

Rules of Arbitration

Schedules of arbitral fees and expenses

*Regulations on the Organization
and Operation of the Court of
International Commercial Arbitration*

The Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania operates under a new set of Regulations on the Organization and Operation, new Regulations of the College Board and new Rules on Arbitration Fees and Expenses. Such Rules were adopted, pursuant to the law, by the Management Board of the Chamber of Commerce and Industry of Romania.

New Rules of Arbitration Procedure were also adopted, pursuant to the law, by the College of the Court. We shall publish the aforementioned rules and they shall be applied from this moment forward, including also the critical examination, in order to improve such rules, if proved that our solutions were not the best ones.

Adoption of such new rules, regulations and norms, represents the will of the Management Board of the Chamber and the College of the Court, in order to redeem ourselves, to (re)gain what was lost, the kind of „private justice” that businessmen shall trust. A justice where the faith in judges is essential and it has as base the possibility to choose the arbitrators by the parties itself, choice made taking into account the prestige and respect of the chosen ones. A justice that judges faster, with lower costs, taking place in a calmer atmosphere and having a procedure without excessive formalism.

It is above all, the merit of the College of the Chamber the fact that it considered carefully, with wisdom and calm upon today's arbitration problems that are of its jurisdiction and also, that adopted the regulations and norms that made possible the adoption of the new rules of arbitration procedure by the College of the Court.

A College who's primer concern must be the people, the arbitrators that will judge upon me and you. Hey, arbitrators are essential! The future and prestige of arbitration depends on them!

We, all members of the College accepted the nomination thinking about what is right, in order to eliminate the arbitrariness from arbitration, to fill the arbitrators study room, the library and the reading room and of course the courtrooms with the ones that worth and have the faith of the parties. With those from which we all have learned and learning still and with those that wish to study. With those which the businessmen consider worthy and they wish them as their judges. With those for which to judge their peers is an undertaken burden and have the wish to make things right. With those for which the truth and the fair judgment are their only „bias” when accepting to be members of the Arbitral Tribunals. With those that know to judge and to motivate convincingly and coherent the awards. With people that are right, good and kind! With people that are not captive to other addictions and interests then the one to make justice in a very special way and in a special environment! With people that earned the appreciation of their peers by the means of knowledge, experience, writings, professionalism and honesty.

To them and the ones that shall beneficiate of their services, we wish them success!

Ph.D. Professor Viorel Roş
The President of the Court of International Commercial
Arbitration attached to the Chamber of Commerce and
Industry of Romania

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Rules of Arbitration

CHAPTER I

General provisions

Art. 1.

Object of these Rules of Arbitration

These Rules of Arbitration shall apply to domestic and international arbitration organised by the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania (hereinafter referred to as the Court of Arbitration).

Art. 2.

Legal grounds of the Rules of Arbitration

The Rules of Arbitration were adopted by the Court of Arbitration Board in accordance with the provisions of Article 29 paragraph (5) of the Law No. 335/2007 and of the Regulation on Organisation and Operation of the Court of Arbitration, published in the Romanian Official Journal, Part 1, No. 328 of 6th of May 2014.

Art. 3.

Jurisdiction of the Court of Arbitration

(1) The Court of Arbitration shall organise and manage the settlement of domestic and international disputes by permanent arbitration, where parties concluded a written arbitration agreement in this respect and seized this Court with a claim under the present Rules.

(2) For the purpose of these Rules, an arbitration dispute is any dispute deriving from or related to an agreement, including disputes referring to the conclusion, interpretation, execution or termination of such agreement as well as disputes resulting from other legal relations.

(3) The dispute is domestic whenever the parties hold Romanian nationality or citizenship and the legal relation has no extraneity elements that might require foreign jurisdiction.

(4) The dispute is international whenever it originates from legal civil relations with extraneity elements.

Art. 4.

Individuals' capacity to enter into arbitration agreements

All individuals with full capacity of exercising their rights may agree to settle by arbitration their patrimonial disputes, except for the disputes implying rights upon which the law does not allow for a settlement agreement to be concluded by the parties.

Art. 5.

The arbitral tribunal

(1) For the purpose of these Rules, the sole arbitrator or, as the case may be, all invested arbitrators, shall constitute the arbitral tribunal of the Court of Arbitration.

(2) In accordance with these Rules, the constituted arbitral tribunal shall be entitled to settle a dispute and to render a final, enforceable and binding award for the parties.

(2) The settlement of the dispute shall be the exclusive power of the vested arbitral tribunal.

Art. 6.

Application of these Rules. Exceptions

(1) Where the Court of Arbitration is entrusted with the organisation of arbitration, the parties agree *ipso facto* these Rules to be applied.

(2) Where upon requesting the organisation of the arbitration, the parties have already agreed, in writing, on other arbitration rules, the Court of Arbitration Board, taking into consideration the case conditions and the content of the rules of arbitration indicated by the parties, may decide for the rules chosen by the parties to be applicable, and the same are accepted by the arbitral tribunal.

(3) Where the parties opted that the Court of Arbitration applies the entire set of arbitration rules of other court of arbitration, such application is possible whenever is not explicitly prohibited by those rules.

(4) In organising and conducting arbitration, the arbitration rules of the Court of Arbitration in force at the time of its notification shall apply, unless the parties agreed otherwise.

Art. 7.

The principles of arbitration procedure

(1) The arbitral tribunal shall exercise its powers and shall fulfil its mission in accordance with the provisions of Article 21 paragraphs (1)-(3) of the Romanian Constitution as republished and of Article 6 paragraph (1) of the European Convention on Human Rights, that guarantees the right to a fair hearing within a reasonable time, as well as the right to an independent and impartial tribunal.

(2) Throughout the arbitral proceedings the parties shall be ensured equal treatment, the right to defence and a reasonable opportunity to present their case, under the sanction of nullity of the arbitral award.

(3) The file of the dispute is confidential. No person, with the exception of those directly involved in the resolution of that particular dispute, shall have access to the file without the written agreement of the parties.

(4) The Court of Arbitration, the arbitral tribunal as well as the personnel of the Chamber of Commerce and Industry of Romania shall be bound to ensure confidentiality of arbitration, refraining from publishing or disclosing, without the consent of the parties, the data they took knowledge while fulfilling their duties.

(5) The arbitral awards may be published in their entirety only upon the parties' agreement. However they may be published in part, or summarized, or commented with respect to the legal issues that had arisen in journals, arbitral practice books or compilations, without mention of the name or denomination of the parties, or of the data that may be prejudicial to their interests.

(6) The president of the Court of Arbitration may authorise, case by case, the study of the files for scientific or documentation purposes, after the settlement of the disputes, and only if in those disputes irrevocable arbitral awards have been rendered.

(7) The parties shall be bound to exercise their procedural rights *bona fide* and in accordance with the purpose they are granted by these Rules and by other applicable procedural rules. They shall co-operate with the arbitral tribunal for the appropriate progress of the arbitral proceedings and the settlement of the dispute in due time.

(8) The arbitral procedure is not conditioned by any prior mediation or conciliation procedure to be fulfilled by the parties.

(9) At any stage of the dispute, the arbitral tribunal shall attempt settlement upon the parties' agreement.

CHAPTER II

The Arbitration Agreement

Art. 8.

Forms of arbitration agreement

(1) The arbitration agreement shall be concluded in writing either under the form of an arbitration clause, stipulated in the main contract, or of a separate agreement called compromise.

(2) Under the arbitration clause, the parties agree that disputes that may arise out of the contract where such clause is included or in connection with the same shall be settled by arbitration.

(3) The validity of the arbitration clause shall be independent of the validity of the contract it is included in.

(4) Under the terms of the compromise the parties agree that a dispute that is already arisen between them shall be settled by arbitration, while indicating the object of the dispute.

(5) Models of arbitration clause and compromise as recommended by the Court of Arbitration are contained in Appendix 1 and Appendix 2 of these Rules.

(6) The arbitration agreement may also originate in the filing by the claimant of a request for arbitration and the agreement by the respondent that such request be settled by the Court of Arbitration.

Art. 9.

Conclusion of arbitration agreement by the State and the public authorities

(1) The State and the public authorities are entitled to conclude valid arbitration agreements only if they are authorised by the provisions of law and international conventions which Romania is a party to.

(2) The public law legal persons having economic operations in their activity object have the faculty to enter arbitration

agreements, unless the law or their act of incorporation or organization states otherwise.

Art. 10.

Effects of an arbitration agreement

The conclusion of an arbitration agreement excludes the jurisdiction of the courts of law for the dispute making its object, it conferring legal standing to the arbitral tribunal.

CHAPTER III

**Constitution of the arbitral tribunal
Time, seat and place of arbitration**

Art. 11.

Constitution of the arbitral tribunal

(1) According to the parties' agreement, the arbitral tribunal shall consist of either a sole arbitrator or three arbitrators of which one is the presiding arbitrator.

(2) Where parties have not determined the number of arbitrators, the dispute shall be settled by three arbitrators, one appointed by each party and the third arbitrator – the presiding arbitrator – appointed by the two arbitrators or, in case of disagreement, by the president of the Court of Arbitration.

(3) Where there are several claimants or respondents, the parties who have joint interests shall appoint one arbitrator. In case of disagreement, the common arbitrator shall be appointed by the president of the Court of Arbitration.

(4) Neither party shall be allowed to appoint an arbitrator on behalf of the other party or to have more arbitrators than the other party.

Art. 12.

Arbitrators' independence

The arbitrators shall be independent and unbiased in fulfilling their duties. They shall not be the representatives of the parties.

Art. 13.

Arbitrators' appointment, dismissal and replacement

The arbitrators shall be appointed, dismissed or replaced in compliance with the arbitration agreement and these Rules.

Art. 14.

Arbitrators' appointment

(1) Where the sole arbitrator or, as the case may be, the arbitrators have not been appointed by arbitration agreement, and where the Rules are silent, the arbitral tribunal shall be appointed as follows:

a) in the request for arbitration or a subsequent request, the claimant shall nominate an arbitrator or shall propose that the dispute be settled by a sole arbitrator, indicating his/her name;

b) in the statement of defence or in a separate notification, addressed to the Court of Arbitration within maximum 10 days from the receipt of the request for arbitration, the respondent shall nominate an arbitrator indicating his/her name or, as the case may be, shall reply to the claimant's proposal concerning settlement of the dispute by a sole arbitrator and with reference to the person of the arbitrator.

(2) The parties are recommended to nominate, apart from an arbitrator, a substitute of the same. In case of nomination and after signing the Statement of Acceptance, the substitute arbitrator shall replace the arbitrator in case of its absence. For his/her activity in replacing the arbitrator, the substitute arbitrator is entitled to a fee corresponding with the degree of involvement in solving the case.

(3) The due share of fee for each arbitrator shall be determined by the arbitrators and, in case of disagreement, by the president of the Court of Arbitration.

(4) Upon a party's request, the arbitrator and the substitute arbitrator shall be appointed by the president of the Court of Arbitration.

Art. 15.

Presiding arbitrator's appointment

In case of an Arbitral Tribunal made up of three arbitrators, the two arbitrators appointed in accordance to the provisions under Article 14 shall nominate a presiding arbitrator from among the arbitrators mentioned in the List of arbitrators within 5 days from the receipt of the notification by the Court of Arbitration.

Art. 16.

Statement of Acceptance

(1) Within 5 days from the receipt of the nomination proposal, the arbitrator or the presiding arbitrator shall fill in and sign the Statement of acceptance, independence, impartiality

and availability (hereinafter referred to as the Declaration of Acceptance). The Statement may be filled in and sent by electronic mail.

(2) The Statement of Acceptance shall contain the following:

a) the arbitrator's/ presiding arbitrator's acceptance or refusal to serve as arbitrator in that case;

b) in case of acceptance, the arbitrator's / presiding arbitrator's statement that he/she has knowledge of the Rules of arbitration of the Court of Arbitration and intends to strictly observe them;

c) the arbitrator's / presiding arbitrator's statement regarding the inexistence of either incompatibility circumstances provided by Article 20 of these Rules such as questioning his/her independence and impartiality. In case the arbitrator considers that his/her mission may be fulfilled independently and impartially although such cases exist, he/she shall declare the relevant facts and circumstances;

d) the arbitrator's / presiding arbitrator's statement that he/she is able to devote the time necessary to carry out and finalize the arbitral procedure in due time as provided by these Rules.

(3) When facts and circumstances referred to in letter c) of the preceding paragraph occur during the dispute, the arbitrator shall declare them at once.

(4) The initial statement as well as the subsequent statements, if any, shall be submitted at the case file for the parties to have knowledge of their content.

(5) The arbitrator's failure to sign the Statement of Acceptance within the term set out at paragraph (1) shall be deemed as a refusal to serve as arbitrator.

(6) The Statement of Acceptance shall be drafted on a standard form and shall be communicated to the nominated arbitrators and presiding arbitrators by the Secretariat of the Court of Arbitration. The standard form is included in Appendix 3 to these Rules.

Art. 17.

Powers of the president of the Court of Arbitration in arbitrators' and presiding arbitrators' appointment

(1) Should the claimant and/or respondent fail to comply with the request to appoint an arbitrator, or should a disagreement

regarding the appointment of the sole arbitrator arise between the parties, or should the two arbitrators not agree on the person of the presiding arbitrator, the president of the Court of Arbitration, after the deadlines provided under Articles 14 and 15 are elapsed, shall appoint the sole arbitrator or, as the case may be, the claimant's and/or respondent's arbitrator, or the presiding arbitrator. Provisions of Article 16 shall remain applicable.

(2) Unless otherwise provided by the arbitration agreement, the appointment of the arbitrator shall be made from among the List of arbitrators of the Court within 5 days from the date the president of the Court of Arbitration has become aware of the circumstances provided under paragraph 1 hereinbefore.

(3) However, should the respondent, after the appointment of the arbitrator under the provisions of paragraphs 1 and 2 above, appoint his/her arbitrator no later than the date of constitution of the arbitral tribunal, the appointment already made shall become null and void.

Art. 18.

Challenging the arbitrators and arbitrators' abstention

(1) An arbitrator may be challenged for reasons calling in question his/her independence and impartiality. The reasons for challenge are those provided by Article 20 of these Rules.

(2) A party may not challenge its own appointed arbitrator except for reasons supervened, or of which the party has become aware after appointment.

(3) A person aware of a challenging reason regarding himself/herself shall be bound to inform the parties and the other arbitrators before accepting the office of arbitrator, or, should such reasons supervene after his/her acceptance of the office as soon as he/she has knowledge of them.

(4) The same may not participate in the arbitral proceedings unless the parties, apprised thereupon in compliance with the paragraph hereinbefore, notify in writing that they do not intend to challenge the arbitrator. Even in this particular case, that person has the right to refrain from judging the dispute.

(5) The challenge shall be made, under the sanction of forfeiture, within 10 days from the date the party has taken knowledge of the appointment of his/her arbitrator or, as

the case may be, after the supervening of the reason for challenge. The challenged arbitrator has the right to submit an abstention statement, without such abstention signifying recognition of the challenging reason.

(6) The challenging petition shall be solved by the arbitral tribunal, in the absence of the challenged arbitrator, as he/she shall be replaced by the president of the Court of Arbitration or by an arbitrator appointed by the same.

(7) In case the challenging petition regards the sole arbitrator, it shall be settled by the president of the Court of Arbitration or by an arbitrator appointed by the same.

(8) When all members of an arbitral tribunal are challenged, the challenging petition shall be settled by an arbitral tribunal appointed by the president of the Court of Arbitration.

(9) If the challenging petition is accepted, the arbitrator, the presiding arbitrator or the sole arbitrator shall be appointed as provided by these Rules.

(10) The abstention statement shall be in writing and must not be substantiated. The requirement of written form is met if the statement is recorded in the minutes of the hearing.

(11) The provisions of previous paragraphs shall equally apply to arbitral experts and assistants. In such case, the challenge shall be settled by the arbitral tribunal.

(12) By means of the minutes of the hearing admitting the challenging claim, shall be decided whether to maintain the procedural acts of the challenged arbitrator.

Art. 19.

Arbitrators' and presiding arbitrators' dismissal

(1) The arbitrator or the presiding arbitrator shall be dismissed from a certain dispute in case of one of the following actions, in relation to the gravity of such action:

a) should they, after acceptance, unduly abandon their duty of arbitrator;

b) should they, without solid reason, repeatedly fail to participate to the hearings or commit other acts that lead to unjustified delays of the settlement of the dispute, or fail to render the award within the time limit provided by the arbitration agreement or these Rules,

c) should they fail to observe the confidentiality of the arbitration, by intentionally publishing or disclosing without the parties' authorisation data of which they took knowledge as arbitrators.

(2) The dismissal shall be decided by the Court of Arbitration Board upon the proposal of any of the members of the Board, hearing the arbitrator whose dismissal is required / proposed, the member making the proposal not having the right to vote.

(3) When committing one of the above mentioned facts in bad faith or gross negligence, the arbitrators shall be liable to damages within the fee received.

Art. 20.

Arbitrators' incompatibility

(1) The arbitrators shall be incompatible for settling a certain dispute for the following reasons, questioning their independence and impartiality:

a) find themselves in one of the situations of incompatibility provided for judges in the Code of Civil Procedure;

b) do not meet the qualifications or other requirements regarding arbitrators provided in the arbitration agreement;

c) a legal person whose associate is the concerning arbitrator or in whose governing bodies the concerning arbitrator is part has an interest in the case;

d) the arbitrator has employment relationships or direct trade links with one of the parties, with a company controlled by one party or that is placed under common control with the same;

e) the arbitrator has provided consultancy to one of the parties, assisted or represented one of the parties or testified in one of the earlier stages of the case.

(2) The arbitrator who is also an attorney-at-law, listed on the panel of compatible attorneys-at-law, may not be an arbitrator in a dispute in respect to which he/she carried out or is going to carry out attorney-specific activities; also, he/she may not represent or assist either of the parties in that dispute before the tribunals set up within the Court of Arbitration.

(3) The attorney-specific activities specified under paragraph 2 may not be performed by the attorney-at-law who is also an arbitrator in a certain dispute, either directly or by replacement

by an attorney-at-law within the form of performing the attorney-at-law profession to which that arbitrator belongs.

(4) The arbitrator who is incompatible in relation to the office of arbitrator, due to circumstances which occurred after his inclusion on the list of arbitrators, which puts him/her in physical or moral impossibility to fulfil his/her mission for a longer period of time may request to be suspended or such measure shall be decided by the Court of Arbitration Board.

Art. 21.

Arbitrators' and presiding arbitrators' replacement

(1) In case of vacancy for any reason – challenge, abstention, dismissal, suspension, removal, death – and if no substitute has been appointed or if the substitute has been prevented from exercising his/her charge, the arbitrator shall be superseded by the party which appointed him/her within 10 days of the date at which the party has taken knowledge of the same.

(2) Should the party fail to appoint an arbitrator within that time limit, the president of the Court of Arbitration shall appoint a new arbitrator.

(3) These provisions shall also apply to the presiding arbitrator.

Art. 22.

Arbitral tribunal set up date

(1) The arbitral tribunal shall be considered constituted on the date the presiding arbitrator or, as the case may be, the sole arbitrator takes up his/her duties.

(2) As soon as it is set up, the arbitral tribunal shall be entitled to adjudicate the request for arbitration and other requests concerning the arbitral proceeding, except requests which, as a result of imperative provisions of the law, fall under the jurisdiction of the courts of law.

Art. 23.

Term of arbitration

(1) Unless otherwise agreed by the parties, the arbitral tribunal shall render the award within maximum six months from the date of its set up.

(2) The above time limit shall be suspended for the extent of time necessary for the following events: settlement of a challenging request; settlement of a plea of unconstitutionality;

settlement of an incidental request lodged with the competent court of justice; replacement of arbitrators or presiding arbitrator as provided under Article 21; any suspension of the dispute based on a legal provision; performance of a judicial expertise decided by the arbitral tribunal.

Art. 24

Extent of the term for arbitration

(1) The parties may agree, at any time in the course of the arbitral proceedings, to delay the time limit of arbitration, by either written or oral statement, made before the arbitral tribunal and noted down in the minutes of the hearing.

(2) The arbitral tribunal may order, by means of reasoned minutes, the extension of the time limit of arbitration if it finds that a party obstructs the conduct of the arbitration proceedings or for other solid reasons.

(3) The time limit shall be extended *de jure* by three months in case one legal entity is deprived of its legal capacity or in case of death of one of the parties.

Art. 25.

Nullity of arbitration

(1) The cause of nullity of arbitration is considered the case where one party has notified the arbitral tribunal in writing at the first day of hearings that it understands to disclaim the validity of arbitration and recalls it at the first hearing after the expiry of the term for arbitration.

(2) The absence of a specific request within the period specified under paragraph (1) does not produce any effect on the time of settling the dispute.

(3) The exceeding of the time limits, as provided by this article, shall not be considered as a reason for nullity of the arbitration, even if this plea was invoked within the period specified under paragraph (1), where the party obstructed the celerity of settling the dispute by its own attitude. This finding shall be made by the arbitral tribunal and noted down in the minutes of the hearing.

Art. 26.

Seat and place of arbitration

(1) The seat of arbitration is in Romania, Bucharest, 2 Octavian Goga Boulevard, 3rd District.

(2) The place of arbitration shall be at the seat of the Court of Arbitration.

(3) In case the parties request the arbitral tribunal by means of a grounded application to perform the arbitration hearings in another place, the arbitral tribunal may approve the parties' request. All costs related to above shall be borne by the parties.

CHAPTER IV

Pre-arbitration proceedings.

Communication of documents.

Provisional and conservatory measures.

Arbitral expenses

SECTION 1

Pre-arbitration proceedings

Art. 27.

Request for arbitration. Elements

(1) The claim through which the claimant notifies the Court of Arbitration regarding a dispute settlement, hereinafter referred to as the request for arbitration, shall contain the following elements:

a) surname and forename, domicile and, as the case may be, residence of the individual or, in case of legal entities, the name and registered office thereof. There will also be mentioned the claimant's and respondent's personal identification code or, as the case may be, the sole registration code or the tax number, the registration number with the trade register or with the legal entities register and the bank account, to the extent known by the claimant, as well as the e-mail address, phone number, fax number or other such details. In case the claimant lives/ is based abroad, shall also mention the address for service in Romania, where all arbitration dispute notices shall be served;

b) name and capacity of the person representing the party in the lawsuit, and in case of an attorney, his name and registered office. The representative capacity evidence shall accompany the claim, including the document proving the quality of legal representative or, where appropriate, extract from the public register referring to the power of attorney of the representative of the private legal person;

c) the object and the amount of the claim, including the method of calculation;

d) statement of the *de facto* and *de jure* grounds for each head of the claim, with reference made to the relevant written or other evidence. Pointing out the required evidences shall be made by presenting, when appropriate, the written instruments and their relevance, the name and domicile of the witnesses and the facts to be proved, the objectives of the expert report and the appointed expert, the questions for the cross examination, in case of the legal entities;

e) reference to the arbitration agreement, with a copy of the contract stipulating it annexed thereto; provided that there is a compromise, a copy thereof shall be attached;

(f) the party's signature and stamp, in case of legal entities. In case of claims filed through an attorney, it shall be signed and stamped by the latter.

(2) All documents shall be filed in duplicate bearing the party's certification, but the arbitral tribunal may ask for the originals at any time.

(3) Where the request for arbitration or the documents in the file have been written in a foreign language, the Secretariat of the Court of Arbitration may order *ex officio* the involved party to submit a Romanian translation or, in case of international arbitration, a translation into an international language. The parties may request in writing the Secretariat of the Court of Arbitration to provide for translation at their expense.

(4) The request for arbitration and all documents annexed thereto shall be filled on hard copy in a sufficient number of copies in order to be submitted to the case file, the opposing parties and each arbitrator. The copies shall be communicated also in electronic format.

Art. 28.

Registration of the request for arbitration

(1) The request for arbitration accompanied by the proof of payment of the registration fee provided by the Schedules of arbitral fees and expenses shall be registered with the Secretariat of the Court of Arbitration and shall be distributed to an arbitration assistant for the preparing procedures, in accordance with the Regulations of the Secretariat of the Court of Arbitration.

(2) The request for arbitration shall be also registered without the proof of payment of the registration fee, but in this case the Secretariat of the Court of Arbitration shall grant the claimant maximum 5 days to pay the fee. This term shall run from the date of registration, if submitted in person, or from the date the claimant receives the communication of Secretariat of the Court of Arbitration in this respect, if the claim was sent by mail. Unless the proof of payment is submitted, the request for arbitration shall remain inactive.

(3) The request for arbitration shall be considered to have been filed on the date of its registration with the Secretariat of the Court of Arbitration, or, if mailed, on the date specified by the post-mark of the forwarding post-office. The envelope shall be attached to the claim.

Art. 29.

Information provided to the claimant

(1) Should the request for arbitration fail to meet all the requirements and specifications stipulated under Article 27, the Secretariat of the Court of Arbitration shall notify the claimant, as soon as possible, to revise them accordingly within a period of time no longer than 10 days since the date of receipt of the notification.

(2) If the claimant failed to specify the arbitrator's name, it shall appoint such arbitrator within the time limit provided by paragraph (1). In case of non-compliance thereto, the provisions of Article 17 paragraphs (2) and (3) shall apply.

(3) The Secretariat shall also verify the payment of the arbitral fee, and if the claimant has failed to pay it in accordance with the Schedules of Arbitral Fees and Expenses, it shall notify the claimant the amount and the method of payment of the fee due.

Art. 30.

Information provided to the respondent

Where the request for arbitration has not been communicated to the respondent by the claimant, the Secretariat of the Court of Arbitration shall serve the respondent a copy of this request, together with the accompanying documents. Also, the respondent shall be notified about the amount and the method of paying the arbitral fees and shall receive these Rules and the List of arbitrators, in case they were not

published on the website of the Court of Arbitration.

Art. 31.

Respondent's statement of defence

(1) Upon receipt of the request for arbitration, the respondent shall submit a statement of defence including:

- the name in full of the arbitrator appointed by it or its answer to the claimant's proposal regarding the settlement of the dispute by a sole arbitrator and the person of the arbitrator;
- the special pleas to the claimant's request;
- *de facto* and *de jure* answer to such request;
- the evidence to be used in defence for each claim;
- all the other documents and requirements provided under Article 27 for the admission of a request for arbitration, accordingly.

(2) Within 20 days of the receipt of the request for arbitration, the respondent shall communicate to the claimant its statement of defence together with the accompanying documents and shall also submit a copy thereof to the Court of Arbitration, together with evidence of it having notified the claimant.

(3) Upon the respondent's request, the statement of defence shall be communicated by the Secretariat of the Court of Arbitration.

(4) If several claimants have only one representative or if one claimant stands in trial in several legal qualities, it shall be communicated and, respectively, filed only one statement of defence for these parties. .

(5) In case of several respondents, all or part of them may answer by means of only one statement of defence.

(6) Provisions of Article 27 paragraph (4) shall apply accordingly.

(7) Failure of the respondent to communicate or to submit the statement of defence shall not imply its acceptance of the claims laid by the claimant.

(8) Where proceedings are adjourned because of the respondent's failure to communicate or submit the statement of defence, the arbitral tribunal may sentence it to bear the cost of expenditure caused by the delay.

Art. 32.

Counterclaim

(1) Should the respondent have claims against the claimant on grounds derived from the same legal relationship, the former may file a counterclaim.

(2) The counterclaim shall be filed within the time limit for filing the statement of defence or no later than the first day of hearings and shall comply with the same requirements as the request for arbitration. However, the arbitral tribunal may allow receipt of a counterclaim after the first day of hearings for reasons of good management of contentious relations between the parties, always respecting the claimant's procedural rights.

(3) The counterclaim shall be settled at the same time as the request for arbitration. Whenever the request for arbitration can be solely settled, the counterclaim may be settled separately. The arbitral tribunal shall resolve in this respect by means of the minutes of the hearing.

(4) The claims in the counterclaim shall be subject to arbitral fees and expenses calculated in accordance with the Schedules of arbitral fees and expenses. Provisions of Article 29 paragraph (3) and Article 30 shall apply accordingly.

Art. 33.

Participation of third parties

Third parties may participate in the arbitration proceedings under Article 61-77 of the Code of Civil Procedure where such participation is possible under an arbitration agreement or where the effects of the arbitration agreement between the parties to the dispute may be extended to other participants.

Art. 34.

Payment of arbitral fee

(1) Within 10 days since the receipt of the notification from the Secretariat of the Court of Arbitration, the claimant and the respondent shall be bound to pay the arbitral fee in equal shares, in the amount determined in accordance with the Schedules of arbitral fees and expenses.

(2) In case of respondent's failure to provide evidence regarding the payment of half of the arbitral fee in due time, the claimant shall be invited to pay the arbitral fee in full within another 10 days granted in this respect.

(3) At the claimant's request and based on the circumstances of the case, the deadline provided as in paragraph (1) may be extended by means of grounded resolution by the president of the Court of Arbitration.

(4) Should the evidence of the payment of the arbitral fee fail to meet the terms notified by the Secretariat of the Court of Arbitration, the request for arbitration shall remain inactive.

Art. 35.

Setting out the first date for arbitration and forwarding the file to the arbitral tribunal

(1) Within no more than 5 days since the date of receipt of the statement of defence or, as the case may be, since the termination of the time limit stipulated under Article 31 paragraph (2), the president of the Court of Arbitration shall set the first date for arbitration for which the parties shall be summoned. The date for arbitration shall not be sooner than 21 days since forwarding the subpoenas.

(2) As soon as the arbitral tribunal has been set up, the Secretariat of the Court of Arbitration shall forward the file to the arbitral tribunal and shall make record of such fact and of the remittance date.

SECTION 2

Communication of documents

Art. 36.

Communication means

(1) The notification, by the Secretariat of the Court of Arbitration, of the request for arbitration, statement of defence, subpoenas and arbitration awards shall be made by registered letter with confirmation of delivery or by express delivery mail.

(2) All the other documents, information and various notifications may also be forwarded by registered letter with post note of delivery, by express delivery mail, e-mail, telegram, telex, telefax or any other means of communication that allows evidence of the delivery and wording transmission. In case of telephone communications, the assistant arbitrator shall record in the file the date and hour of the call.

(3) Written notifications to the parties shall be deemed to have been forwarded even if the recipient either refuses receipt or does not take the delivery from the post office, although there is evidence of it being notified thereof.

(4) Any written statement may also be handed over directly to the party or its representative under his/her signature which shall be certified by the assistant arbitrator or an agent of the Court of Arbitration with mention of the date of delivery.

(5) Evidence of the communication shall be included in the file.

(6) Whenever the claimant shall state and produce evidence that, despite his reasonable efforts, it could not find out the respondent's domicile/registered office address or another place where the latter can be legally summoned, the arbitral tribunal shall be entitled to approve the summoning thereof by means of publicity, the provisions of the Code of Civil Procedure applying accordingly.

Art. 37.

Communication address

(1) As the case may be, the notification is delivered to the address mentioned in the request for arbitration, statement of defence, counterclaim or in the parties' contract and mail correspondence. Any change of address shall not be taken into consideration unless the other party and the Secretariat of the Court of Arbitration have been notified in writing of the change or the arbitral tribunal have been notified during the hearings of the same.

(2) To the claimant or respondent having a domicile/registered office abroad and summoned for the first date of arbitration in compliance with the terms provided by these Rules, but who has failed to fulfil its obligation of selecting an address for service in Romania, all further notices shall be sent by registered letter, and the letter delivery note issued by the mail office, setting out the transmitted documents, shall be deemed as a procedure fulfilment evidence.

(3) The parties having the domicile/registered office abroad shall be provided with the procedural deeds in bilingual forms, both in Romanian language and in an international language, on the parties' expense.

SECTION 3

Provisional and conservatory measures

Art. 38.

Applying the interim measures by the court of justice

(1) Before or during the arbitration proceedings, either party may request the competent court to institute provisional and conservatory measures with regard to the object of the dispute or to decide on findings of factual circumstances, following the special procedure provided by Article 585 of the Code of Civil Procedure.

(2) Copies of the request for arbitration and the arbitration agreement shall be annexed to the above request.

(3) The arbitral tribunal shall be notified by the party, having requested provisional and conservatory measures, that such request has been granted.

Art. 39.

Applying the interim measures by the arbitral tribunal

(1) In the course of the arbitration proceedings, the arbitral tribunal shall have the power to decide on provisional and conservatory measures or on findings of factual circumstances, by means of reasoned minutes, following the provisions of the Code of Civil Procedure.

(2) Should any objection arise, the competent court shall be requested to rule on the execution of the measures, according to the provisions on enforcement of the Code of Civil Procedure.

SECTION 4

Representation

Art. 40.

Representation before the Court of Arbitration

Parties shall be represented by an attorney-at-law or in-house lawyer before the Court of Arbitration. This conventional representation may double the legal representation of the party.

Art. 41.

Power of attorney

The power of attorney granted to an attorney-at-law or in-house lawyer before the Court of Arbitration is supposed to be given for all pleadings to be met in the arbitration proceedings except those of disposal nature.

SECTION 5

Arbitral expenses

Art. 42.

Structure of arbitral expenses

(1) The arbitral expenses include: the registration fee, the arbitral fee containing the administrative fee and the arbitrators' fees, the expenses for producing evidence, expenses incurred by the translation of documents and of the proceedings, attorneys', experts' and advisers' fees, travel expenses of the parties, arbitrators, witnesses, experts and advisers as well as other expenditure relating to the settlement of the dispute.

(2) The registration fee and the arbitral fee cover the services provided by the Court of Arbitration in organising and conducting the arbitration procedure. The registration fee is non-refundable.

(3) The amount of the arbitrators' fees provided by the Schedules of arbitral fees and expenses shall apply for one arbitrator.

(4) The arbitral fees are established and paid in accordance with the Schedules of arbitral fees and expenses.

(5) Unless the arbitral fee and the other arbitral expenses are paid in compliance with the Schedules there above, no account shall be taken of the request for arbitration and the arbitration proceedings shall not be carried out.

Art. 43.

Bearing the arbitral expenses

(1) The arbitral expenses shall be borne according to the parties' agreement.

(2) In default of such an agreement, the arbitral expenses shall be borne by the party that has lost the case, in full where all the claims of the request for arbitration have been accepted in full. If the request for arbitration is accepted in part, the cost represented by the arbitration fee shall be awarded in accordance to the accepted claims. The arbitral tribunal shall award the other expenses to the extent it will consider them to be justified, according to the circumstances of the case.

(8) Upon request, the arbitral tribunal may order the party whose fault caused undue expenses to the other party to indemnify the latter.

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CHAPTER V
Arbitration proceedings

SECTION 1
Hearings and debates

Art. 44.

The first day of hearings

(1) The first day of hearings shall be the first date of arbitration when the duly summoned parties can file conclusions.

(2) At the first day of hearings, the parties shall be bound to inform the arbitral tribunal: a) whether they have any unclear issues related to the organisation of arbitration; b) whether they have any objections regarding the arbitral tribunal constitution and jurisdiction; c) whether they consider a reconciliation; d) whether they request to be arbitrated in equity; e) whether they have other claims, memoranda or other documents.

Art. 45

Verifying the jurisdiction of the arbitral tribunal

The arbitral tribunal shall verify its own jurisdiction for settling the dispute and shall decide in this respect by means of minutes of the hearing that can only be cancelled through the set aside claim filed against the arbitral award.

Art. 46.

Opening of the arbitration hearing

(1) The hearing is opened by the presiding arbitrator, who gives the floor to the assistant arbitrator for presenting the case report.

(2) The case report consists in announcing the dispute pending with the arbitral tribunal; introducing the members of the arbitral tribunal; making the parties' roll call; ascertaining the summoning procedure fulfilled/unfulfilled; setting out the dispute arbitration stage, based on the previous minutes of the hearing, as the case may be.

Art. 47.

The role of the presiding arbitrator during the debates

(1) The presiding arbitrator chairs the arbitration hearing.

(2) During the hearing, the arbitrators and the parties may take the floor and ask questions through the presiding arbitrator or directly with his/hers approval.

(3) After consulting with the arbitrators, the presiding arbitrator may order the suspension of the debates, announcing the time of the continuation thereof. Such situation shall be recorded in the minutes of the hearing, showing the reasons for suspension.

Art. 48.

Persons participating at the hearings

(1) The arbitration hearing is not public.

(2) The parties may participate at hearings either in person or through representatives and may be assisted by attorneys, in-house lawyers, interpreters or other persons.

(3) Where both parties agree, and provided that the arbitral tribunal grants approval, the hearings may be attended by other persons as well.

Art. 49.

Failure of the party to participate at the hearing. Adjournment of the hearing. Notice of hearing date

(1) Failure of one party, although duly summoned, to attend the hearing shall not prevent the progress of the proceedings, unless the absent party submits, the day before the date of the hearing at the latest, a request to the arbitral tribunal for adjournment of the hearing on solid grounds and notifies the other party thereof. Only one adjournment may be granted.

(2) The adjournment may be granted at the beginning of the hearing also by only one member of the arbitral tribunal.

(3) The party having attended or been represented in one hearing shall no more be summoned in the course of arbitration proceedings, being deemed to have knowledge of the next hearing dates, unless otherwise provided by these Rules or the arbitral tribunal.

(4) The hearing dates, of which knowledge has been taken or for which subpoenas have been served, may not be changed, unless sound grounds are provided. The parties shall be summoned at once for the new hearing date.

(5) When the summoning procedure has been duly performed, the trial, even on the merits, may continue the next day or at short successive time intervals, set with the parties' taking knowledge thereof.

Art. 50.

Provisional procedural timetable

In complex disputes, with the consent of the parties, the arbitral tribunal may establish, by means of the minutes of the hearing, a timetable for the arbitration proceedings. The arbitral tribunal may modify this timetable at any time if evolution of arbitration proceedings requires.

Art. 51.

Recording of the hearing

The debates may be recorded only with prior parties' consent.

Art. 52.

Procedural steps taken in writing

The arbitral tribunal may approve certain stages of the procedure to be achieved by written or electronic mail, except for the hearing of witnesses and experts, as well as formulating arguments on the merits of the case.

Art. 53.

Settling the dispute in the party's absence

Either party may request in writing for the dispute to be settled in its absence, in consideration of the documents filed.

Art. 54.

Settling the dispute in both parties' absence

(1) In case both parties, although duly summoned, do not attend the hearing on the due date, the arbitral tribunal shall proceed with the settlement of the dispute, except where adjournment for justifiable grounds is requested.

(2) The arbitral tribunal may also adjourn rendering the award and summon the parties where their presence at the hearings or production of evidence is deemed necessary.

SECTION 2

Exceptions. Evidences

Art. 55.

Claiming exceptions

(1) Any plea against the existence or validity of the arbitration agreement, the composition of the arbitral tribunal, the limits of the arbitrators' authority, and any other plea, shall be claimed, under sanction of forfeiture, in the statement of defence or by the date of the first day of hearings, at the latest.

(2) Public policy pleas may be claimed at any moment during the arbitration proceedings.

(3) The plea against the jurisdiction of the arbitral tribunal shall be claimed by the date of the first day of hearings.

Art. 56.

The plea of non-compliance with the constitution

(1) The plea of non - compliance with the may be raised by either party or *ex officio* by the arbitral tribunal, under the terms of the law on the organization and operation of the Constitutional Court.

(2) The submission of the plea to the Constitutional Court shall be ordered by the arbitral tribunal, by means of a hearing report which shall include the parties' standpoints, the opinion of the arbitral tribunal on that plea, and which shall be accompanied by the proofs submitted by the parties.

(3) If the plea is inadmissible, the arbitral tribunal shall dismiss it through reasoned hearing report, without submitting the plea to the Constitutional Court.

Art. 57.

Evidences

(1) Each party shall have the burden of proof either claim or in defence.

(2) Any requests, statements or other written documents shall be submitted no later than the first day of hearings.

(3) Subject to the law, the arbitral tribunal may accept one party's request for production of evidence only if such evidence has been asked for by the request for arbitration, the

statement of defence or written statements submitted prior to the first day of hearings and notified to the other party. Evidence for the production of which such requirements are not observed, cannot be subsequently called upon during the arbitration unless: a) the necessity of such evidence arises from the pending hearings or production of other evidences; b) the production of evidence is not a cause for the delay the settlement of the dispute.

(4) However, in settling of the dispute, the arbitral tribunal may request the parties at any stage of the arbitration proceedings to present written explanations relative to the claim and the facts of the dispute and order production of any evidence as provided by the law.

(5) Evidence shall be produced during the sessions of the arbitral tribunal.

(6) Witnesses and experts shall be heard without being asked to take the oath.

(7) The parties may agree on evidences and methods of producing them.

(8) The arbitral tribunal is not qualified to exert coercion or punish witnesses or experts. To have these measures decided, the parties shall apply to the competent courts of law. However, the arbitral tribunal may order the decrease of the expert's fee in case he/she seriously and unreasonably delayed in filing the expert report or committed other obvious acts of deferring in producing this evidence.

(9) Arbitrators shall value the evidence in accordance with their intimate conviction.

Art. 58.

Procedural irregularities

(1) Any irregularity in the performance of the procedure acts shall be covered if the party did not invoke it on the first hearing date following such irregularity and before it makes its arguments on the merits of the case.

(2) No one can invoke the irregularity caused by his/her own action.

SECTION 3

Hearing report

Art. 59.

Content of the hearing report

- (1) The arbitration proceedings shall be recorded in a hearing report.
- (2) Any decision of the arbitral tribunal and the grounds thereof shall be written down in the hearing report.
- (3) Along with the mentions set forth under Article 67 paragraph (1) letters a) and b), the hearing report shall include: a) the summoning procedure fulfilment method; b) a brief description of the proceedings; c) requests and pleas made by the parties; d) the reasons underlying the decided measures; e) the order of the tribunal; f) the signatures of the arbitrators with observance of the provisions under Article 65 paragraph (2) and the signature of the assistant arbitrator.

Art. 60.

The parties' rights regarding the hearing report

- (1) The parties are entitled to take knowledge of the content of the hearing report and of the documents in the file.
- (2) Upon the parties' request or *ex officio*, the arbitral tribunal may amend or complement the hearing report by other hearing report, under the provisions of Article 68.
- (3) The parties shall be provided, upon request, with a copy of the hearing report, through the arbitration assistant. The application shall be filed during the hearing or separately, in which case shall be filed with the Secretariat of the Court of Arbitration.

SECTION 4

Arbitration Award

Art. 61.

Arbitral decisions name

Arbitral judgements solving the merits of the case are called "awards" and other judgements given during the proceedings are called "hearing reports".

Art. 62.

Arbitration award

(1) The arbitration proceedings shall end by rendering the arbitration award.

(2) Where the respondent acknowledges partially the claimant's claims, the arbitral tribunal shall render, upon the latter's request, an interim award in accordance to the acknowledgement.

(3) Should the claimant withdraw its request for arbitration or waives its claimed right before the arbitral tribunal has been set up, the arbitral proceedings shall end by closing minutes rendered by the president of the Court of Arbitration, based on a report drafted by the chief assistant arbitrator.

(4) Should the claimant withdraw its request for arbitration or waives its claimed right after the arbitral tribunal has been set up, the arbitral proceedings shall end by closing hearing report.

Art. 63.

Dispute settlement

(1) The arbitral tribunal shall settle the dispute based on the main agreement and the applicable legal regulations, by also considering the commercial practice and general principles of law, as the case may be.

(2) Based on the parties' express agreement, the arbitral tribunal shall be entitled to settle the dispute in equity.

Art. 64.

Closure of the debates

(1) As soon as the arbitral tribunal considers that all circumstances of the case have been clarified correspondingly, it shall declare the proceedings closed and proceed to deliberations and the rendering of the award *in camera*, with the participation of all its members.

(2) The ruling of the award may be delayed by 21 days at the latest, provided that the term of arbitration is observed.

Art. 65.

Making of the award

(1) Where the arbitral tribunal is composed of three arbitrators, the award shall be given, unless the unanimity is reached, by majority of arbitrators.

(2) The arbitrator who is of a different opinion shall write and sign his/her dissenting opinion, showing the reasons on which it rests. This rule shall also apply in case of concurrent opinion.

(3) The dissenting or concurrent opinion shall be attached to the arbitration award rendered by the majority of arbitrators.

Art. 66.

Resuming the case

Should the arbitral tribunal, in the course of the deliberations and prior to the delivery of the award, deem that further clarifications are necessary, it shall issue a minute and the dispute shall be resumed for additional hearings, a new hearing date being fixed for arbitration with the parties being duly summoned, on condition that the new hearing date should not be later than the term of arbitration provided for that dispute.

Art. 67.

Dispositive part of the award

(1) Immediately after the closure of the deliberations and once the decision is reached, the dispositive part of the award shall be written and it shall bear the signatures of all the members of the Arbitral Tribunal.

(2) Where there is a dissenting opinion, it shall be recorded in the dispositive part of the award, and its reasons shall be provided separately.

(3) The dispositive part of the award shall be written by the sole arbitrator or, as the case may be, by a member of the arbitral tribunal, shall be attached to the case file and registered in the Book of arbitration sessions.

Art. 68.

Contents of the arbitration award

(1) The arbitration award shall be drawn up in writing and shall include:

a) the names of the members of the arbitral tribunal and of the assistant arbitrator, the place and date of rendering the award;

b) the names of the parties, their domicile or residence or, as the case may be, name and registered office, as well as the names of the parties' representatives and of the other persons having attended the hearings of the dispute;

- c) mention of the arbitration agreement underlying the arbitral proceedings;
- d) the object of the dispute and a summary of the parties' respective claims;
- e) the *de facto* and *de jure* grounds of the award, and in case of an arbitration in equity the grounds underlying from this point of view the solution;
- f) the dispositive part;
- g) the signatures of all arbitrators, unless the provisions under Article 65 paragraph (2) are applicable, and the signature of the assistant arbitrator.

(2) Where one of the arbitrators is prevented from signing the award, the cause of the prevention shall be confirmed under signature by the presiding arbitrator, and in case the latter is prevented as well, by the president of the Court of Arbitration.

(3) Where the assistant arbitrator is prevented for signing the award, the award shall be signed by the chief assistant arbitrator or by the replacement thereof, mentioning the cause that prevented the assistant arbitrator from signing the award.

Art. 69.

Material errors correction

(1) Any errors or omissions relative to the names, capacity or claims of the parties or of calculation as well as any other material errors in the text of the arbitration awards or hearing reports may be corrected *ex officio* or upon the request of either party.

(2) The party's request shall be made within 15 days of the receipt of the award, and, in the case of the hearing reports, by the following hearing at the latest.

(3) The arbitral tribunal shall decide on such request in a hearing report. The parties shall be summoned only if the arbitral tribunal considers they should provide clarifications.

(4) Such hearing report shall be attached to the award both in the case file and in the file containing the decisions of the Court of Arbitration. In case the correction was issued *ex officio*, it shall also be sent to the parties.

Art. 70.

Clarifying the dispositive part of the award

(1) In case clarifications are needed with respect to the meaning, scope, and application of the dispositive part of the arbitral award or the latter contains conflicting provisions, either party may ask the arbitral tribunal which made the award to clarify the dispositive part or to remove the conflicting provisions, within 15 days from the receipt of the award.

(2) The arbitral tribunal shall settle such request in emergency, in a hearing report, summoning the parties.

(3) The provisions of Article 69 paragraph (4) first thesis shall apply accordingly.

Art. 71.

Award completion

(1) Where the arbitral tribunal omits to decide in its award on an individual, main or accessory, claim or on a connected or incidental, either party may request the completion of the award within 15 days from its receipt.

(2) Such request shall be settled urgently, with the summoning of the parties, by a separate award. The provisions of Article 69 paragraph (4) first thesis shall apply accordingly.

(3) The provisions of this Article shall also apply where the arbitral tribunal failed to decide on requests made by witnesses, experts, translators, interpreters or counsels, relative to their rights.

Art. 72.

Common provisions on the judgements rendered according to Article 69, 70 and 71

(1) The hearing report made under Articles 69 and 70 and the arbitration award rendered under Article 71 can be disaffirmed only through a claim for setting aside the arbitral award rendered on the merits of the case.

(2) The parties cannot be compelled to bear the award correction, clarification or completion costs.

Art. 73.

Notification of the arbitration award

(1) The arbitration award shall be drafted and signed within one month, at the latest, of the date of its rendering. For solid

reasons, the president of the Court of Arbitration may extend the said term by maximum 30 days.

(2) The assistant arbitrator shall be bound to provide the arbitration award to the parties within 3 days from its signing date by the arbitrators.

Art. 74.

Character of the arbitration award

(1) The arbitration award shall be final and binding. The party against which it is rendered shall freely perform it either immediately or by the deadline set out therein.

(2) The arbitration award communicated to the parties shall have the effects as a final decision rendered by a court of law.

(3) The arbitration award shall be a writ of execution and can be enforced in accordance with the provisions of the Code of Civil Procedure.

Art. 75.

Setting aside an arbitration award

The arbitration award may only be set aside following a claim in cancellation, for the reasons provided by Article 608 of the Code of Civil Procedure:

CHAPTER VI

Special provisions regarding international arbitration

Art. 76.

Applicable rules

(1) Alongside the provisions of these Rules, the provisions of the international conventions to which Romania is a party shall also apply in the settlement of international disputes.

(2) The parties shall be free to decide either for these Rules, or for other rules of arbitral procedure. The provisions of Article 6 shall remain applicable.

Art. 77.

Applicable law

(1) The parties shall be free to determine, by their agreement, the law applicable to the merits of the case.

(2) In default of such agreement, the arbitral tribunal shall decide on the applicable law, according to the pertinent conflict of laws rules.

Art. 78.

Place of arbitration

(1) By the arbitral agreement, the parties may establish that the place of arbitration be in Romania or in a different country.

(2) During the arbitral proceedings, the arbitral tribunal may decide, upon the parties' consent, to conduct arbitral hearings elsewhere than at the seat of the Court of Arbitration.

(3) The arbitral tribunal may deliberate at any place it considers appropriate.

(4) The provisions of Article 26 paragraph (1) shall remain applicable.

Art. 79.

Terms duration

The duration of the time limits provided under Article 14 paragraph (1) letter b, Article 23 paragraph (1), Article 24 paragraph (3), Article 31 paragraph (2) and Articles 69-71 shall be double.

Art. 80.

Language of proceedings

(1) The hearings of the dispute before the arbitral tribunal shall be in Romanian language, in the language established by the arbitral agreement or, unless otherwise provided or a subsequent convention intervenes, in an international language decided by the arbitral tribunal.

(2) Where a party is ignorant of the language in which the arbitration proceeds, the arbitral tribunal shall provide for the services of an interpreter upon the request and at the expense of that party.

(3) The parties may attend the hearings with their interpreter.

Art. 81.

Evidences

The arbitral tribunal, with the parties' consent, may apply the Rules on the Taking of Evidence in International Arbitration adopted by the International Bar Association.

CHAPTER VII

Special provisions regarding ad-hoc arbitration

Art. 82.

Support granted by the Court of Arbitration

(1) In case of an ad-hoc arbitration organised by the parties for the settlement of a certain dispute, the Court of Arbitration may provide assistance to them upon their joint request or upon one party's individual request followed by the other party's agreement formulated in writing, and the payment of the due administrative fee according to the Schedules of arbitral fees and expenses.

(2) The assistance of the Court of Arbitration in ad-hoc arbitration consists in fulfilling all or a part of the following tasks, in accordance with the agreement with the parties:

a) appointment of the arbitrators and of the presiding arbitrator, in accordance with the arbitral agreement and these Rules of Arbitration and, in general, carrying out or, as the case may be, verifying the fulfilment of the formalities required for the composition of the arbitral tribunal and the establishment of the arbitrators' fees;

b) making available to the parties these Rules of Arbitration and a list of arbitrators, both of which being optional to the parties;

c) providing, upon arbitrators' request, of data, information or documents relative to doctrinal and jurisprudential solutions in a particular matter;

d) providing secretarial services for arbitration such as: receipt and registration of mailed documents, issue of subpoenas and communication of written documents, issue of various notifications to the parties and arbitrators, record of the proceedings in the minutes of the sessions, file registration of documents, filing and keeping of files, as well as other similar activities which may be required for a proper development of the arbitration proceedings;

e) providing adequate rooming for arbitration proceedings;

f) monitoring and facilitating arbitration proceedings in order to ensure their proper on-schedule development;

g) examination, upon the arbitral tribunal's and the parties' request, of the draft arbitration award in terms of its wording

and/or legal matters, without, however, influencing upon the arbitrators' free decision.

Art. 83.

The competence of the president of the Court of Arbitration

In case the parties have opted for the UNCITRAL (United Nations Commission for International Trade Law) Rules of Arbitration, under the assistance of the Court of Arbitration, the arbitrator Appointing Authority shall be the president of the Court of Arbitration, unless the parties agreed otherwise.

CHAPTER VIII

Removing a dispute from the docket. Lapse procedure

Art. 84.

Removing a dispute from the docket

(1) In case the normal conduct of the dispute is prevented by fault of the claimant, because of its failure to perform its obligations under these Rules, it shall be served with a written notification, whereby the obligations incumbent on it shall be indicated, the time limit in which to perform them, and also the consequences of its failure to comply.

(2) The time limit referred to in the preceding paragraph shall be of 10 days in case the arbitral tribunal has not been set up or it shall be established by the arbitral tribunal.

(2) If the claimant does not answer thereto or does not comply with the obligations incumbent on it, the dispute shall be removed from the docket under the resolution of the president of the Court of Arbitration and the arbitral proceeding shall remain inactive, the arbitral fees being not reimbursed.

Art. 85.

Lapse procedure for a request for arbitration

(1) The request for arbitration shall expire *de jure* if no progress in its resolution has been made for six months by fault of the party.

(2) The lapse shall be ascertained *ex officio* or at the request of the interested party. In either case, the president of the Court of Arbitration shall set a hearing date and order the urgent

summoning of the parties and the drafting by the Secretariat of a report on the procedural acts pertaining to the lapse.

(3) The arbitral tribunal shall consist of a sole arbitrator in the person of the president of the Court of Arbitration or of an arbitrator appointed by the latter.

(4) Where the arbitral tribunal has been set up and the dispute is pending, the lapse shall be decided by the arbitral tribunal as established.

(5) If the procedure of summoning one of the parties has not been completed because the party is not known or moved away and its new address is not known or refuses receipt of the subpoena, or no person is found at the domicile or headquarters specified in documents of the case file, that party shall be summoned for the lapse procedures by a subpoena posted on the door of the Court of Arbitration.

CAPITOLUL IX

Final and transitory provisions

Art. 86.

Applicable common law

These Rules shall be complemented by the provisions of the ordinary rules of the Code of Civil Procedure insofar as the same are compatible with the arbitration and the nature of the disputes.

Art. 87.

Effective date and cancellation or any contrary provisions

(1) These Rules shall come into force on the date of approval by the Court of Arbitration Board in accordance with the provisions of Article 29 paragraph (5) of Law No. 335/2007 and shall be published on the website of the Court of Arbitration, in the Arbitral Codex and/or as a separate publication, as well as in the Romanian Official Journal, Part I.

(2) The Rules of arbitration as published in the Romanian Official Journal, Part. I, No. 184 of 2nd of April 2013, as well as any other contrary provisions shall be repealed as of the date of coming into force of these Rules.

Art. 88.

Transitory provisions

The disputes in progress on the date of enforcement of these Rules shall be settled in compliance with the Rules in force on the date of submission of the request for arbitration, unless the parties choose these Rules.

Art. 89.

Appendixes

The Appendixes 1-3 are an integral part of these Rules.

ANNEX 1

Indicative model

The arbitral clause recommended by the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania in order to be inserted in commercial contracts

“All disputes or claims arising out of or in connection with this contract including disputes relating to its conclusion, performance or termination shall be finally settled by means of arbitration of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania pursuant to the Rules of Arbitration of this Court. The arbitral award shall be final, binding and enforceable“.

The parties may add, at their will, the following notes:

1. “The Arbitral Tribunal shall be composed of an sole arbitrator appointed by the parties agreement or, in the absence of such an agreement, by the President of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania”.

(In case that the aforementioned notes are not inserted, the Arbitral Tribunal shall be composed of 3 members pursuant to the Rules of Arbitration: one appointed by each party and a presiding arbitrator appointed by the two arbitrators).

2. “The Arbitral Tribunal shall settle the dispute de jure applying the Romanian Law”.

Or

„ The Arbitral Tribunal shall settle the dispute in equity”.

3. The place of arbitration shall be at..... (If the place established is other then the seat of the Court of Arbitration)”.

”The Arbitral Tribunal shall render the award in a period ofmonths (in case the parties agree to set a longer term or less then 6 months pursuant to the Rules of Arbitration of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania)”.

ANNEX 2
Indicative model
Arbitral Agreement recommended by
The Court of International Commercial Arbitration
attached to the Chamber of Commerce and Industry of
Romania

The undersigned:

1.....(name/denomination; names of the legal or conventional representatives; domicile/registered office; registration number with Trade Register; phone, telex, facsimile, e-mail and other identification elements, by case), hereinafter called as party 1, and

2. (same data). Hereinafter called party 2,

we find that a dispute has arisen between us in connection with contract no.from....., such dispute has the following object:

Party 1 claims that (brief presentation of claims)

Party 2 claims that (brief presentation of raised objections).

The undersigned agree that the settlement of this dispute shall be made by means of arbitration of the Court of International Commercial Arbitration of the Chamber of Commerce and Industry of Romania, in compliance with the Rules of Arbitration of the Court. The arbitral award rendered shall be final, binding and enforceable.

The parties may add, at their own will, the following notes:

1. “The Arbitral Tribunal shall be composed of Mr./ Mrs.....as sole arbitrator “

Or

“The Arbitral Tribunal shall be composed of a sole arbitrator appointed by the President of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania”

Or

“The Arbitral Tribunal shall be composed of 2 arbitrators: Mr./Mrs....., appointed by party 1 and Mr./Mrs....., appointed by party 2” .

Or

“The Arbitral Tribunal shall be composed of three members: Mr./Mrs....., arbitrator appointed by party 1 and Mr./Mrs....., arbitrator appointed by party 2. The two arbitrators shall appoint a presiding arbitrator within the time limit and conditions provided by the Rules of Arbitration of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania.” (alternative: “The presiding arbitrator shall be appointed by the President of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania.”

Or

“The Arbitral Tribunal shall be composed according to the present Rules of Arbitration”.

2. “The Arbitral Tribunal shall settle the dispute in law applying the Romanian Law”.

Or

“The Arbitral Tribunal shall settle the dispute in equity”.

3. “The place of arbitration shall be at..... (if the place established is other then the seat of the Court of Arbitration)”.

4. ”The Arbitral Tribunal shall render the award withinmonths (in case the parties agree to set a different term, longer or shorter then the 6 months term provided by the Rules of Arbitration of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania)”.

Concluded in duplicate, at....., today.....

Signature of party 1,

Signature of party 2,

ANNEX 3
STATEMENT OF ACCEPTANCE AND DECLARATION
OF INDEPENDENCE,
IMPARTIALITY AND AVAILABILITY

Mr./ Mrs.....

Profession.....

Registered/ unregistered on the List of Arbitrators of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania (Hereinafter called Court of Arbitration),

state the following:

1) Accept/decline the mission as arbitrator:

I accept to be part of the Arbitral Tribunal that shall settle the dispute registered with the Court of Arbitration under no. /

As.....(arbitrator/ presiding arbitrator)

I decline to be part of the Arbitral Tribunal that shall settle the dispute registered with the Court of Arbitration under no. /, (if this case, only the signature and date are necessary for the present Statement)

2) Observing the Rules of Arbitration of the Court of Arbitration

I hereby take note of the provisions of the Rules of Arbitration of the Court of Arbitration and I understand to duly observe them

3) Independence and impartiality:

I don't find myself in neither of the cases of incompatibility provided by Art. 20 of the Rules of Arbitration that may question my independence and impartiality

I consider that I am able to fulfill my mission as arbitrator in an independent and impartial manner, however I understand to declare the following circumstances:

.....
.....
.....

4) Availability :

I confirm, based on the information that I hold at present time, that I am able to dedicate the necessary time to execute and finalize the arbitration procedure within the time extent dedicated pursuant to the Rules of Arbitration of the Court of Arbitration.

Signature

.....

Date.....

Schedules of arbitral fees and expenses

Art. 1

(1) In order to remunerate the arbitration services rendered by the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania, hereinafter referred to as the Court of Arbitration, there will be charged a **registration fee in amount of Euros 150** or the equivalent in Lei at the NBR exchange rate of the day, as well as an arbitration fee consisting of an **administrative fee and arbitrators' fee**.

A. Whenever the claim matter value is denominated in RON

Claim matter value (in RON)	Administrative fee
a) up to RON 2,000	RON 300 (minimum administrative fee)
b) between RON 2,001 and RON 5,000	RON 300 plus 5% for the amounts exceeding RON 2,000
c) between RON 5,001 and RON 10,000	RON 450 plus 4% for the amounts exceeding RON 5,000
d) between RON 10,001 and RON 50,000	RON 650 plus 3% for the amounts exceeding RON 10,000
e) between RON 50,001 and RON 100,000	RON 1850 plus 2% for the amounts exceeding RON 50,000
f) between RON 100,001 and RON 200,000	RON 2850 plus 1% for the amounts exceeding RON 100,000
g) between RON 200,001 and RON 700,000	RON 3850 plus 0.5% for the amounts exceeding RON 200,000
h) more than RON 700,000	RON 6350 plus 0.3% for the amount exceeding RON 700,000

Claim matter value (in RON)	Arbitrator's fee
a) up to RON 2,000	RON 200 (minimum fee)
b) between RON 2,001 and RON 5,000	RON 200 plus 5% for the amounts exceeding RON 2,000
c) between RON 5,001 and RON 10,000	RON 350 plus 4% for the amounts exceeding RON 5,000
d) between RON 10,001 and RON 50,000	RON 550 plus 3% for the amounts exceeding RON 10,000
e) between RON 50,001 and RON 100,000	RON 1,750 plus 2% for the amounts exceeding RON 50,000
f) between RON 100,001 and RON 200,000	RON 2,750 plus 1% for the amounts exceeding RON 100,000
g) between RON 200,001 and RON 700,000	RON 3,750 plus 0.5% for the amounts exceeding RON 200,000
h) more than RON 700,000	RON 6,250 plus 0.3% for the amounts exceeding RON 700,000

B. Whenever the claim matter value is denominated in a foreign currency

Claim matter value (in EUR)	Administrative fee
a) up to € 20,000	€ 800 (minimum administrative fee)
b) between € 20,001 and € 50,000	€ 800 plus 5% for the amounts exceeding € 20,000
c) between € 50,001 and €100,000	€ 2300 plus 3% for the amounts exceeding € 50,000
d) between € 100,001 and €500,000	€ 3,800 plus 1.5% for the amounts exceeding € 100,000
e) between € 500,001 and €1,000,000	€ 9,800 plus 0.7% for the amounts exceeding € 500,000
f) between € 1,000,001 and €2,000,000	€ 13,300 plus 0.5% for the amounts exceeding € 1,000,000
g) over € 2.000.000	€ 18,300 plus 0.3% for the amounts exceeding € 2,000,000

Claim matter value (in EUR)	Arbitrator's fee
a) up to € 20,000	€ 400 (minimum fee)
b) between € 20,001 and €50,000	€ 400 plus 5% for the amounts exceeding € 20,000
c) between € 50,001 and €100,000	€ 1,900 plus 3% for the amounts exceeding € 50,000
d) between € 100,001 and €500,000	€ 3,400 plus 1.5% for the amounts exceeding € 100,000
e) between € 500,001 and €1,000,000	€ 9,400 plus 0.7% for the amounts exceeding €500,000
f) between € 1,000,001 and €2,000,000	€ 12,900 plus 0.5% for the amounts exceeding € 1,000,000
g) over € 2,000,000	€ 17,900 plus 0.3% for the amounts exceeding € 2,000,000

The fees mentioned at clause B shall not apply to disputes between Romanian individuals or legal entities whenever the claim matter value is denominated in a foreign currency.

(2) If the claim matter value is denominated in another foreign currency other than Euro, the arbitration fee shall be determined based on the exchange rate established by the National Bank of Romania of such currency into Euro on the date the statement of claim is submitted and shall be paid in Euro or in other freely convertible currency.

(3) The provisions of paragraph 2 shall properly apply also in cases where claims are formulated in different currencies. However, the Court of Arbitration Secretarial Office may decide a single currency for the arbitration fee.

(4) The registration fee shall not be reimbursed under any circumstances.

Art. 2

(1) The claimant shall be bound to set out within the statement of claim the value of the matter thereof, even when no financial claims are raised.

(2) The claim matter value shall be determined, usually, as follows:

- a) in cases related to financial claims, based on the claimed amount;
- b) in cases related to the delivery of certain goods, based on the value of such goods on the claim submission date;
- c) in cases related to the obligation of doing or not doing something, based on the value set out by the claimant.

(3) For claims with several counts of claim, the value of each count of claim shall be determined separately; the claim matter value shall be determined based on the total amount of all counts of claim.

(4) In case the claimant has failed to determine or has incorrectly determined the claim matter value, the Court of Arbitration Secretarial Office, by default or at the respondent's request, shall determine such value based on the data related to the claim matter.

Art. 3

(1) The arbitration fees shall be paid in equal shares by the claimant/(s) on one side and the respondent/(s) on the other, including the counterclaim.

(2) If the respondent/(s) refuse/(s) the payment, then the claimant/(s) shall incur the arbitration fees pursuant to the schedules set out herein.

Art. 4

In addition to the registration fee and the administrative fee, the parties shall be bound to pay, under the following terms, arbitration expenses consisting of: expenses related to evidence administration; expenses related to translation of documents and debates; expenses related to summoning procedures or transmission of procedure acts via fast mail, arbitrator's fees; counsel's fees; travel expenses for the parties, arbitrators, experts, counselors and witnesses, as well as other expenses required for the dispute arbitration.

(2) To the amounts paid, VAT shall be added.

(3) The Arbitration Codex shall be sent to the parties in dispute, upon request.

Art. 5

(1) In case the claimant has withdrawn its request for arbitration or the parties have concluded a transaction prior to or during the first hearing, the arbitration fee shall be reimbursed at a rate of 75 %.

(2) When a rendered award finds the lack of jurisdiction of the arbitral tribunal, the arbitration fee is reimbursed at a rate of 50 %.

(3) In case the court of law cancels the arbitral award due to the lack of jurisdiction, the sums representing the arbitrators' fees shall be reimbursed to the parties if, during the arbitration proceedings, the interested party raised the exception on lack of jurisdiction of the arbitral tribunal.

(4) In case the claimant reduces its claims prior to or during the first hearing date, for which the parties have been duly summoned, the arbitration fee shall be determined based on such reduced claim matter value. In case the values of the claims are subsequently reduced, the arbitration fee shall be borne at its initial value, without taking into account the subsequent reduction.

(5) The minimum arbitration fee is non deductible.

Art. 6.

The counterclaim, the request for impleader and the application for joinder as a party with a personal interest shall be charged exactly as the application for arbitration, including the registration fee.

Art. 7.

(1) All claims regarding the nullity certification, cancellation, rescission or termination of a patrimonial legal deed, as well as the claims regarding the existence or inexistence of a patrimonial right, shall be charged with the arbitration fee mentioned at Article 1 letter A or B, as the case may be. The claim regarding ensuring the prior condition of the parties shall be free of charge in case it is collateral to the claims regarding the nullity certification, cancellation, rescission or termination of a patrimonial legal deed.

(2) If the document whose nullity certification, annulment, resolution or termination is requested is a preliminary contract

or an undertaking of a legal act (sale - purchase, lease or any other kind), then, the arbitration fee shall be calculated taking into account the value of the first installment of the amounts to be paid according to the future contract or with regard to the preliminary contract, owed under the undertaking or the preliminary contract or at the price value of the undertaking or of the preliminary contract, if such value was explicitly stipulated by the parties. The provisions of paragraph 1, second thesis, shall remain applicable.

(3) In case that the matter value contains alternative counts of claim, such as the restitution in kind or equivalent, main charges/ ancillary there shall be charged only one arbitration fee, calculated based on the highest value of the claim pursuant to Article 2.

(4) The claims related to an arbitrator's challenge shall be charged with the minimum arbitration fee.

(5) The claims raised in order to approve interim and conservatory measures, as well as the claims related to finding certain factual circumstances, shall be charged with the minimum arbitration fee.

(6) The claims related to issuance of certificates regarding the status of certain arbitration disputes shall be charged with 25% of the minimum administrative fee, in Lei equivalent, based on the exchange rate applicable on the date of payment.

(7) When the statement of claim includes requests for interest rates, penalties or delay penalties, the sum of the aforementioned, as of the starting date until the claim submission date or the increase thereof with such claims, they become cumulative, for taxation purposes, with the value of other financial claims (damages, refunds).

(8) The claims that fall under the jurisdiction of the Arbitral tribunal having as object the annulment of legal acts issued by the organizers of a procedure for the selection of goods or services tenders, shall be charged with a sum equal to 10 times the minimum arbitration fee. In the case that the termination of the contract is also requested following the selection procedure, the arbitration fee for this count of claim shall be calculated pursuant to paragraph (1).

(9) All claims that fall under the arbitral tribunal jurisdiction, unforeseen in the aforementioned provisions, shall be charged with twice the minimum arbitration fee.

Art. 8.

The provisions of Article 5 shall apply accordingly also to the circumstances provided by Article 6 and Article 7 in the rules set out herein.

Art. 9.

In case of ad-hoc arbitration, the administrative fee shall have the same value as the administrative fee charged for the dispute settlement by means of institutionalized arbitration and shall be paid within 10 days after paying the registration fee.

Art. 10

(1) The arbitration fee shall be paid in full by the relevant parties within 10 days after receiving the Notification deed or, as the case may be, in case of a counterclaim or some other taxable claims, within 10 days since the submission date. The proof of payment shall be submitted to the case file through the arbitration assistant.

(2) Upon request of the relevant party and for solid reasons, the President of the Court of Arbitration may approve to docket the case if at least one third of the arbitration fee has been paid. The balance due of two thirds shall be paid pursuant to the decision of the Arbitral Tribunal.

Art. 11.

If the proof of payment of the arbitration fee is not submitted within the term established for this purpose, the arbitration claim shall remain inactive.

(2) The party dissatisfied with the calculation method and the resolution given for the request upon the payment schedule may submit a request for reexamination that shall be answered by the President of the Court by the means of a reasoned resolution.

Art. 12

(1) The parties are bound to pay the value of all costs necessary for proper conduct of arbitration, evidence administration, expertise, translations and any other expenses incurred by the arbitrators and presiding arbitrators shifting from other cities.

(2) In case the expertise shall be ordered *ex officio*, the arbitral tribunal shall be entitled to bind any of the parties or both to pay such costs, in the share that will be further determined.

Art. 13

(1) The arbitration cost and arbitrators' fees shall be calculated pursuant to the spreadsheet by the designated arbitration assistant.

(2) The payment of the arbitrators fees shall be done through the Chamber of Commerce and Industry of Romania, after rendering, drafting, signing and remittance to the parties of the arbitral award, in case of an institutionalized arbitration, and according to the parties' agreement, in case of an ad-hoc arbitration.

(3) The arbitrators' fees related to disputes in which the tribunal has ordered the suspension of the proceedings, pursuant to certain mandatory provisions of law, shall be determined in order to be paid as follows: 50% on the date of the suspension and 50% on the date of the final award, including by rendering a preemptory award.

Art. 14.

The registration fee, the arbitration fee and arbitration expenses shall be paid in cash, directly at the pay desk of the Chamber of Commerce and Industry of Romania, or by means of payment accepted by the Chamber of Commerce and Industry of Romania. In the latter case, the registration fee, the arbitration fee and expenses shall be deemed paid on the date when the account of the Romanian Chamber of Commerce and Industry shall be credited with such amounts. The delay between the payment date and the actual receipt of such payment in the National Chamber's account shall have no legal consequences on the set out payment terms.

Art. 15

(1) In case either party shall fail to fulfill its obligations related to the payment of the arbitration fee or the arbitration expenses, the other party shall be entitled to pay such costs, following that by the means of the arbitral award to set out the way the respective sums shall be borne.

(2) Any difference, in addition or decreasing, related to the payment of arbitration fees or expenses shall be settled and paid immediately.

(3) The remittance of the arbitral award may be postponed until the parties' financial obligations are paid in full.

Art. 16

(1) The arbitration claims registered until the date the present schedules enter into force, remain to be settled under the fees in force on the date of their registration.

Art. 17

(1) The Schedules set out herein enter into force on the date of their approval by the Management Board of the Chamber of Commerce and Industry of Romania pursuant to Article 30 of the Law No. 335/2007.

(2) On the date entering into force of the Rules set out herein, the Rules approved by the Management Board of the Chamber of Commerce and Industry of Romania on the 6th of March 2013, as well as any other contrary provisions are abrogated.

Art. 18.

These Schedules of arbitral fees and expenses shall be published on the Chamber of Commerce and Industry of Romania website, in the Arbitration Codex and the Official Gazette of Romania.

*Regulations on the Organization and Operation
of the Court of International Commercial
Arbitration
attached to the Chamber of Commerce and
Industry of Romania*

CHAPTER I

General Provisions

*The Court of
Arbitration
definition and
offices*

Art. 1. (1) The Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania, hereinafter referred to as the *Court of Arbitration*, is a permanent arbitration institution, without legal personality, independent with respect to the exercise of its powers, organized and operating in accordance with the Law on Chambers of Commerce of Romania No. 335/2007, as subsequently amended and completed and in accordance with the present Regulations.

(2) The head office of the *Court of Arbitration* is in Romania, Bucharest, 2 Octavian Goga Boulevard, 3rd District.

*The Mission of
the Court of
Arbitration*

Art. 2. The *Court of Arbitration* has the mission to organize domestic and international commercial arbitration procedures, as well as other alternative solutions for settlement of legal disputes.

Chapter II

Powers

Powers of the Arbitration Court

Art. 3. (1) The *Court of Arbitration* has the following powers:

- a) organizes and manages the domestic and international disputes settlement by means of institutionalized arbitration under the terms set out herein, by the Rules of Arbitration Procedure of the Court of International Commercial Arbitration, hereinafter referred to as the Rules of Arbitration Procedure of the Court of Arbitration, by the provisions of the Law No. 134/2010 regarding the Civil Procedure Code, republished with the subsequent amendments, hereinafter referred to as the Civil Procedure Code, by special applicable laws and by international conventions ratified by Romania;
- b) organizes for the benefit of the parties, upon their request, ad hoc arbitration, in case that they requested such, by the means of arbitration convention;
- c) drafts arbitration agreements templates and disseminates such to the business environment.
- d) debates legal issues and arbitration case law;
- e) cooperates with other Courts of Arbitration attached to the Chambers of Commerce and Industry in Romania, with other domestic and international similar institutions of arbitration and with various important figures from areas of interest;
- f) keeps records of the arbitration case law, prepares arbitration practice compendia and provides documentation in the field of domestic and international commercial arbitration;
- g) makes recommendations related to the improvement of domestic and international arbitration organization and performance.
- h) organizes, upon request, alternative disputes resolution methods;

i) performs other duties as provided by the Regulations herein and by the Rules of Arbitration Procedure of the *Court of Arbitration*.

Chapter III

Organization and operation

*Court structure.
Eligibility for the
arbitrator position*

Art. 4 (1) The Court of Arbitration consists of arbitrators, approved by the Management Board of the Chamber of Commerce and Industry of Romania, upon recommendations made by the Management Board of the Court of Arbitration, from the individuals who have met the requirements set out herein and in the Rules of Arbitration Procedure of the Court of Arbitration.

(2) On the list of arbitrators of the Court of Arbitration, hereinafter referred to as the *List of Arbitrators*, can be registered, if they meet the requirements provided by the Regulations set out herein and by the Rules of Arbitration Procedure of the Arbitration Court, individuals that are registered within the list of arbitrators of other permanent arbitration institutions from abroad.

(3) Within the arbitration proceedings organized by the Court of Arbitration there can be also appointed, as arbitrators, individuals that are not registered on the List of Arbitrators, if the parties appointed them by the means of arbitration convention to undertake such duty for a particular dispute and, only if these individuals meet the requirements provided by the Regulations set herein and by the Rules of Arbitration Procedure of the Court of Arbitration.

(4) An arbitrator may be any individual, Romanian or foreign citizen, with full exercise capacity of his/her rights, who benefits of an outstanding reputation and enjoys a high level of qualification and professional expertise in the field of private law, domestic and international economic relations and commercial arbitration.

(5) The registration on the List of arbitrators for the Romanian and foreign citizens, shall take place under the following conditions:

- a) written application, which shall enclose an affidavit of knowledge of the Rules of Arbitration Procedure of the Court of Arbitration;
- b) a law degree;
- c) proof of actual experience in law and juridical activities of at least 8 years;
- d) filling in the questionnaire drafted by the Court of Arbitration Management Board;
- e) approval of the Management Board of the Court of Arbitration.

(6) The Court of Arbitration Management Board examines the applications for registration with the List of arbitrators once a year.

(7) The arbitrators shall be mentioned in the List of arbitrators in alphabetical order, for each arbitrator setting out the scientific titles held and the professional background, seniority in the specialty, citizenship and domicile or habitual residence.

(8) The term of office for an arbitrator mandate is of 5 years, with the possibility of renewal as provided by paragraph (5).

Removal of the arbitrators from the List of arbitrators. Procedures

Art. 5. (1) The arbitrators may only be removed from the List of arbitrators, due to a reasoned decision of the Management Board of the Court of Arbitration, by the Management Bureau of the Chamber of Commerce and Industry of Romania, in case of serious breaching of the obligations related to their arbitrators' mission.

(2) The Management Bureau of the Chamber of Commerce and Industry of Romania resolution may be challenged by the relevant person within 15 days from the service thereof, at the Management Board of the Chamber of Commerce and Industry of Romania, which shall pass a final resolution immediately notified to the claimant.

(3) In case of incompatibility in his/her mission as arbitrator, occurred thereafter his/her registration on the List of arbitrators, the arbitrator shall be suspended by the Management Board of the Court of Arbitration.

*The Management
of the Court of
Arbitration*

Art. 6 (1) The Court of Arbitration shall be headed by a Management Board composed of the president and 4 members. The Management Board of the *Court of Arbitration* shall be appointed by the Management Board of the Chamber of Commerce and Industry of Romania from the List of arbitrators, for a term of 3 years, which can be renewed. The 4 members shall be proposed by the president of the *Court of Arbitration*.

(2) The Management Board shall take decisions by the absolute majority of its members.

(3) The major responsibilities of the Management Board of the Court are as follows:

- a) provides general management of the *Court of Arbitration*;
- b) approves the Rules of Arbitration Procedure of the *Court of Arbitration*;
- c) adopts the Regulations of the Management Board of the Arbitration Court;
- d) proposes amendments, if necessary, to the Regulations set out herein, as well as to the Regulations on arbitration fees and expenses;
- e) approves the List of Arbitrators;
- f) calls the Court in plenum;
- g) prepares compendia of case law of the *Court of Arbitration* and approves their publication thereof; provides procurement of domestic and international documentation necessary for the ongoing activity of the arbitrators;
- h) adopts the Rules of the Secretariat of the Court of Arbitration;

(4) The president of the *Court of Arbitration* provides the current management of the Court and represents it in domestic and international relations. The president shall also discharge powers with respect to the organization and unfolding of the arbitral disputes, as provided by the Rules of Arbitration.

(5) In the case of temporary impossibility to exercise his/her position of president, his/her replacement, shall be the oldest of the members of the Management Board of the Court of Arbitration.

(6) The president and the members of the Management Board of the Court of Arbitration may be appointed as arbitrators or presiding arbitrators.

(7) The president and the members of Management Board of the Court of Arbitration may be revoked by the Management Board of the Chamber of Commerce and Industry of Romania, in the case of the members, on the proposal of the president of the Court of Arbitration.

(8) The Management Board of the Court of Arbitration is exercising its prerogatives based on its own schedule of activity, which shall be assessed annually during the session of the Plenum of the Court of Arbitration.

(9) The Management Board of the Court of Arbitration may appoint a president of honor of the Court of Arbitration among personalities with high academic reputation, with a wide recognition in legal field with a major contribution to the activity and prestige of the Court of Arbitration.

(10) Also, the Management Board of the Court of Arbitration may appoint honorific members of the Court of Arbitration, *in honorem* or *in memoriam*, among the former arbitrators or remarkable personalities from domestic or international legal environment.

*The plenum of
the Court of
Arbitration*

Art. 7. (1) All the arbitrators included in the List of arbitrators compose the plenum of the Court of Arbitration.

(2) The plenum of the Court of Arbitration debates on the activity reports of the Management Board of the Court with regard to the activity performed by the Court, debates legal issues occurred during the activities of the Court of Arbitration, in order to provide a uniform case law and examines the proposals with regard to the regulations concerning the commercial arbitration.

(3) The sessions of the Plenum of the Court of Arbitration are called pursuant to the decision of the Management Board of the Court of Arbitration and are conducted by the president of the Court of Arbitration or by any other member of the Management Board appointed by the president of the Court of Arbitration.

(4) The sessions of the plenum of the Court of Arbitration are biannual.

*Specialized
committees of
the Court of
Arbitration*

Art. 8. (1) Court of Arbitration forms specialized committees composed of an odd number of arbitrators (3 or 5), coordinated by a member of the Management Board of the Court of Arbitration, which shall operate under the program and topics approved by the Management Board of the Court of Arbitration.

(2) The Management Board of the Court of Arbitration approves 4 specialized committees, namely: The committee on procedures and regulations, the professionals and arbitrators committee, the committee on scientific activities and international relations and the committee on organizational activities and relations with the business environment.

*The Secretariat of
the Court*

Art. 9. (1) The Court of Arbitration operates under a functional structure composed of: Secretariat, ArchiveRegistration Office and Registration of the Court, with an auxiliary and specialized personnel coordinated by the chief arbitration assistant.

(2) The positions held, number of staff, classification of personnel and payroll are approved by the management of the Chamber of Commerce and Industry of Romania at the proposal of the Management Board of the Court of Arbitration.

(3) Specialized personnel is composed of the chief arbitration assistant and the arbitration assistants and the auxiliary personnel of reviewers, secretaries, typewriters, archivers - registrators, ushers and other employees.

(4) The Secretariat, the archive-registration office and the registration office of the court, operates pursuant to the regulations approved by the Management Board of the Court of Arbitration.

(5) The Arbitration assistants are employed as legal advisers under the organizational chart of the Chamber of Commerce and Industry of Romania.

*Definition of the
Arbitral Tribunal*

Art. 10. (1) For the purpose of this Rules, the Arbitral Tribunal consists of a sole arbitrator or of 3 (three) arbitrators appointed pursuant to the Rules of Arbitration Proceedings of the Court of Arbitration. At the same time, the substitute arbitrators are appointed as well.

(2) The Chamber of Commerce and Industry of Romania and the Court of Arbitration are not entitled to interfere through arbitration organization and administration, in the dispute settlement nor to influence the Arbitral Tribunal in any way whatsoever.

*The arbitrator's
appointment*

Art. 11. The appointment of arbitrators, shall be made by the parties involved in the dispute, pursuant to the Rules of Arbitration Procedure of the Court of Arbitration .

(2) The arbitrators appointed by the parties nominate the presiding arbitrator pursuant to the terms and conditions provided by the Rules of Arbitration Procedure of the Court of Arbitration.

(3) In the case that the parties does not appoint the arbitrators or, the latter does not nominate the presiding arbitrator pursuant to the Rules of Arbitration Procedure of the Court of Arbitration, the appointment shall be made by the president of the Court of Arbitration.

*Arbitrator's/
Presiding
arbitrators' of the
Arbitral Tribunals'
obligations*

Art. 12. (1) The arbitrator and the presiding arbitrator shall exercise his/her powers individually, being impartial and independent governed only by the law. The administration of the evidence and decision making are made only by based on the arbitrator's intimate belief.

(2) The arbitrator and the presiding arbitrator must have the needed availability required by the exercise of his/ hers arbitral competences, in due time, pursuant to the agenda of the Court of Arbitration, in good faith and with professionalism.

(3) The arbitrators and the presiding arbitrators exercise their prerogatives and fulfill their missions pursuant to Article 21 paragraph (1)-(3) of the Constitution of Romania, republished and to the provisions of Article 6, paragraph (1) of the European Convention of Human Rights, which guarantees the right to a fair trial and settled in a reasonable timeframe, as well as the right to an independent and impartial tribunal.

*Arbitrators'
replacement*

Art. 13. An arbitrator or a presiding arbitrator shall be replaced for the reasons and under the terms set out herein in the Rules of Arbitration Procedure of the Court of Arbitration and in the Civil Procedure Code.

Chapter IV

Resources

*Court of
Arbitration
resources structure*

Art. 14. (1) The financial resources of the Court of Arbitration shall be formed from registration and arbitration fees, collected in consideration of the rendered services.

(2) Registration and arbitration fees shall be set out by the Rules on arbitration fees and expenses, approved by the Management Board of the Chamber of Commerce and Industry of Romania, at Management Board of the Court of Arbitration's proposal.

(3) The registration fees cover the costs of initiation of the administrative procedure in order to set up the arbitration file. The arbitration fees are intended for covering the costs related to disputes organization, performance and settlement activities, arbitrators' fees and documentation, Secretarial Office expenses, as well as other expenses required for the Court of Arbitration operation.

(4) The members of the Management Board of the Court of Arbitration and the arbitration assistants are entitled to an allowance covered from the administrative fees pursuant to the conditions set out herein by the Rules of the Court of Arbitration Management Board and the Secretariat of the Court of Arbitration.

*Ensuring the
conditions*

Art. 15. The Romanian Chamber of Commerce and Industry shall ensure appropriate conditions required for the Court of Arbitration activity performance.

Chapter V

Common and Final and Transitional Provisions

The confidentiality obligation

Art. 16. The Court of Arbitration, the Arbitral Tribunal, as well as the Chamber of Commerce and Industry of Romania's employees, shall be bound to ensure the arbitration confidentiality pursuant to the Rules of Arbitration Procedure of the Court of Arbitration.

Drafting the Rules of Arbitration Procedure of the Court of Arbitration

Art. 17. (1) Rules of Arbitration Procedure of the Court of Arbitration shall be drafted by the Committee on the Procedure and Regulations of the Court of Arbitration and, shall be adopted by the Management Board of the Court of Arbitration pursuant to the provisions of Article 29 paragraph (5) of Law No. 335/2007, with the subsequent modifications and completions.

(2) After adoption, the Rules of Arbitration Procedure of the Court of Arbitration are forwarded for information to the Management Board of the Chamber of Commerce and Industry of Romania.

The Court of Arbitration Rules' approval. Arbitration Codex

Art. 18. (1) The Rules set out herein have been approved on the 10th of April 2014 during the XXXIV Session, by the Management Board of the Chamber of Commerce and Industry of Romania, pursuant to Article 29 paragraph (3) of Law No. 335/2007, with the subsequent modifications and completions.

(2) The content of the Arbitration Codex is set out by the Management Board of the Court of Arbitration, which approves its drafting and dissemination.

(3) The Law and Legislation Division of the Chamber of Commerce and Industry of Romania shall ensure, for a fee, the dissemination of the Arbitration Codex to those who are interested, upon request.

Transitional Provisions **Art. 19.** (1) In application of the provisions of Article 4 of this Rules, the Management Board of the Court of Arbitration shall re-draft the List of Arbitrators, on the grounds provided by Article 4 paragraph (5).

(2) In the cases submitted on the docket of the Court of Arbitration at the date that the Rules set out herein entered into force, for those in which the members of the Arbitral Tribunal were not appointed, the nomination of the arbitrators and that of the presiding arbitrator shall be made pursuant to the rules, provided by Article 11 of the Rules set out herein, amended with the provisions of the Civil Procedure Code, if necessary.

Abrogation of the contrary provisions **Art. 20.** It shall be abrogated the Rules on the organization and operation of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania from 6th of March 2013, published in the Official Gazette of Romania, Part I, No. 184, issued on the 2nd of April 2013, as well as any other contrary provision.