appointments Committee or the President appoints an arbitrator within one month of the notification of this refusal to the parties.

3. When three arbitrators are foreseen, each party shall nominate its arbitrator in, respectively the request for arbitration and the answer to the request, for the confirmation by the Appointments Committee or the President. Where a party refrains from nominating its arbitrator or if the latter is not confirmed, the Appointments Committee or the President shall appoint the arbitrator.

The third arbitrator, who will act by right as chair of the Arbitral Tribunal, shall be appointed by the Appointments Committee or the President, unless the parties have agreed upon another procedure for such appointment, in which case the appointment shall be subject to confirmation by the Appointment Committee or the President. Should such procedure not result in a nomination within the time limit fixed by the parties or the Secretariat, the third arbitrator shall be appointed by the Appointments Committee or the President.

4. Where the parties have not agreed upon the number of arbitrators, the dispute shall be resolved by a sole arbitrator.

However, at the request of a party or on its own motion, the Appointments Committee or the President may decide that the dispute shall be submitted to an Arbitral Tribunal of three arbitrators.

In this case, Claimant shall nominate an arbitrator within a period of fifteen days from the receipt of the notification of the decision of the Appointments Committee or the President and Respondent shall nominate an arbitrator within a period of fifteen days from the receipt of the notification of the nomination made by Claimant.

5. If there are multiple parties and the dispute is referred to three arbitrators, the multiple Claimants, jointly, and the multiple Respondents, jointly, shall each nominate one arbitrator for confirmation pursuant to the provisions of the present article.

In the absence of such a joint nomination and of any other agreement between the parties on a method for the constitution of the Arbitral Tribunal, the Appointments Committee or the President shall appoint each member of the Arbitral Tribunal and shall designate one of them to act as chair.

6. Where the dispute is submitted to three arbitrators and, before the Appointments Committee or the President has appointed or confirmed each of the members of the Arbitral Tribunal, a request for intervention or joinder has been addressed to the Secretariat in accordance with article 11, paragraph 3 of the Rules, the intervening or joined third party may nominate an arbitrator jointly with Claimant(s) or with Respondent(s).

Where the dispute is submitted to a sole arbitrator and, before the Appointments Committee or the President has appointed or confirmed the sole arbitrator, a request for intervention or joinder has been addressed to the Secretariat, the Appointments Committee or the President appoints the sole arbitrator taking into account the request for intervention or joinder.

7. In case of an agreement pursuant to article 11, paragraph 2 of the Rules, the Appointments Committee or the President has the choice to either confirm the appointments and confirmations that have occurred, or to terminate the tasks of the members of the Arbitral Tribunal who were previously appointed or confirmed, and to subsequently appoint the new members of the Arbitral Tribunal and appoint one of them as chair, unless agreed otherwise. In such event the Appointments Committee or the President is free to determine the number of arbitrators and to appoint any person of its choice.

8. If, pursuant to article 13, paragraph 1 of the Rules, the request for consolidation is granted, the Appointments Committee or the President appoints the sole arbitrator or each of the members of the Arbitral Tribunal and designates one of them as chair.

The parties can, however, by agreement designate the sole arbitrator or the members of the Arbitral Tribunal for confirmation by the Appointments Committee or the President.

9. The decisions of the Appointments Committee or the President as to the appointment, confirmation or appointment following replacement of an arbitrator shall not be subject to recourse.

Article 16. – Challenge of arbitrators

1. A challenge for reasons of any alleged lack of independence or impartiality or for any other reason, shall be communicated to the Secretariat in writing and shall contain the facts and circumstances on which it is based.

2. In order to be admissible, the challenge must be communicated by a party either within one month of the receipt by that party of the notification of the arbitrator's appointment or confirmation, or within one month of the date on which that party was informed of the facts and circumstances which it invokes in support of its challenge, if this day occurs after the receipt of the above-mentioned notification.

3. The Secretariat shall invite the arbitrator concerned, the other parties and the members of the Arbitral Tribunal, as the case may be, to present their written observations within a time period fixed by the Secretariat. These observations shall be communicated to the parties and to the arbitrators. The parties and arbitrators may respond to these observations within the time period fixed by the Secretariat.

The Secretariat then transmits the challenge and the observations received to the Challenge Committee. The Challenge Committee decides on the admissibility and on the merits of the challenge.

4. The decision of the Challenge Committee on the challenge of an arbitrator shall not be subject to recourse. The reasons for the decision shall not be communicated, unless any request to the contrary in the challenge or in the written observations of the other parties.

Article 17. – Replacement of arbitrators

1. In the event of an arbitrator's death or accepted challenge, or upon acceptance by the Appointments Committee or the President of the arbitrator's withdrawal, or upon acceptance by the Appointments Committee or the President of a request of all the parties, the arbitrator shall be replaced.

2. An arbitrator shall also be replaced when the Appointments Committee or the President finds that the arbitrator is prevented *de jure* or *de facto* from fulfilling his duties or does not fulfil his tasks in accordance with the Rules or within the allotted time limits.

In such event, the Appointments Committee or the President shall decide on the matter after having invited the arbitrator concerned, the parties and any other members of the Arbitral Tribunal, as the case may be, to present their observations in writing to the Secretariat within the time limit allotted by the latter. Such observations shall be communicated to the parties and to the arbitrators.

3. When an arbitrator has to be replaced, the Appointments Committee or the President shall have discretion to decide whether or not to follow the original appointment process.

Once reconstituted, and after having invited the parties to present their observations, the Arbitral Tribunal shall determine if, and to what extent, prior proceedings shall be repeated.

THE ARBITRAL PROCEEDINGS

Article 18. – Transmission of the file to the Arbitral Tribunal

The Secretariat shall transmit the file to the Arbitral Tribunal after the latter has been constituted, provided that the advance on arbitration costs set out in article 38 of the Rules has been fully paid.

Article 19. – Proof of authority

At any time after the introduction of the arbitration, the Arbitral Tribunal or the Secretariat may require proof of authority to act from any representative of any party.

Article 20. – Language of the arbitration

The language or languages of the arbitration shall be determined by mutual agreement between the parties.

Should the parties fail to agree, the language or languages of the arbitration shall be determined by the Arbitral Tribunal, due regard being given to the circumstances of the case, including the language of the contract.

Article 21. – Rules Governing the Proceedings

The proceedings before the Arbitral Tribunal are governed by the Rules and, where the Rules are silent, by any rules which the parties or, failing them, the Arbitral Tribunal may settle on, whether or not reference is thereby made to the rules of procedure of a national law to be applied to the arbitration.

Article 22. – Place of the arbitration

1. The place of the arbitration shall be determined by the Appointments Committee or the President, unless agreed upon by the parties.

2. Unless otherwise agreed by the parties and after having consulted with them, the Arbitral Tribunal may decide to hold its hearings and meetings at any other location that it considers appropriate.

3. The Arbitral Tribunal may deliberate at any place that it considers appropriate.

Article 23. – Terms of reference and procedural timetable

1. Prior to the examination of the file, the Arbitral Tribunal shall, on the basis of documents received and as the case may be in the presence of the parties, on the basis of their latest statements, draw up a document defining its terms of reference. The terms of reference shall, *inter alia*, contain the following information:

a) the name in full, description, address and other contact details of each of the parties;
b) the addresses of the parties to which notifications or communications arising in the course of the arbitration may be validly made;

c) a description of the circumstances of the case;
d) a statement of the parties' claims with the amounts of any quantifiable claims and counterclaims and, to the extent possible, an indication of the monetary value of any other claims and counterclaims;
e) unless the Arbitral Tribunal deems it to be inappropriate, a determination of the issues that are in dispute;
f) the name in full, description, address and other contact details of each member of the Arbitral Tribunal;
g) the place of the arbitration;
h) any other particulars that the Arbitral Tribunal may deem to be useful.

2. The terms of reference must be signed by the parties and the members of the Arbitral Tribunal. The Arbitral Tribunal shall send these terms of reference to the Secretariat within one month of the transmission of the file to the Arbitral Tribunal. This time limit may be extended pursuant to a reasoned request of the Arbitral Tribunal or on its own motion by the Secretariat.

If one of the parties refuses to take part in the drawing up of the terms of reference or to sign them, the proceedings shall continue after the time limit granted by the Secretariat to the Arbitral Tribunal for the obtaining of the missing signature has expired.

3. As soon as possible the Arbitral Tribunal, after having consulted the parties, shall establish a procedural timetable that it intends to follow for the conduct of the arbitration and shall communicate it to the parties and the Secretariat. Any subsequent modification of the procedural timetable shall be communicated to the parties and the Secretariat.

4. The provisional procedural timetable may be drawn up at any conference with the parties organised by the Arbitral Tribunal, either on its own motion or at the request of any party. The purpose of the conference shall be to consult with the parties on the procedural measures required in accordance with article 24 of the Rules as well as on any other measure capable of facilitating the management of the proceedings. The conference may be organised via any means of communication.

5. The Arbitral Tribunal shall have the power to decide on an *ex aequo* basis (*"amiable composition"*) only if the parties have authorised it to do so. In such event, the Arbitral Tribunal shall nevertheless abide by the Rules.

Article 24. – Examination of the case

1. In the conduct of the proceedings the Arbitral Tribunal and the parties shall act in a rapid manner and in good faith. In particular, the parties shall abstain from any dilatory act as well as from any other action having the object or effect of delaying the proceedings.

2. The Arbitral Tribunal shall proceed within as short a time as possible to examine the case by all appropriate means. Unless it has been agreed otherwise by the parties, the Arbitral Tribunal shall be free to decide on the rules as to the taking of evidence. It may, *inter alia*, obtain evidence from witnesses and appoint one or more experts of which it will establish the mission.

All objections which arise during the expertise ordered by the Arbitral Tribunal between the parties or between the parties and the expert(s), including a request to replace or challenge the expert(s) and all objections regarding the expansion or the extension of the mission, will be decided by the Arbitral Tribunal.

3. At the request of the parties, one of them or upon its own motion, the Arbitral Tribunal, with due observance of a reasonable term, summons the parties to appear before it on the day and at the place that it determines. After consulting with the parties, the Tribunal shall decide whether such hearing shall be held physically, by videoconference, teleconference, any other appropriate means of communication or by a combination of the foregoing methods.

4. The Arbitral Tribunal may decide the case on the basis of documents, unless the parties or one of them requests a hearing.

5. If the parties or one of them, although duly summoned, fails to appear at the hearing, the Arbitral Tribunal shall nevertheless be empowered to proceed, after it has ascertained that the summons was duly received by the non-appearing party or parties and that there is no valid reason for its or their absence.

6. The hearings shall not be public. Save with the approval of the Arbitral Tribunal and the parties, persons not involved in the proceedings shall not be admitted.

7. The parties shall appear in person, through duly authorized representatives and/or counsel.

8. If the parties make new claims, be it a principal claim or a counterclaim, they have to do so in writing. The Arbitral Tribunal may refuse to examine such new claims if it considers that they might unreasonably delay the examination of, or the ruling on, the original claims, or that they are beyond the limits of the terms of reference. It may also consider any other relevant circumstances.

Article 25. – Closing of the proceedings

1. As soon as possible after the last hearing or the filing of the last admissible documents the Arbitral Tribunal shall declare the proceedings closed.

2. If it deems it necessary, the Arbitral Tribunal, at any time prior to the rendering of the Award, may decide, on its own motion or at the request of any party, to reopen the proceedings.

Article 26. – Confidentiality of the arbitration proceedings

Unless the parties agree otherwise, the arbitral proceedings are confidential, including all Awards in the arbitration, together with all materials in the arbitration created for the purpose of the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain, save and to the extent that disclosure may be required of a party by legal duty, to protect or pursue a legal right, or to enforce or challenge an Award in legal proceedings before a state court or other legal authority.

Article 27. – Emergency arbitrator

1. Except if the parties have agreed otherwise, each party may request urgent interim and conservatory measures which cannot await the constitution of the Arbitral Tribunal. The request is made in the agreed language or, in the absence thereof, in the language of the arbitration agreement.

2. The party requesting the interim and conservatory measures shall send the request to the Secretariat.

3. The request for interim and conservatory measures includes, *inter alia*, the following information :

a) the name in full, description, address and other contact details of each of the parties;
b) the name in full, description, address and other contact details of any person(s) representing the applicant;
c) a description of the nature and circumstances of the dispute giving rise to the application;
d) a statement of the relief sought;
e) the reasons for which the applicant requests the interim and conservatory measures which may not await the constitution of the Arbitral Tribunal;

f) information as to the place and the language of the arbitration as well as to the applicable rules of law;
g) a copy of the arbitration agreement and other useful documents;
h) proof of the dispatch to Respondent of the request and the documents annexed thereto;
i) proof of the payment of the procedural expenses provided for in paragraph 11 of the present article.

4. The Appointments Committee or the President appoints an emergency arbitrator who shall provisionally decide on the measures urgently requested. The said appointment shall take place in principle within two days of the receipt of the request by the Secretariat. Immediately upon his appointment, the emergency arbitrator shall receive the file from the Secretariat. The parties shall be informed and as of such moment shall communicate directly with the emergency arbitrator, with copy to the other party and to the Secretariat.

5. The emergency arbitrator must be independent and remain so throughout the proceedings. He must also be impartial and remain so. For this purpose, he shall sign a declaration of acceptance, availability and independence.

6. The emergency arbitrator may not be appointed as arbitrator in an arbitration which is related to the dispute at the origin of the request, unless all the parties agree thereto.

7. An emergency arbitrator may be challenged for reasons of any alleged lack of independence or impartiality or for any other reason. The challenge shall be communicated to the Secretariat in writing and shall contain the facts and circumstances on which it is based.

In order to be admissible, the challenge of the emergency arbitrator must be communicated by a party within three days of the receipt by that party of the notification of the emergency arbitrator's appointment,

or within three days of the date on which that party was informed of the facts and circumstances which it invokes in support of its challenge, if this day occurs after the receipt of the above-mentioned notification.

The Secretariat shall give the emergency arbitrator and the other parties the opportunity to present their written observations within the time period fixed by the Secretariat.

The Secretariat then transmits the challenge and the observations received to the Challenge Committee. In principle, the Challenge Committee decides on the admissibility and on the merits of the challenge within three days of its receipt of the file. The decision of the Challenge Committee on the challenge of the emergency arbitrator shall not be subject to recourse. The reasons for the decisions shall not be communicated, unless any request to the contrary is made in the challenge or in the written observations of the other parties.

8. The emergency arbitrator shall draw up a procedural timetable, in principle within three days of receipt of the file. He shall transmit to the Secretariat a copy of all his written communications with the parties.

9. The emergency arbitrator organizes the proceedings in the manner which he deems to be the most appropriate. In any event, he conducts the proceedings in an impartial manner and ensures that each party has sufficient opportunity to present its case.

10. In principle, the emergency arbitrator renders his decision at the latest within fifteen days of his receipt of the file. The decision shall be in writing and shall include the reasoning upon which the decision is based. The decision shall be in the form of a reasoned order or, if the emergency arbitrator deems it appropriate, in the form of an Award. The emergency arbitrator also renders a decision on the arbitration costs and the parties' costs. The emergency arbitrator sends his decision to the parties, with

copy to the Secretariat, via any means of communication which is authorized by article 8, paragraph 2 of the Rules.

11. The applicant for interim and conservatory measures shall be required to pay a fixed sum to cover the fees of the emergency arbitrator deciding on the provisional measures as well as the administrative expenses. The sum in question is fixed in accordance with paragraph 7 of Schedule I.

The request for interim and conservatory measures is only transmitted to the Appointments Committee or the President when the Secretariat has received the above-mentioned amount.

If the proceedings pursuant to the present article do not take place or if the proceedings are terminated before any decision is rendered the Secretariat determines the amount, if any, to be reimbursed to the applicant.

In any event, the amount covering the administrative expenses fixed in accordance with paragraph 7 of Schedule I is acquired by CEPANI.

Article 28. – Interim and conservatory measures of the Arbitral Tribunal

1. Provided that the advance to cover arbitration costs in accordance with article 38 of the Rules has been paid, each party may ask the Arbitral Tribunal, as soon as it has been constituted, to order interim and conservatory measures, including the provision of guarantees or security for costs. Any such measure shall take the form of a reasoned order, or, if the Arbitral Tribunal considers it appropriate, an Award.

2. All interim and conservatory measures ordered by the state courts in relation to the dispute must be communicated immediately to the Arbitral Tribunal and to the Secretariat.

Article 29 – Expedited Procedure

1. The expedited procedure shall apply if:

a) the amount in dispute does not exceed the amount of 100.000,00 EUR at the time of the communication referred to in article 4, paragraph 1; or
b) the parties so agree.

2. The expedited procedure shall not apply if:

a) the parties have agreed to opt out of the expedited procedure ; or
b) the Appointments Committee or the President, upon the request of a party before the constitution of the Arbitral Tribunal or on its own motion, determines that it is inappropriate in the circumstances to apply the expedited procedure.

3. Article 23 shall not apply to an expedited procedure.

After the Arbitral Tribunal has been constituted, no party shall make new claims, unless it has been authorized by the Arbitral Tribunal.

The procedural timetable shall, after consultation with the parties, be established no later than fifteen days after the date on which the file was transmitted to the Arbitral Tribunal. The Secretariat may extend this time limit pursuant to a reasoned request from the Arbitral Tribunal or on its own motion.

The Arbitral Tribunal shall have discretion to adopt such procedural measures as it considers appropriate. In particular, the Arbitral Tribunal may, after consultation with the parties, limit the number, length and scope of written submissions and written witness evidence.

The Arbitral Tribunal may, after consulting the parties, decide the dispute solely on the basis of the documents submitted by the parties, without a hearing.

4. The Arbitral Tribunal shall render the final Award within four months from the date of the establishment of the procedural timetable. This time limit may be extended by decision of the Secretariat pursuant to a reasoned request from the Arbitral Tribunal or upon its own motion.

THE ARBITRAL AWARD

Article 30. – Time limit for the rendering of the Arbitral Award

1. The Arbitral Tribunal shall render the final Award within six months, starting from the date of the signature of the terms of reference by all the parties or, should the terms of reference not be signed by all the parties and the Arbitral Tribunal, from the day after the time limit granted by the Secretariat to the Arbitral Tribunal for the obtaining of the missing signature has expired, in accordance with article 23, paragraph 2, second subparagraph of the Rules.

2. This time limit may be extended by the Secretariat pursuant to a reasoned request from the Arbitral Tribunal or upon its own motion.

Article 31. – Making of the Award

1. Where there is more than one arbitrator, the Award shall be made by a majority decision. If no majority can be reached, the chair of the Arbitral Tribunal shall have the deciding vote.

2. The Award shall state the reasons upon which it is based.

3. The Award shall be deemed to be made at the place of the arbitration and on the date stated therein.

Article 32. – Award by consent

Should the parties reach a settlement that ends their dispute after the transmission of the file to the Arbitral Tribunal, the settlement shall be recorded in the form of an Award made by consent of the parties if so requested by the parties and if the Arbitral Tribunal agrees to do so.

Article 33. – Scrutiny of the Award

Before signing any Award, the Arbitral Tribunal shall submit it in draft form to the Secretariat. The Secretariat may, without affecting the Arbitral Tribunal's liberty of decision, suggest modifications as to the form of the Award.

Article 34. – Notification of the Award to the parties

1. Once the Award has been signed, the Arbitral Tribunal shall transmit it to the Secretariat in as many original versions as there are parties involved, plus one original version for the Secretariat.

2. Provided that the arbitration costs have been fully paid, the Secretariat shall notify to each party, by registered letter or by courier service against receipt, an original copy of the Award signed by the members of the Arbitral Tribunal as well as, by e-mail, a copy of the same. The date of the sending by registered letter or by courier service against receipt shall be deemed to be the date of notification.

Article 35. – Final nature and enforceability of the Award

1. The Award is final and is not subject to appeal. The parties undertake to comply with the Award without delay.

2. By submitting their dispute to arbitration under the Rules and except where an explicit waiver is required by law, the parties waive their right to any form of recourse insofar as such a waiver can validly be made.

Article 36. – Correction and interpretation of the Award – Additional Award – Remission of the Award

1. On its own motion, within one month of the notification of the Award to the parties, the Arbitral Tribunal may correct any clerical,

computational or typographical error or any errors of a similar nature in the text of the Award.

2. Within one month of the notification of the Award, a party may file with the Secretariat an application for the correction of an error of the kind referred to in paragraph 1 of this article. The application must be made in as many copies as stated in article 3, paragraph 1 of the Rules.

3. Within one month of the notification of the Award a party may file with the Secretariat an application for the interpretation of a specific point or section of an Award. The application must be made in as many copies as stated in article 3, paragraph 1 of the Rules.

4. Within one month of the notification of the final Award to the parties, a party may request the Arbitral Tribunal, by filing an application with the Secretariat, with notice to the other parties, to render an Additional Award as to any claim or counterclaim presented in the arbitral proceedings but not decided in the final Award or in any previous Award.

5. After receipt of an application referred to in paragraphs 2, 3 and 4 of this article, the Arbitral Tribunal shall grant the other parties a short time limit from the date of the application in order to submit any observations.

6. A decision to correct or interpret an Award shall take the form of an *addendum* and shall constitute an integral part of the Award. A decision not to correct or interpret the Award shall take the same form.

7. After consulting the parties within one month from the date of notification of the Award to the parties, the Arbitral Tribunal may, on its own motion, render an Additional Award as to any claim or counterclaim presented in the arbitral proceedings on which no decision has been rendered in the final Award or in any previous Award.

8. When a state court remits an Award to the Arbitral Tribunal, the provisions of article 36 of the Rules shall apply *mutatis mutandis* to any decision, any *addendum* or any other Award rendered in accordance with the decision to remit. CEPANI may take all necessary measures in order to allow the Arbitral Tribunal to comply with the decision to remit and may determine an advance payment for the purposes of recovering all additional arbitration fees and expenses of the Arbitral Tribunal as well as the additional administrative expenses of CEPANI.

9. The provisions of articles 30, 31 and 33 shall apply *mutatis mutandis* to any decision, *addendum* or Additional Award made under article 36 of the Rules.

10. If the same arbitrators cannot be reunited, the Arbitral Tribunal will be reconstituted in accordance with article 17 of the Rules.

ARBITRATION COSTS

Article 37.– Nature and amount of the arbitration costs - Parties' costs

1. The arbitration costs include the fees and expenses of the arbitrators, as well as the administrative expenses of CEPANI. They shall be fixed by the Secretariat on the basis of the amount of the principal claims and of any counterclaims, according to the scale of costs for arbitration provided for in Schedule I in effect on the date of the commencement of the arbitration.

2. The parties' costs include *inter alia* the expenses of the parties incurred for their defence, expenses incurred for translation and the expenses relating to the presentation of evidence by experts or witnesses.

3. The Secretariat may fix the arbitration costs at a higher or lower amount than that which would result from the application of the scale of costs for arbitration provided for in Schedule I, should this be deemed

necessary due to exceptional circumstances.

4. In the absence of a total or partial quantification of the claims, the Secretariat determines, taking into account all available information, the amount in dispute on the basis of which the arbitration costs are calculated.

5. The Secretariat may adjust the amount of the arbitration costs at any time during the proceedings if the circumstances of the case or new claims reveal that the scope of the dispute is greater than originally considered.

Article 38. – Advance on arbitration costs

1. To cover the arbitration costs, as determined in accordance with article 37, paragraph 1 of the Rules, an advance on arbitration costs shall be paid to CEPANI prior to the transmittal of the file by the Secretariat to the Arbitral Tribunal.

2. An additional advance will be required if and when any adjustments are made to the arbitration costs in the course of the proceedings.

3. The advance on arbitration costs, as well as the additional advance on arbitration costs, shall be payable in equal shares by Claimant and Respondent. However, any party shall be free to pay the whole of the advance on arbitration costs should the other party fail to pay its share.

4. Where a counterclaim or a request for intervention is filed, the Secretariat may, at the request of the parties or one of them, or on its own motion, fix separate advances on arbitration costs for the principal claims, the counterclaims and the request for intervention. When the Secretariat has fixed separate advances on arbitration costs, each of the parties shall pay the advance on arbitration costs corresponding to its principal claims, counterclaims or request for intervention. The Arbitral Tribunal shall proceed only with respect to those claims or counterclaims in regard to which the advance on arbitration costs has been paid.

5. When the advance on arbitration costs exceeds 50.000,00 EUR an irrevocable first demand bank guarantee may, with the prior approval of the Secretariat, be posted to cover such payment.

6. When a request for an advance on arbitration costs has not been complied with, and after consultation with the Arbitral Tribunal, if already constituted, and the parties, the Secretariat may invite the Arbitral Tribunal to suspend its work and set a time limit, which must be not less than fifteen days, on the expiry of which the relevant claims or counterclaims on the basis of which the advance was calculated shall be considered as withdrawn. A party shall not be prevented on the grounds of such a withdrawal from reintroducing the same claims or counterclaims in another proceeding.

Article 39. – Decision on arbitration costs and parties' costs

1. The arbitration costs shall be finally fixed by the Secretariat.

2. The final Award shall include the amount of the arbitration costs as finally fixed by the Secretariat and decide which of the parties shall bear the arbitration costs or in what proportion they shall be borne by the parties.

3. The Arbitral Tribunal shall, at the latest in the final Award, decide which of the parties shall finally bear the parties' costs or in what proportion they shall be borne by the parties.

4. When the Arbitral Tribunal decides on the arbitration costs and the parties' costs in accordance with respectively paragraph 2 and 3 of this article, it may take into account the degree to which the claims have awarded and also the circumstances of the case, the financial importance and the degree of difficulty of the dispute, the manner in which the parties

have cooperated in handling the case, the relevance of the arguments presented and the reasonableness of these costs.

5. When the parties have reached an agreement on the allocation of the arbitration costs and the parties' costs, the Award shall record such agreement.

FINAL PROVISIONS

Article 40. – Limitation of liability

1. Except in the case of fraud, the arbitrators shall not incur any liability for any act or omission when carrying out their functions of ruling on a dispute.

2. For any other act or omission in the course of an arbitration proceeding, the arbitrators, CEPANI, its members and its personnel shall not incur any liability except in the case of fraud or gross negligence.

Article 41. – Residual provision

Unless otherwise agreed by the parties, for all issues that are not specifically provided for herein the Arbitral Tribunal and the parties shall act in the spirit of the Rules and shall make every reasonable effort to make sure that the Award is enforceable at law.

SCHEDULES

SCHEDULE I

SCALE OF COSTS FOR ARBITRATION

1. The arbitration costs shall include the fees and expenses of the arbitrators as well as the administrative expenses of the Secretariat.
The fees and costs of the arbitrators shall be determined by the Secretariat depending on the amount in dispute and within the limits mentioned hereinafter. This scale applies to all proceedings introduced as from 1 January 2020 whichever version of the Rules is applicable to the proceedings.

SCALE

SUM IN DISPUTE (in €)		FEES	
		MINIMUM	MAXIMUM
from	0,00 to 25.000,00	1.500,00	2.500,00
from	25.000,00 to 50.000,00	2.500,00 + 1,00% otae 25.000	2.750,00 + 5,00% otae 25.000
from	50.001,00 to 100.000,00	2.750,00 + 3,00% otae 50.000	3.250,00 + 4,00% otae 50.000
from	100.001,00 to 500.000,00	3.250,00 + 1,50% otae 100.000	6.000,00 + 1,50% otae 100.000
from	500.001,00 to 1.000.000,00	10.000,00 + 0,75% otae 500.000	12.500,00 + 1,50% otae 500.000
from	1.000.001,00 to 5.000.000,00	17.000,00 + 0,70% otae 1.000.000	20.000,00 + 0,75% otae 1.000.000
from	5.000.001,00 to 10.000.000,00	45.000,00 + 0,30% otae 5.000.000	60.000,00 + 0,30% otae 5.000.000
from	10.000.001,00 to 50.000.000,00	70.000,00 + 0,025% otae 10.000.000	80.000,00 + 0,025% otae 10.000.000
above	50.000.000,00	90.000,00 + 0,012% otae 50.000.000	140.000,00 + 0,012% otae 50.000.000

otae = of the amount exceeding

2. Each Request for Arbitration pursuant to the Rules must be accompanied by an advance payment on administrative expenses. Such payment is non-refundable.

For arbitrations where the amount of the principal claim does not exceed an amount of 100.000,00 EUR a non-refundable registration fee of 1.000,00 EUR (VAT excl.) is payable.

For arbitrations where the amount of the principal claim is between 100.000,00 EUR and 250.000,00 EUR a non-refundable registration fee of 1.500,00 EUR (VAT excl.) is payable.

For arbitrations where the amount of the principal claim exceeds an amount of 250.000,00 EUR, a non-refundable registration fee of 2.000,00 EUR (VAT excl.) is payable.

The administrative expenses of CEPANI are fixed on a lump sum basis at 15 % of the fees and expenses of the arbitrators as determined hereinabove (scale). They are subject to VAT and are never less than the registration costs mentioned hereinabove.

3. When the arbitrator is subject to VAT, he shall so inform the Secretariat, which will charge the parties with the VAT owed on the arbitrator's fees.

4. The Secretariat may fix the arbitration costs at a higher or lower figure than that which would result from the application of the Scale of Arbitration Costs, should this be deemed necessary due to the exceptional circumstances of the case.

5. When a Tribunal of three arbitrators has been appointed, the above rates of costs and fees shall be multiplied by 3.
When the Arbitral Tribunal is composed of more than three arbitrators, the Secretariat of CEPANI shall determine the arbitration costs accordingly.

6. Prior to any technical expertise ordered by the Arbitral Tribunal, the parties or one of them shall pay an advance, the amount of which shall be determined by the Arbitral Tribunal and cover the probable costs and fees of the expert(s). The fees and final costs of the expert shall be determined by the Arbitral Tribunal.

The Award shall allocate the technical expert appraisal costs between the parties in whatever proportion is decided.

7. The party requesting the interim and conservatory measures in accordance with article 27, shall pay an amount of 15.000,00 EUR (VAT excl.), including 3.000,00 EUR (VAT excl.) for CEPANI's administrative expenses.

8. At any time in the proceedings, the amount mentioned in point 7 may be increased by the CEPANI Secretariat, taking into account, *inter alia*, the nature of the case as well as the nature and the volume of work performed by the arbitrator and the Secretariat. The request for interim and conservatory measures is deemed to have been withdrawn if the applicant does not pay the required additional fee within the time limit fixed by the Secretariat.

9. When the parties refer to the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) and appoint the Belgian Centre for Arbitration and Mediation (CEPANI) as the appointing authority, the CEPANI administrative expenses for acting as an appointing authority shall be 1.500,00 EUR (VAT excl.), which amount is non-refundable. No application will be examined before payment of the required amount. When it is requested to render additional services, CEPANI, acting on its own discretion, may determine the amount of administrative expenses, the amount of which shall be proportionate to the services rendered and shall not exceed a ceiling of 6.000,00 EUR (VAT excl.). The administrative expenses are payable by the parties in equal parts.

10. When the parties refer to CEPANI to appoint an arbitrator in the context of an *ad hoc* arbitration proceeding, the CEPANI administrative expenses for acting as an appointing authority amount to 1.500,00 EUR (VAT excl.). This amount is non-refundable. No application will be examined before payment of the required amount. When it is requested to render additional services, CEPANI, acting on its own discretion, may determine the amount of administrative expenses, the amount of which shall be proportionate to the services rendered and shall not exceed a ceiling of 6.000,00 EUR (VAT excl.) The administrative expenses are payable by the parties in equal parts.

SCHEDULE II

RULES OF GOOD CONDUCT FOR PROCEEDINGS
ORGANISED BY CEPANI

1. In accepting his appointment by CEPANI, the arbitrator shall agree to apply strictly the CEPANI Rules and to collaborate loyally with the Secretariat. He shall regularly inform the Secretariat of the current state of the proceedings.

2. The prospective arbitrator shall accept his appointment by CEPANI only if he is independent of the parties and of their counsel. If any event should subsequently occur that is likely to justifiably call into question this independence in his own mind or in the minds of the parties, he shall immediately inform the Secretariat which will then inform the parties. After having considered the parties' comments, the Challenge Committee shall decide on his possible replacement. The Challenge Committee shall decide without any possibility for recourse.

3. An arbitrator nominated by a party shall neither represent nor act as that party's agent.

4. The arbitrator appointed upon the proposal of a party undertakes, as from his appointment, to have no contacts with that party, nor with its counsel, regarding the dispute which is the object of the arbitration, with the exception of contacts in respect of the nomination of the chair of the Arbitral Tribunal.

5. In the course of the arbitration proceedings, the arbitrator shall, in all circumstances, show the utmost impartiality, and shall refrain from any deeds or words that might be perceived by a party as prejudice, especially when asking questions at the hearing.

6. If the circumstances so permit, the arbitrator may, with due regard to paragraph 5 hereabove, ask the parties to seek an amicable settlement and, with the explicit permission of the parties and of the Secretariat, to suspend the proceedings for whatever period of time is necessary.

7. By accepting his appointment by CEPANI, the arbitrator undertakes to ensure that the Award is rendered as diligently as possible. This means, namely, that he shall request an extension of the time limit provided by the CEPANI Rules only if necessary or with the explicit agreement of the parties.

8. The arbitrator shall obey the rules of strict confidentiality in each case referred to him by CEPANI.

9. Awards may only be published anonymously and with the explicit approval of the parties. The Secretariat shall be informed there of beforehand. This rule applies to the arbitrators as well as to the parties and their counsel.

10. The signature of the Award by a member of an Arbitral Tribunal of arbitrators does not necessarily imply that that arbitrator agrees with the content of the Award.

SCHEDULE III

INTERNAL RULES OF PROCEDURE FOR THE PRESIDENT, THE APPOINTMENTS COMMITTEE AND THE CHALLENGE COMMITTEE

1. The Board of Directors appoints among its members the President and Vice-Presidents of CEPANI. They are appointed for a period of three years. Their mandate can be renewed maximum two times consecutively.

2. The President and Secretary-General of CEPANI shall not participate in any proceedings conducted under the CEPANI Rules, either as an arbitrator or counsel. If a partner or an associate of either the President or the Secretary-General of CEPANI participate in any proceedings conducted under the CEPANI Rules as an arbitrator or counsel, the President or the Secretary-General of CEPANI shall refrain from any act or decision under the CEPANI Rules in this proceeding and shall designate one or more Vice-Presidents to replace them in order to act or decide in this proceeding. In such case the parties shall be informed thereof.

3. The Appointments Committee is composed of the President and two members appointed by the Board of Directors for a period of three years.

4. The members of the Appointments Committee may not be appointed or confirmed as arbitrators. The members of the Appointments Committee may not appoint an arbitrator among their partners and associates of those of the Secretary-General.

5. The members of the Appointments Committee are bound by secrecy.

6. The secretariat of the Appointments Committee is provided by a staff member of CEPANI.

7. The Challenge Committee is composed of five members appointed by the Board of Directors for a period of three years. Their mandate can be renewed maximum two times consecutively. Three members must be present to deliberate validly.

8. The members of the Challenge Committee are bound by secrecy.

9. The secretariat of the Challenge Committee is provided by a staff member of CEPANI.

SCHEDULE IV

BELGIAN JUDICIAL CODE

PART SIX: ARBITRATION

CHAPTER I. GENERAL PROVISIONS

Art. 1676 § 1. Any pecuniary claim may be submitted to arbitration. Non-pecuniary claims with regard to which a settlement agreement may be made may also be submitted to arbitration.

§ 2. Whosoever has the capacity or is empowered to make a settlement may conclude an arbitration agreement.

§ 3. Without prejudice to specific laws, public legal entities may only enter into an arbitration agreement if the object thereof is to resolve disputes relating to an agreement. The conditions that apply to the entering into of the agreement, which constitutes the object of the arbitration, also apply to the entering into of the arbitration agreement. Moreover, public legal entities may enter into arbitration agreements on all matters defined by law or by royal decree decided by the Council of Ministers. The decree may also set forth the conditions and rules to be respected for the entering into of such an agreement.

§ 4. The above-mentioned provisions shall apply without prejudice to the exceptions provided by law.

§ 5. Without prejudice to the exceptions provided by law, an arbitration agreement entered into prior to any dispute that falls under the jurisdiction of the Labour Court pursuant to articles 578 through 583, shall be automatically null and void.

§ 6. Where the place of arbitration has not been determined, the Belgian courts have jurisdiction to take the measures set out in articles 1682 and 1683.

§ 7. Part 6 of this Code shall apply and the Belgian courts shall have jurisdiction when the place of arbitration as defined in article 1701, § 1 is located in Belgium or when the parties have so agreed.

§ 8. By way of derogation from § 7, the provisions of articles 1682, 1683, 1696 through 1698, 1708 and 1719 through 1722 shall apply irrespective of the place of arbitration and notwithstanding any clause to the contrary.

Art. 1677 § 1. In this Part of the Code, 1. the words “arbitral tribunal” mean a sole arbitrator or a panel of arbitrators; 2. the word “communication” means the transmission of a written document between the parties, between the parties and the arbitrators or between the parties and third parties organising the arbitration, by means of a method of communication or in a manner that provides proof of sending.

§ 2. Where a provision of this Part, with the exception of article 1710, leaves the parties free to determine an issue referred to herein, this freedom includes the right of the parties to authorise a third party to make that determination.

Art. 1678 § 1. Unless otherwise agreed by the parties, the communication is delivered or sent to the addressee, either to his domicile, his residence or his email address, or, in the case of a legal entity, to its registered office, main place of business or email address.
If none of these can be found after making reasonable inquiries, a communication is deemed to have been received if it is sent to the addressee’s last-known domicile or residence, or, in the case of a legal entity, to its last-known registered office, its last-known main place of business or its last-known email address.

§ 2. Unless otherwise agreed by the parties, periods starting to run with regard to the addressee from the communication date are calculated as follows:
a) where the communication is made by hand in return for a dated acknowledgement of receipt, from the following day;
b) where the communication is made by email or other method of communication that provides proof of sending, from the first day after the date indicated on the acknowledgement of receipt;
c) where the communication is made by registered post with acknowledgement of receipt, from the first day following the date on which the letter was delivered in person to the addressee at his domicile or residence, or to its registered office or main place of business or, where applicable, to the last-known domicile or residence or to the last-known registered office or main place of business;
d) where the communication is made by registered letter, from the third working day after the date on which the letter was delivered to the postal service, unless the addressee provides proof to the contrary.

§ 3. This article does not apply to communications in court proceedings.

Art. 1679 A party that, knowingly and for no legitimate reason refrains from raising, in due time, an irregularity before the arbitral tribunal is deemed to have waived its right to assert such irregularity.

Art. 1680 § 1. The President of the Court of First Instance, ruling as in summary proceedings, on a unilateral request by the most diligent party, shall appoint the arbitrator in accordance with article 1685, § 3 and § 4. The President of the Court of First Instance, ruling as in summary proceedings, following the issue of a writ of summons, shall replace the arbitrator in accordance with article 1689, § 2.
The decision to appoint or replace the arbitrator shall not be subject to any recourse.

However, this decision may be appealed where the President of the Court of First Instance rules that there are no grounds for an appointment.

§ 2. The President of the Court of First Instance, ruling as in summary proceedings, following the issue of a writ of summons, shall rule on the withdrawal of an arbitrator in accordance with article 1685, §7, challenge of an arbitrator in accordance with article 1687, § 2, and on the failure or impossibility to act of an arbitrator in the case provided for in article 1688, § 2. This decision shall not be subject to any recourse.

§ 3. The President of the Court of First Instance, ruling as in summary proceedings, may set a time limit for an arbitrator to render his award as set out in article 1713, § 2. This decision shall not be subject to any recourse.

§ 4. The President of the Court of First Instance, ruling as in summary proceedings, shall take all necessary measures for the taking of evidence in accordance with article 1708. This decision shall not be subject to any recourse.

§ 5. The Court of First Instance shall have jurisdiction to decide on the matters set out in Part 6 of this Code, except in the cases mentioned in § 1 through § 4 and in articles 1683 and 1698. Its decisions are final and not subject to recourse.

§ 6. Subject to articles 1696, § 1 and 1720, the claims referred to in this article fall under the jurisdiction of the Court whose seat is that of the Court of Appeal in whose jurisdiction the place of arbitration is fixed. Where this place is not fixed or is not located in Belgium, the Court having jurisdiction shall be the Court whose seat is that of the Court of Appeal in whose jurisdiction is situated the Court that would have had jurisdiction over the matter, had the matter not been submitted to arbitration.

CHAPTER II. ARBITRATION AGREEMENT

Art. 1681 An arbitration agreement is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

Art. 1682 1. The Court before which is brought a dispute that is also the object of an arbitration agreement shall declare itself without jurisdiction at the request of a party, unless the arbitration agreement is invalid with regard to this dispute or has ceased to exist. The plea must be raised before any other plea or defence, failing which it shall be inadmissible.

§ 2. Where an action referred to in § 1 has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made «.

Art. 1683 It is not incompatible with an arbitration agreement for a request to be made to a court for an interim or conservatory measure before or during arbitral proceedings and for a court to grant such measure, nor shall any such request imply a waiver of the arbitration agreement.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

Art. 1684 §1. The Arbitral Tribunal must be composed of an odd number of arbitrators A sole arbitrator is allowed.

§ 2. Should the arbitration agreement provide for an even number of arbitrators, an additional arbitrator shall be appointed.

§ 3. Where the parties have not agreed on the number of arbitrators, the arbitral tribunal shall be composed of three arbitrators.

Art. 1685 § 1. No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

§ 2. The parties are free to agree on a procedure for appointing the arbitrator or arbitrators, subject to the provisions of § 3 and § 4 of this article and the general requirement of independence and impartiality of the arbitrator or of the arbitrators.

§ 3. Failing such determination;
a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of the appointment of the second arbitrator, the appointment shall be made by the President of the Court of First Instance, ruling on the request of the most diligent party, in accordance with article 1680, § 1;
b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the selection of the arbitrator, he shall be appointed by the President of the Court of First Instance, ruling on the request of the most diligent party, in accordance with article 1680, § 1;
c) in an arbitration with more than three arbitrators, if the parties are unable to agree on the composition of the arbitral tribunal, it shall be appointed by the President of the Court of First Instance, ruling on the request of the most diligent party, in accordance with article 1680, § 1;

§ 4. Where, under an appointment procedure agreed upon by the parties,
a) a party fails to act as required under such procedure, or
b) the parties, or two arbitrators, are unable to reach an agreement under such procedure, or a third party, including an institution, fails to perform any function entrusted to it under such procedure, any party may request the President of the Court of First Instance ruling in accordance with article 1680, § 1 to take the necessary measure, unless the agreement on the

appointment procedure provides other means for securing the appointment.

§ 5. The President of the Court of First Instance, when appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator.

§ 6. The appointment of an arbitrator, once notified, may not be withdrawn.

§ 7. Once he has accepted his mission, an arbitrator may not withdraw without the consent of the parties or without being so authorised by the President of the Court of First Instance ruling in accordance with article 1680, § 2.

Art. 1686 §1. When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his independence or impartiality. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall disclose without delay any such circumstances to the parties

§ 2. An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his independence or impartiality, or if he does not have the qualifications agreed to by the parties. A party may challenge an arbitrator appointed by the said party, or in whose appointment it participated, only for reasons of which it becomes aware after the appointment has been made.

Art. 1687 §1. The parties are free to agree on a procedure for challenging an arbitrator.
§ 2. Failing such agreement,

a) a party who intends to challenge an arbitrator shall send a written statement of the reasons for the challenge to the relevant arbitrator and, where applicable, to the other arbitrators if the tribunal has more than one arbitrator, and to the opposing party. This statement must be sent within fifteen days after the challenging party has become aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in article 1686, § 2, failing which the statement shall be inadmissible.
b) Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge within ten days of the challenging statement being sent, the challenging party shall summon the arbitrator and the other parties within ten days, failing which the challenge shall be inadmissible, to appear before the President of the Court of First Instance ruling in accordance with article 1680, § 2. Pending a ruling by the President of the Court of First Instance, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Art. 1688 §1. Unless otherwise agreed by the parties, if an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office in the conditions foreseen in article 1685, § 7, or if the parties agree on the termination of the mandate.

§ 2. Otherwise, if a controversy remains concerning any of these grounds, the most diligent party shall summon the other parties and the arbitrator referred to in § 1 to appear before the President of the Court of First Instance who shall rule in accordance with article 1680, § 2.

§ 3. If, under this article or under article 1687, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in article 1687 or in this article.

Art. 1689 §1. In all cases where the arbitrator›s mandate is terminated before the final award is made, a substitute arbitrator shall be appointed. This appointment shall be made in accordance with the rules that were applicable to the appointment of the arbitrator being replaced unless otherwise agreed by the parties.

§ 2. If the arbitrator is not replaced in accordance with § 1, either party may refer the matter to the President of the Court of First Instance who will rule in accordance with article 1680, §1.

§ 3. Once the substitute arbitrator has been appointed, the arbitrators, after hearing the parties, shall decide if there are grounds to repeat the arbitral proceedings entirely or in part; they may not revise any partial final awards already made.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

Art. 1690 §1. The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration agreement which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration agreement.

§ 2. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the communication of the first written pleadings by the asserting party, within a period and in a manner in accordance with article 1704.
A party is not precluded from raising such a plea by the fact that he has appointed or participated in the appointment of an arbitrator.
A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.
In either case, the arbitral tribunal may admit a later plea if it considers the delay justified.

§ 3. The arbitral tribunal may rule on the pleas mentioned in § 2 either as a preliminary question or in its award on the merits.

§ 4. The arbitral tribunal's decision that it has jurisdiction may only be contested together with the award on the merits and in the course of the same procedure.
At the request of one of the parties, the Court of First Instance may also rule on the merits of the arbitral tribunal's decision that it lacks jurisdiction.

Art. 1691 Without prejudice to the powers accorded to the courts and tribunals by virtue of article 1683, and unless otherwise agreed by the parties, the arbitral tribunal may order any interim or conservatory measures it deems necessary.
However, the arbitral tribunal may not authorise attachment orders.

Art. 1692 At the request of one of the parties, the arbitral tribunal may amend, suspend or terminate an interim or conservatory measure.

Art. 1693 The arbitral tribunal may require the party requesting an interim or conservatory order to provide appropriate security.

Art. 1694 The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the measure was requested or granted.

Art. 1695 The party requesting an interim or conservatory measure shall be liable for any costs and damages caused by the measure to another party if the arbitral tribunal later determines that, in the circumstances, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

Art. 1696 § 1. An interim or protective measure issued by an arbitral tribunal shall be recognised as binding and, unless otherwise provided by the arbitral tribunal, enforced by the Court of First Instance, irrespective of the country in which it was issued, subject to the provisions of article 1697.

§ 1/1. The request shall be filed by and decided pursuant to an ex parte application. Pursuant to article 1680, § 5, the decision of the Court of First Instance is final and not subject to further recourse.

§ 1/2. Where the interim or conservatory measure was granted by a foreign tribunal, the court with territorial jurisdiction is the Court of First Instance of the seat of the Court of Appeal in the jurisdiction in which the person against whom the enforcement is requested has his domicile or, in the absence of a domicile, his usual place of residence or, where applicable, its registered office or, failing this, its place of business or branch office. If that person is neither domiciled in, nor a usual resident of, Belgium, nor has its registered office, place of business or branch office in Belgium, the application is made to the Court of First Instance of the seat of the Court of Appeal in the jurisdiction in which the measure is to be enforced.

§ 2. The party who is seeking or has obtained recognition or enforcement of an interim or conservatory measure shall promptly so inform the arbitral tribunal and shall also inform the said tribunal of any termination, suspension or modification of same.

§ 3. The Court of First Instance where recognition or enforcement is sought may, if it considers it proper, order the requesting party to provide appropriate security if the arbitral tribunal has not already made a determination with respect to security or where such a decision is necessary to protect the rights of the respondent and of third parties.

Art. 1697 §1. Recognition or enforcement of an interim or conservatory measure may be refused only:

a) At the request of the party against whom it is invoked:
i) If such refusal is warranted on the grounds set forth in article 1721, §1(a), i., ii., iii., iv. or v.; or
ii) if the arbitral tribunal's decision with respect to the provision of security has not been complied with; or
iii) if the interim or conservatory measure has been terminated or suspended by the arbitral tribunal or, where so empowered, by the court of the State in which the arbitration takes place or under the law of which that interim measure was granted;
or
b) if the Court of First Instance finds that any of the grounds set forth in article 1721, §1(b) apply to the recognition and enforcement of the interim or conservatory measure.

§ 2. Any determination made by the Court of First Instance on any ground in § 1 shall be effective only for the purposes of the application to recognise and enforce the interim or conservatory measure. The Court of First Instance where recognition or enforcement is sought shall not, in making that determination, undertake a review of the substance of the interim or conservatory measure.

Art. 1698 The Court ruling in summary proceedings shall have the same power of issuing an interim or conservatory measure in relation to arbitration proceedings, irrespective of whether they take place on Belgian territory, as it has in relation to court proceedings. The Court shall exercise such power in accordance with its own procedures taking into account the specific features of arbitration.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS

Art. 1699 Notwithstanding any agreement to the contrary, the parties shall be treated with equality and each party shall be given a full opportunity of presenting his case, pleas in law and arguments in conformity with the principle of adversarial proceedings. The arbitral tribunal shall ensure that this requirement as well as the principle of fairness of the debates are respected.

Art. 1700 §1. The parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

§ 2. Failing such agreement, the arbitral tribunal may, subject to the provisions of Part 6 of this Code, determine the rules of procedure applicable to the arbitration in such manner as it considers appropriate.

§ 3. Unless otherwise agreed by the parties, the arbitral tribunal shall freely assess the admissibility and weight of the evidence.

§ 4. The arbitral tribunal shall set the necessary investigative measures unless the parties authorise it to entrust this task to one of its members. It may hear any person and such hearing shall be taken without oath. If a party holds a piece of evidence, the arbitral tribunal may enjoin it to disclose the evidence according to such terms as the arbitral tribunal shall decide and, if necessary, on pain of a penalty payment.

§ 5. With the exception of applications relating to authentic instruments, the arbitral tribunal shall have the power to rule on applications to verify the authenticity of documents and to rule on allegedly forged documents. For applications relating to authentic instruments, the arbitral tribunal shall leave it to the parties to refer the matter to the Court of First Instance within a given time limit.
In the circumstances referred to in § 2, the time limits of the arbitral proceedings are automatically suspended until such time as the arbitral tribunal has been informed by the most diligent party of the final court decision on the incident.

Art. 1701 §1. The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties. If the place of arbitration has not been determined by the parties or the arbitrators, the place where the award is rendered is deemed to be the place of arbitration.

§ 2. Notwithstanding the provisions of § 1 and unless otherwise agreed by the parties, the arbitral tribunal, after consulting the parties, may hold its hearings and meetings at any place it deems appropriate.

Art. 1702 Unless otherwise agreed by the parties, the arbitral proceedings start on the on the date on which the request for arbitration is communicated in accordance with article 1678, § 1.

Art. 1703 §1. The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any communication between the parties, any hearing and any award, decision or other communication by the arbitral tribunal.

§ 2. The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Art. 1704 §1. Within the period of time and as agreed by the parties or determined by the arbitral tribunal, the parties shall develop all the pleas and arguments supporting their claim or defence as well as all facts in support there of.
The parties may agree on, or the arbitral tribunal may order, the exchange of additional written pleadings between the parties as well as the terms for such exchange.

The parties shall submit with their written pleadings all documents that they wish to produce in evidence.

§ 2. Unless otherwise agreed by the parties, either party may amend or supplement its claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment, notably having regard to the delay in making same.

Art. 1705 §1. Unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

§ 2. The chairman of the arbitral tribunal shall set the schedule of the hearings and shall preside over them.

Art. 1706 Unless otherwise agreed by the parties, if, without showing sufficient cause,

a) the claimant fails to communicate his statement of claim in accordance with article 1704, § 1, the arbitral tribunal shall terminate the proceedings, without prejudice to the handling of the claims of another party.
b) the respondent fails to communicate his statement of defence in accordance with article 1704, § 1, the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;
c) any party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Art. 1707 §1. Unless otherwise agreed by the parties, the arbitral tribunal may
a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;
b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

§ 2. If a party so requests or if the arbitral tribunal considers it necessary, the expert shall participate in a hearing where the parties have the opportunity to put questions to him.

§ 3. § 2 applies to the technical experts appointed by the parties.

§ 4. An expert may be challenged on grounds outlined in article 1686 and according to the procedure set out in article 1687.

Art. 1708 With the approval of the arbitral tribunal, a party may apply to the President of the Court of First Instance ruling as in summary proceedings to order all necessary measures for the taking of evidence in accordance with article 1680, § 4.

Art. 1709 § 1. Any interested third party may apply to the arbitral tribunal to join the proceedings. The request must be put to the arbitral tribunal in writing, and the tribunal shall communicate it to the parties.

§ 2. A party may call upon a third party to join the proceedings.

§ 3. In any event, the admissibility of such joinder requires an arbitration agreement between the third party and the parties involved in the arbitration. Moreover, such joinder is subject to the unanimous consent of the arbitral tribunal.

CHAPTER VI. ARBITRAL AWARD AND TERMINATION OF PROCEEDINGS

Art. 1710 §1. The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute.
Any designation of the law of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

§ 2. Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

§ 3. The arbitral tribunal shall decide ex aequo et bono or as amiable compositeur only if the parties have expressly authorized it to do so.

§ 4. Irrespective of whether it decides on the basis of rules of law or ex aequo et bono or as amiable compositeur, the arbitral tribunal shall decide in accordance with the terms of the contract if the dispute opposing the parties is contractual in nature and shall take into account the usages of the trade if the dispute is between commercial parties.

Art. 1711 §1. In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all of its members.

§ 2. Questions of procedure may be decided by the chairman of the arbitral tribunal if so authorised by the parties.

§ 3. The parties are also free to decide that the chairman›s vote shall be decisive where no majority can be formed.

§ 4. Where an arbitrator refuses to participate in deliberations or in the voting on the arbitral award, the other arbitrators are free to decide without him, unless otherwise agreed by the parties. The parties shall be given advance notice of the intention to make an award without the arbitrator refusing to participate in the deliberations or in the vote.

Art. 1712 §1. If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties, shall record the settlement in an award on agreed terms, unless this violates public policy.

§ 2. An award on agreed terms shall be made in accordance with the provisions of article 1713 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

§ 3. The decision granting enforceability to the award becomes ineffective when the award on agreed terms is set aside.

Art. 1713 §1. The arbitral tribunal shall make a final decision or render interlocutory decisions by way of one or several awards.

§ 2. The parties may determine the time limit within which the Arbitral Tribunal must render its award, or the terms for setting such a time limit. Failing this, if the arbitral tribunal is late in rendering its award, and a period of six months has elapsed between the date on which the last arbitrator has been appointed, the President of the Court of First Instance, at the request of one of the parties, may impose a time limit on the arbitral tribunal in accordance with article 1680, § 3.
The mission of the arbitrators ends if the arbitral tribunal has not rendered its award at the expiry of this time limit.

§ 3. The award shall be made in writing and shall be signed by the arbitrator. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

§ 4. The award shall state the reasons upon which it is based.

§ 5. In addition to the decision itself, the award shall contain, inter alia:
a) the names and domiciles of the arbitrators;
a) the names and domiciles of the parties;
c) the object of the dispute;
d) the date on which the award is rendered;
e) the place of arbitration determined in accordance with article 1701, § 1.

§ 6. The final award shall fix the costs of the arbitration and decide which of the parties shall bear them or in what proportion they shall be borne by the parties. Unless otherwise agreed by the parties, these costs shall include the fees and expenses of the arbitrators, the fees and expenses of the parties› counsel and representatives, the costs of services rendered by the instances in charge of the administration of the arbitration and all other expenses arising from the arbitral proceedings.

§ 7. The arbitral tribunal may order a party to pay a penalty. Articles 1385 bis through octies shall apply mutatis mutandis.

§ 8. A copy of the award shall be communicated, in accordance with article 1678, to each party by the sole arbitrator or by the chairman of the arbitral tribunal. If the method of communication retained in accordance with article 1678 does not entail the delivery of an original copy, the sole arbitrator or the chairman of the arbitral tribunal shall also send said original to the parties.

§ 9. The award shall have the same effect as a court decision in the relationship between the parties.

Art. 1714 §1. The arbitral proceedings are terminated by the signing of the arbitral award which exhausts the jurisdiction of the arbitral tribunal or by a decision of the arbitral tribunal to terminate the proceedings in accordance with § 2.

§ 2. The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute;
b) the parties agree on the termination of the proceedings.

§ 3. The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings and the communication of the award, subject to the provisions of articles 1715 and 1717, § 6.

Art. 1715 §1. Within one month of the communication of the award, in accordance with article 1678, unless another period of time has been agreed upon by the parties.
a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in calculation, any clerical or typographical errors or any errors of similar nature;
b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.
If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within one month of receipt of the request. The interpretation shall form part of the award.

§ 2. The arbitral tribunal may correct any error of the type referred to in §1(a) on its own initiative within one month of the date of the award.

§ 3. Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within one month of the communication of the award in accordance with article 1678, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within two months, even if the time limits set out in article 1713, § 2 have expired.

§ 4. The arbitral tribunal may, if necessary, extend the period of time within which it may make a correction, interpretation or an additional award under § 1 or § 3.

§ 5. Article 1713 shall apply to a correction or interpretation of the award or to an additional award.

§ 6. When the same arbitrators can no longer be reunited, the request for interpretation, correction or an additional award shall be submitted to the Court of First Instance.

§ 7. If the Court of First Instance remits an arbitral award by virtue of article 1717, § 6, article 1713 and this article shall apply mutatis mutandis to the award rendered in accordance with the decision to remit.

CHAPTER VII. RECOURSE AGAINST ARBITRAL AWARD

Art. 1716 An appeal can only be made against an arbitral award if the parties have provided for that possibility in the arbitration agreement. Unless otherwise stipulated, the time limit for an appeal is one month as of the communication of the award, in accordance with article 1678.

Art. 1717 § 1. The application to set aside the award is admissible only if the award can no longer be contested before the arbitrators.

§ 2. The arbitral award may only be contested before the Court of First Instance, by means of a writ of summons. Its decision is final and not subject to further recourse. The award may be set aside solely for a cause mentioned in this article.

§ 3. The arbitral award may only be set aside if:
a) the party making the application furnishes proof that:

i) a party to the arbitration agreement referred to in article 1681 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of Belgium; or
ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; in this case, the award may not be set aside if it is

established that the irregularity has had no effect on the arbitral award; or

iii) the award deals with a dispute not provided for in, or not falling within, the terms of the arbitration agreement, or contains decisions on matters beyond the scope of the arbitration agreement, provided that, if the provisions of the award on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

iv) if the award is not reasoned; or

v) the composition of the arbitral tribunal or the arbitral proceedings were not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of Part 6 of this Code from which the parties cannot derogate, or, failing such agreement, was not in accordance with Part 6 of this Code; with the exception of an irregularity affecting the composition of the arbitral tribunal, such irregularities may however not give rise to a setting aside of the arbitral award if it is established that they have had no effect on the award; or

vi) the arbitral tribunal has exceeded its powers; or

b) the Court of First Instance finds:

i) that the subject-matter of the dispute is not capable of settlement by arbitration; or

ii) that the award is in conflict with public policy; or

iii) that the award was obtained by fraud;

§ 4. Except in the case mentioned in article 1690, § 4 (1), an application for setting aside may no longer be made after three months have elapsed from the date on which the award was communicated in accordance with article 1678 to the party making that application or, if an application has been made under article 1715, from the date on which the arbitral tribunal's decision on the application made under article 1715 was communicated in accordance with article 1678 to the party making the application for setting aside.

§ 5. The causes mentioned in § 3(a), (i), (ii), (iii) and (v) shall not give rise to the setting aside of the arbitral award, whenever the party that invokes them has learned of the said cause in the course of the proceedings but failed to invoke it at that time.

§ 6. The Court of First Instance, when asked to set aside an arbitral award, may, where appropriate and if so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in its opinion will eliminate the grounds for setting aside.

§ 7. The party who opposes a decision to authorise enforcement and who also wishes to move to set aside the award but has not yet filed for same, must lodge its motion to set aside the award e, provided the term provided in § 4 has not elapsed, within the same proceedings, failing which its right to have the award set aside shall automatically lapse.

Art. 1718 By an explicit declaration in the arbitration agreement or by a later agreement, the parties may exclude any application for the setting aside of an arbitral award, where none of them is a natural person of Belgian nationality or a natural person having his domicile or normal residence in Belgium or a legal person having its registered office, its main place of business or a branch office in Belgium.

CHAPTER VIII. RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Art. 1719 § 1. The arbitral award rendered in Belgium or abroad may only be enforced after the Court of First Instance has granted enforcement in full or in part in accordance with the procedure set out in article 1720.

§ 2. The Court of First Instance can render the award enforceable only if it can no longer be contested before the arbitrator(s) or if the arbitrators have declared it to be provisionally enforceable notwithstanding an appeal.

Art. 1720 § 1. The Court of First Instance has jurisdiction over an application relating to the recognition and enforcement of an arbitral award rendered in Belgium or abroad.

§ 1/1. The request shall be filed by and decided pursuant to an ex parte application. Pursuant to article 1680, § 5, the decision of the court is final and not subject to further recourse. The applicant shall elect domicile in the judicial district of the Court.

§ 2. When the award was rendered abroad, the court with territorial jurisdiction is the Court of First Instance of the seat of the Court of Appeal in the jurisdiction of which the person against whom the enforcement is requested has his domicile or, in the absence of a domicile, his usual place of residence or, where applicable, its registered office or, failing this, its place of business or branch office. If that person is neither domiciled in, or a resident of, Belgium, nor has its registered office, place of business or branch office in Belgium, the application is made to the Court of First Instance of the seat of the Court of Appeal in the judicial district of which the award is to be enforced.

§ 3. The applicant shall enclose with its request the original copy or a certified copy of the arbitral award.

§ 4. The award may only be recognised or enforced if it does not violate the conditions of article 1721.

Art. 1721 § 1. The Court of First Instance may only refuse to recognise or enforce an arbitral award, irrespective of the country in which it was made, in the following circumstances:
a) at the request of the party against whom it is invoked, if that party furnishes proof that:
i) a party to the arbitration agreement referred to in article 1681 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any such indication, under the law of the country where the award was rendered; or
ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; in this case, recognition or enforcement of the arbitral award may not be refused if it is established that the irregularity has had no effect on the arbitral award; or
iii) the award deals with a dispute not contemplated by, or not falling within, the terms of the arbitration agreement, or it contains decisions on matters beyond the scope of the arbitration agreement, provided that, if the provisions of the award on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters submitted to arbitration may be recognised or enforced ; or
iv) the award is not reasoned whereas such reasons are prescribed by the rules of law applicable to the arbitral proceedings under which the award was rendered; or

v) the composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; with the exception of an irregularity affecting the composition of the arbitral tribunal, such irregularities may however not give rise to a refusal to recognise or enforce the arbitral award if it is established that they have had no effect on the award; or
vi) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or;
vii) the arbitral tribunal has exceeded its powers; or

b) if the Court of First Instance finds that:
i) the subject-matter of the dispute is not capable of settlement by arbitration; or
ii) the recognition or enforcement of the award would be contrary to public policy.

§ 2. The Court of First Instance shall ipso jure stay the application for as long as a written award signed by the arbitrators in accordance with article 1713, § 3 is not provided in support of the application.

§ 3. Where there is a reason to apply an existing treaty between Belgium and the country in which the award was rendered, the treaty shall prevail.

CHAPTER IX. TIME BAR

Art. 1722 The condemnation pronounced by an arbitral award shall be time barred ten years after the date on which the arbitral award has been communicated.

SCHEDULE V

SECRETARIAT AND CONTACT INFORMATION

I. SECRETARIAT

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