

The Rules of the Arbitration Court

The Rules of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic

PART I.

Basic Provisions

Sec. 1

(1) The Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (hereinafter referred to as “the Arbitration Court”) is a permanent arbitration court exercising its activity attached to the Economic Chamber of the Czech Republic as an independent body for deciding property disputes through independent arbitrators under the provisions on arbitration proceedings (the Act No. 216/1994, Coll., on Arbitration Proceedings and Enforcement of Arbitral Award.

(2) The Arbitration Court shall decide disputes referred to in paragraph (1) hereof, if its jurisdiction in the given litigation is based on: a) an international treaty (Sec. 47 of the Arbitration Act No. 216/1994, Coll.):

b) a valid arbitration agreement entered into by the parties (Secs. 2 and 3 of the Arbitration Act No. 216/1994, Coll.):

c) written declarations of the parties in arbitration proceedings commenced, showing beyond doubt their intention to submit to the jurisdiction of the Arbitration Court.

(3) A party which starts defending its case on the merits without taking an objection to the jurisdiction of the Arbitration Court shall not be free to raise thereafter a plea of lack of jurisdiction (Sec. 15 paragraph 2 of the Arbitration Act No. 216/1994, Coll.). A plea raised at a later stage shall be taken into consideration only if the matter is not arbitrable due to its nature.

(4) The Arbitration Court decides in one instance.

PART II.

Board of the Arbitration Court, Arbitrators and Secretary

Sec. 2

Board of the Arbitration Court

(1) The Board of the Arbitration Court shall exercise the powers conferred thereon by the Rules and all other matters, within the powers of the Arbitration Court, not expressly entrusted to the President of the Arbitration Court, the arbitrators and/or the Secretary.

(2) Unless the members of the Board participate in decisions of the Board under Secs. 22 and 23 hereof in the same matter, they shall be free to exercise the function of arbitrators or the presidents of arbitral tribunals.

Sec. 3

Arbitrators

(1) Disputes shall be decided by arbitrators. When exercising his functions, an arbitrator shall be independent never having the character of a representative of a party. The position of arbitrator shall be accepted in writing (Sec.5 paragraph 2 of Act No.216/1994 Coll.).

(2) A case shall be decided by a tribunal consisting of three arbitrators, or by one single arbitrator, provided the parties have agreed so. Constitution of an arbitral tribunal or appointment of one single arbitrator shall be governed by these Rules (Sec. 21 hereof).

(3) Unless anything else results from the sense of the individual provisions hereof, all what is said of arbitrators and arbitral tribunal shall apply equally to one single arbitrator.

Sec. 4

Secretary

(1) The Secretary shall organize the work connected with the functions of the Arbitration Court and exercise all other functions reserved to him under the Rules, in particular he shall take care of the due conduct of arbitration proceedings in time, of due transcription of all decisions of the Arbitration Court and of archivation of all writings of the Arbitration Court: he shall sign clauses confirming that the decisions are final and in force, and with consent of the board shall publish leading decisions in appropriate form. He shall have the right to participate in all hearings before the arbitrators.

(2) The functions of the Secretary may be performed to by his or her deputy, if any.

PART III.

Proceedings

1. General Provisions

Sec. 5

Place of Hearing

(1) Regularly, hearings in pending disputes shall be held in the seat of the Arbitration Court in Prague. Upon suggestion of the Secretary or on the initiative of the arbitral tribunal or under an agreement of the parties to the dispute, the hearings may be held at other places within the Czech Republic or abroad.

(2) The arbitral tribunal shall give a notice to the board of hearings to be held abroad. If such hearings are to be held abroad upon the initiative of arbitrators, the parties have to agree thereto.

Sec. 5a

Course of Proceedings

The arbitrators shall be free to proceed in the trial in a manner they consider appropriate, by ensuring the equal standing of the parties and, providing all parties with an equal opportunity to exercise their rights for the purpose of ascertaining, without unnecessary formalities, all the facts of the case necessary for the resolution of the case (Secs. 18 and 19 paragraph 2 of the Act No.216/1994 Coll.)

Sec. 6

Production of Documents

(1) All documents relating to the commencement and conduct of arbitration proceedings shall be produced in such number of copies that all parties and all members of the arbitral tribunal as well as the secretariat obtain one copy thereof.

(2) Save for written evidence, communications shall be produced in Czech (or in Slovak) language or in the language of the contract, or in the language used in the correspondence between the parties, as the case may be. If the Arbitration Court think it fit, or upon request of a party, the Arbitration Court may direct a party having produced the document to have it translated into Czech (or into Slovak) or may arrange for such a translation at the costs of such party.

Sec. 7

Language of the proceedings

(1) Oral hearings shall be held, and decisions shall be made, in Czech (or in Slovak) language; upon request of a party, the hearings and decisions will be translated into another language. Upon such request by a party, the Arbitration Court will arrange for an interpreter, or for the translation of the decisions or other writings, as the case may be.

(2) If necessary, the arbitral tribunal may, provided both parties agree, hold hearings and, as the case may be, pronounce the decision directly in another language.

Sec. 8

Basis of Decisions

(1) The Arbitration Court shall decide disputes in accordance with the rules of the applicable material law, guiding themselves, within the scope thereof, by the contract concluded between the parties and having regard to the custom of trade.

(2) A dispute may be decided also ex aequo et bono, however, such decision shall be admissible only if the parties expressly confer this power on the arbitrators.

Sec. 9

Service

(1) Documents in a litigation shall be sent out to the parties by the Secretary to the last address indicated by that party or to its appointed counsel.

(2) Statements of claim, defences, summonses, arbitral awards and rulings (orders) shall be sent out by registered mail with notice of receipt.

(3) Other documents may be sent out by registered or ordinary mail. In addition, any notice may be also given by cable, teleprint or telefax.

(4) All documents referred to in the preceding paragraphs may be also served personally upon the party, against receipt.

(5) All service by the Arbitration Court shall be deemed valid if made in accordance with paragraphs (1) to (4) hereof, even if the addressee refuses to accept the document or if, in spite of a notice of the delivering post office, fails to take delivery thereof. However, a service shall be deemed valid, if made accordance with the rules of procedure prevailing in the country where documents are to be served.

(6) If a party changes address after the commencement of the proceedings without informing thereof the Arbitration Court, the service shall be valid, if made in one of the above manners under paragraphs (2) and (3) to the last known address of said party.

(7) If service cannot be carried out at the last known address of a party who has neither a counsel nor a representative for service, the president of the Arbitration Court may appoint a curator for such party for the purpose of service of documents.

(8) The power to issue letters rogatory for foreign courts or other authorities, requesting them to serve documents or to assist the Arbitration Court in another way, shall be vested in the president of the Arbitration Court.

Sec. 10

Stay of Proceedings

If good cause is shown, proceedings may be stayed upon request of a party or upon initiative of the arbitral tribunal, for a definite period of time. A ruling on stay shall be taken by the presiding arbitrator or until the constitution of the arbitral tribunal, the president of the Arbitration Court. If no extension of the stay is granted within one month following the expiration of the original period, either upon request of a party or on the initiative of the arbitral tribunal, the proceedings shall continue.

Sec. 11

Restitution

If, for serious reasons, a party is prevented to participate in the proceedings or in any portion thereof or if it is prevented to take certain steps necessary to defend its right, until the pronouncement of the arbitral award or, if such award is not pronounced, until its being made, the arbitral tribunal, or in case such tribunal has not yet been constituted, the president of the Arbitration Court shall, upon application of such party, take reasonable measures enabling the party to do subsequently what it missed.

Sec. 12

Conservative and Interlocutory Measures

(1) After the statement of the claim has been filed, but before the constitution of the arbitral tribunal, the president of the Arbitration Court may, in urgent cases, acting upon application of one party or both of them, take measures to conserve evidence. For this purpose, he may appoint one or more expert witnesses or take other appropriate steps.

(2) Before the commencement of arbitration proceedings or during same, any party may apply to the respective authority for an interlocutory measure. A notice of such application shall be given by the applicant to the Arbitration Court.

Sec. 13

Third Party

(1) Apart from the parties (the plaintiff and the defendant), whoever shows a juridical interest in the outcome of the proceedings may take part herein as third party. The arbitral tribunal shall decide on the admission of an each third party. No other person shall be admitted to participate in the proceedings.

(2) In arbitration proceedings, a third party shall have the same rights as a party. with the exception of the right to appoint an arbitrator, and the same obligations as the party in the proceedings. However, he may act only on his own behalf. If his acts are inconsistent with the acts of the party on the side of which he acts, the arbitral tribunal shall evaluate same, taking all circumstances of the case in due consideration. Facts, disclosed by a third party may be taken in consideration by the arbitral tribunal even if inconsistent with facts alleged by the party.

Sec. 14

Application of the provisions of the Arbitration Act No. 216/1994, Coll.

Procedural matters, not expressly regulated herein, shall be governed by the provisions of the Arbitration Proceedings and Enforcement of Arbitral Awards Act No. 216/1994, Coll.

Sec. 15

Scope of Application of Provisions Governing Proceedings

Unless a contrary intention results from these Rules, provisions applicable hereunder to proceedings before an arbitral tribunal (or one single arbitrator) shall apply m u t a t i s m u t a n d i s to steps taken by the board, the president or the Secretary.

2. Commencement of Proceedings

Sec. 16

Statement of Claim

(1) Arbitration proceedings shall be commenced upon a statement of claim being filed with the Arbitration Court. A pre-requisite for a case to be heard shall be the prepayment of the arbitration fee and of the lump sum to cover the administrative costs of the Arbitration Court.

(2) Unless a contrary regulation results from an international treaty, binding on the Czech Republic, the day when the statement of claim is filed with the Arbitration Court shall be deemed to be the day of the action having been filed. (Sec.14 paragraph 1, of the Act No.216/1994, Coll.).

Sec. 17

Contents of the Statement of Claim

(1) The statement of claim shall contain:

- a) names of the parties including identification numbers, if assigned, and personal identification numbers of the parties - natural persons, if known,
- b) relief claimed,
- c) signature by the Claimant,
- d) addresses of the parties.

(2) In addition, the statement of claim should contain:

- a) reference to agreement constituting the jurisdiction of the Arbitration Court, unless the jurisdiction is based on the international treaty, binding on the parties
- b) statement of facts and law on which the Claimant relies with his claim and a reference to evidence by which he intends to prove facts
- c) indication of the value of the claim
- d) receipt showing that the arbitral fees have been settled
- e) full name of the arbitrator appointed by the Claimant or a request that such arbitrator be appointed on his behalf by the president of the Arbitration Court.

Sec. 18

Value of the Claim

(1) In his statement of claim, the Claimant shall indicate the value of the claim even if the relief sought or a part thereof has not a pecuniary character.

(2) The value of the claim shall be indicated:

- a) by the amount claimed, if the relief sought is a sum of money
- b) by the value of property, if the relief sought is the surrender of such property
- c) by the value of the interest at the time of filing the statement of claim, if the relief sought is for declaratory decision or decision modifying an existing legal relation
- d) on ground of available information on the material interest of the Claimant, if the relief sought is performance or forbearance on the part of the defendant.

(3) If more reliefs are sought in one action, the value of each relief shall be stated separately the value of the claim shall be then the total sum of all reliefs sought.

(4) If the Claimant fails to indicate the value of the claim, the Secretary shall call on him to do so within the fixed period. If he fails to do so within that period, or if he indicates same inaccurate, the Secretary or the arbitral tribunal, if already appointed, in its discretion shall or upon the secretary's proposal, as the case may be, or on application by the defendant, determine the value of the claim on basis of available data, or data ascertained during the course of the proceedings.

Sec. 19

Removal of Defects in the Statement of Claim

(1) If the Secretary finds out that the statement of claim does not meet the requirements of Sec. 17 paragraph (1) hereof, he shall invite the Claimant to remove the defects. Insofar the requirements set forth in Sec. 17 paragraph (1) are concerned, the term for the removal of the defect shall not be more than two (2) months from the day of the service of said invitation by the Secretary on the Claimant. If the defects are removed within the term fixed, the day stated in Sec. 16 paragraph (2) hereof shall be deemed to be the day when the action has been started. Until the removal of the defects, the action shall not be tried.

(2) If, irrespective of the invitation for removal of the defects, the Claimant insists on continuation of the proceedings, the proceedings shall continue, provided the character of the defect does not exclude such continuation, and an award shall be made on the merits of the case otherwise the proceedings shall be discontinued.

3. Preparation of Trial

Sec. 20

Statement of Defence

(1) If the Secretary is satisfied that the action can be referred to arbitration hereunder, he shall give a notice thereof to the defendant, sending him a copy of the statement of claim with the exhibits attached thereto, as well as the list of arbitrators and the Rules of this Arbitration Court.

(2) At the same time the Secretary shall invite the defendant to file a written statement of defence, supported by the respective evidence, within thirty (30) days following the service of the statement of claim, in answer to it. Upon application of the defendant, this term may be extended.

(3) Within the same term the defendant shall indicate full name of the arbitrator elected by him or ask the president of the Arbitration Court to appoint an arbitrator on his behalf.

Sec. 21

Constitution of the Arbitral Tribunal or Election (Appointment) of One Single Arbitrator

(1) Arbitrators, appointed by the parties or by the president of the Arbitration Court under Secs. 17 and 20 hereof, shall elect the presiding arbitrator from the list of arbitrators.

(2) If the parties fail to appoint an arbitrator, or if the arbitrators appointed fail to elect the presiding arbitrator within fourteen (14) days following the notice of appointment, the arbitrator or the presiding arbitrator, as the case may be, shall be appointed by the president of the Arbitration Court.

(3) If more Claimants or more defendants are involved on each side in the dispute, one arbitrator shall be appointed by the Claimants and one by the defendants. If the Claimants or the defendants cannot reach an agreement concerning the appointment of an arbitrator, the arbitrator on their behalf shall be appointed by the president of the Arbitration Court.

(4) A single arbitrator shall be elected in mutual agreement of the parties. On failure, such single arbitrator shall be appointed by the president of the Arbitration Court.

(5) Until the constitution of the arbitral tribunal (the election or appointment of one single arbitrator) the president of the Arbitration Court shall be free to take all steps in the proceedings, unless these are entrusted to the Secretary.

Sec. 22

Challenge of Arbitrator, Expert-Witness and Interpreter

(1) Each party shall have the right to challenge an arbitrator, a presiding arbitrator or a single arbitrator, if he has legitimate doubts of his (their) impartiality. The challenge shall be taken prior to the commencement of the oral hearing. If it is taken at a later time, a decision on it shall be made only if the cause leading to such late challenge is held to be sufficiently serious.

(2) A decision on challenge of an arbitrator shall be taken by the remaining arbitrators of the tribunal. If they are unable to agree, or if the challenge is against two arbitrators, the decision thereon shall be taken by the board. The board shall also decide on a challenge of one single arbitrator.

(3) If a challenge of an arbitrator is sustained the new presiding arbitrator, or the new arbitrator, or the new single arbitrator shall be elected or appointed in accordance with the Rules. The new arbitrator or the new presiding arbitrator shall enter the proceedings in the stage prevailing on the date, of the acceptance of the position of arbitrator or presiding arbitrator respectively.

(4) In the event that the arbitrator, the presiding arbitrator, the single arbitrator, or the new arbitrator or the new presiding arbitrator, as the case may be, are unable to take part or, repeatedly do not take part in the trial of the case the provisions of paragraphs 1-3 shall apply as appropriate.

(5) The arbitral tribunal may, if considered necessary, hear again the evidence and arguments already heard during preceding hearings held in the matter prior to the replacement.

(6) The same reasons as set forth in paragraph (1) of the present Section may be relied upon when challenging an expert-witness or an interpreter. In this case, the decision on the challenge shall be taken by the arbitral tribunal.

Sec. 23

Decision on Jurisdictional Issues

(1) The board of the Arbitration Court shall have the power to decide on issues of jurisdiction. To this end, the arbitrators, if already appointed or, otherwise, the Secretary, shall present the records of the case to the board with a short report in each case, whenever a decision on the jurisdiction of the Arbitration Court is to be taken in view of an objection to the jurisdiction taken by a party or in view of an objection to the jurisdiction taken by a party or in view of the doubts of the Secretary or the arbitrators, or their opinion that the Arbitration Court lacks the necessary jurisdiction.

(2) If the board concludes that the Arbitration Court has no jurisdiction to hear and to decide the case, they shall terminate the proceedings by an order of discontinuance. If they are of the opinion that the Arbitration Court has the appropriate jurisdiction, they shall dismiss the objection also by means of an order.

(3) Prior to taking their decision, the board may, if they think it fit, summon the parties to a hearing.

(4) Before producing the records to the board for their decision on an issue of jurisdiction, the arbitral tribunal shall take measures which they think necessary to prevent a prejudice to be suffered by the parties or to conserve the results of the previous proceedings, unless the powers to take such measures are vested in the court of law or another authority.

Sec. 24

Preparation of Trial by the Arbitral Tribunal

The arbitral tribunal shall check the state of preparation of the trial and, if they think it necessary, shall take additional measures in this respect, more particularly they may ask the parties to file written briefs, evidence and other documents and shall fix reasonable terms therefor.

Sec. 25

Summons to Hearings

(1) The Arbitration Court shall give a notice of the time and place of the hearing to the parties by means of summonses. The summonses shall be sent out in such a manner that each party has at least thirty (30) days at disposal for preparing its case and its travel to the place of the hearing.

(2) If both parties agree, the term may be shorter.

4. Conduct of Hearings

Sec. 26

Hearings

- (1) The case shall not be heard in public. Persons not participating in the proceedings may be present if the tribunal and the parties agree.
- (2) Parties may participate in an oral hearing either directly or through duly authorized counsel, appointed in their absolute discretion, even through foreign citizens.
- (3) If a party fails to attend a hearing irrespective of a due notice of the time and place thereof being served on it, its absence shall not be an obstacle to continue the hearing provided the absent party does not apply for its adjournment until the end of such hearing, showing serious reasons.
- (4) Each party shall be free to declare that it agrees to the hearing being conducted in its absence.
- (5) Upon application of a party, or on the initiative of the arbitral tribunal, the hearing may be adjourned, if necessary.
- (6) An application to change the date of a hearing shall be filed sufficiently in advance so that the other party and the members of the arbitral tribunal may be duly informed.

Sec. 27

Simplified Procedures (Proceedings in case of decision taking on hand of written documents only or without giving reasons for the arbitral award.)

- (1) The parties may agree that the arbitral tribunal shall take decision in the litigation only on hand of written evidence produced, without holding a hearing. However, the arbitral tribunal shall be entitled to summon the parties to a hearing, if the written documents adduced by the parties prove to be insufficient for a decision being taken on the merits of the case.
- (2) Until the proceedings are declared to be closed, the parties are free to agree in writing that there is no need for reasons to be given for the arbitral award (Sec. 25 paragraph 1 of the Arbitration Act No. 216/1994, Coll.). Such an agreement may be concluded in the form of concurring oral declarations by the parties to that effect inserted into the minutes of the hearing, having taken place before the arbitral tribunal (before the single arbitrator), too.

Sec. 28

Counter-Claim

(1) Until the termination of the trial of the principal claim, the defendant shall be free to lodge a counterclaim, if however, the defendant causes undue delays when lodging his counter-claim at a later time without showing good cause, he may be held liable to pay the extra costs incurred in this way by the Arbitration Court as well as the extra expenditure of the other party connected therewith.

(2) The same requirements governing a statement of claim shall apply to a counter-claim (Sec. 17 hereof).

(3) Provisions, governing the counter-claim shall be applied, *m u t a t i s m u t a n d i s* to the defence of set-off raised by the defendants, provided such defence is based on legal relations other than the main claim of the Claimants.

Sec. 29

Attempt of Settlement

Having in view the circumstances of the case, the arbitral tribunal may, at any stage of the proceedings, invite the parties to conclude a settlement, making proposals, recommendations and suggestions which, in their opinion, are likely to facilitate a settlement.

Sec. 30

Minutes of Hearing

(1) At each hearing minutes of the proceedings in Czech (or in Slovak), or, upon agreement of the parties to the dispute in another language, shall be taken. The minutes shall contain the following particulars:

- a) indication of the Arbitration Court
- b) reference number of the case
- c) place and date of the hearing
- d) names of the parties and their counsels
- e) indication of the presence of the parties
- f) names of arbitrators, witnesses, expert-witnesses, interpreters and other participants in the hearing
- g) concise but precise description of the proceedings during the hearing
- h) motions and applications by the parties and contents of their other important declarations
- i) reasons for adjournment of the hearing or termination of the proceedings
- j) signatures of the arbitrators.

(2) The parties shall have the right to get acquainted with the contents of the minutes and to co-sign same. Upon application of a party, the arbitrators may rule a modification or amendment of the minutes.

(2) The parties shall have the right to get acquainted with the contents of the minutes and to co-sign same. Upon application of a party, the arbitrators may rule a modification or amendment of the minutes.

(3) A copy of the minutes shall be handed over or sent to the parties with translation, if any.

5. Rules of Evidence

Sec. 31

Evidence

(1) The parties shall prove the facts, relied upon by them as basis for their claims or objections. The arbitral tribunal may request the parties to produce supplementary evidence. In addition, they may appoint expert-witnesses in their own discretion or they may request third parties to produce evidence.

(2) Any party may produce written evidence in original or copy, to be authenticated by itself. The arbitral tribunal shall be free to request the original document or a translation thereof into another language, if necessary in the interest of the decision of the case.

(3) Evidence shall be heard in the manner fixed by the arbitral tribunal. The arbitral tribunal may rule that evidence will be heard by one member of the tribunal. The same rules of evidence apply to proceedings before the board.

Sec. 32

Assessment of Evidence

The arbitral tribunal and the board shall be free to assess the evidence in their discretion.

6. Termination of Proceedings

Sec. 33

Forms of Decision

The arbitral proceedings shall be terminated either by an arbitral award, or by a ruling (an order) of discontinuance.

Sec. 34

Arbitral Award

(1) Upon being satisfied that all circumstances of the case have been sufficiently clarified, the arbitral tribunal shall declare the proceedings closed and prepare their award. An award shall be made in cases, where the decision is on the merits or where it imposes a duty to reimburse the costs of the case including those where, upon application of the parties, the award shall incorporate the terms of a settlement concluded by themselves or where it results from declarations of a party that it waives its claim without applying expressly for discontinuance of the proceedings.

(2) If the operative part of an award imposes a duty to be performed, the arbitrators shall, at the same time, set a term for such a performance.

(3) If only a portion of the case is sufficiently clarified, the arbitral tribunal may declare that portion of the proceedings as closed, and make a partial award; the proceedings in the remaining portions shall continue and a decision on them shall be taken thereafter.

(4) If both, the claim itself and the quantum of monies claimed are in dispute, the arbitral tribunal may hear and decide first on the justification of the claim by means of an interim award, and continue thereafter, if necessary, hearing the argument as to the quantum of monies and to decide on that issue.

(5) The provisions governing the arbitral award shall apply equally to partial and/or interim awards.

Sec. 35

Contents of the Arbitral Award

(1) An arbitral award shall contain, inter alia, the following particulars:

- a) name of the Arbitration Court
- b) place and date of the award
- c) full names of the arbitrators or the single arbitrator, as the case may be
- d) names of the parties and other participants in the litigation
- e) subject-matter of the dispute and a short statement of facts
- f) decision on the reliefs claimed, the fees and the costs of the proceedings
- g) reasons for the decision (except in cases in which the parties have agreed, in accordance with Sec. 27 paragraph 2 of the Rules, that giving reasons for the arbitral award is not necessary)
- h) signatures of at least two arbitrators or signature of the single arbitrator.

(2) If one of the arbitrators is unable to sign an arbitral award, or if he refuses to do so, such a fact shall be indicated in the arbitral award by the president of the Arbitration Court and confirmed by his signature.

(3) The arbitral award shall be co-signed by the president and the Secretary of the Arbitration Court; their signatures shall ipso facto legalize the signatures of the arbitrators.

Sec. 36

Voting on the Arbitral Award

(1) The arbitral tribunal shall adopt an arbitral award by means of voting in chambers, by the majority of votes.

(2) If more than two opinions as to the sums to be awarded or dismissed by the arbitral tribunal are presented, the vote cast for the highest sum shall be added to the vote cast for the immediately lower sum.

Sec. 37

Pronouncement of the Arbitral Award

(1) Upon termination of the proceedings, the arbitral award shall be pronounced orally to the parties or, if these are absent, a written award shall be served on them.

(2) In justified cases, the arbitral tribunal shall have the right to rule that the award will be served on the parties only in writing, without oral pronouncement.

(3) Until the pronouncement of the award, or mailing of same in writing, if the award is not pronounced, the arbitral tribunal shall be free to summon parties to a new hearing, if such hearing is necessary to clarify the facts of the case or to establish the point of view of the parties.

Sec. 38

Amendment and Correction of the Arbitral Award

(1) Upon application of a party, to be filed not later than thirty (30) days following the service of the arbitral award on the parties, the arbitral tribunal may render an amending award, if it appears that the original arbitral award fails to deal with all claims put forward by the parties. An amending award shall not be taken, unless the parties are summoned to a new hearing.

(2) Typing or numerical errors and other obvious discrepancies appearing in the award, shall be corrected at any time by the arbitral tribunal upon request of any party or on their proper initiative. Such correction shall be adopted, signed and served on the parties in the same way as an arbitral award.

(3) An amending award or a ruling (an order) of correction in respect of the arbitral award shall become an integral part of the original, amended or corrected award. The parties shall not be bound to pay any costs connected with the amendment or correction of such arbitral award.

Sec. 39

Implementation of the Arbitral Award

An arbitral award shall be final and binding. The parties shall implement all obligations imposed on them in the arbitral award within the terms fixed therein. On failure, the arbitral award may be enforced in accordance with the law of the country where enforcement is sought.

Sec. 40

Discontinuance of Proceedings without Award

(1) If not terminated by means of an arbitral award (Sec. 34 hereof), the proceedings shall be terminated by a ruling (an order) of discontinuance.

(2) A ruling (an order) of discontinuance shall be taken inter alia:

- a) if the statement of claim has been withdrawn by the Claimant
- b) if the parties conclude a settlement confirmed by the arbitral tribunal without incorporating same into an arbitral award under Sec. 34 paragraph (1) hereof
- c) in the case of deciding upon the jurisdiction of the Arbitration Court under paragraph 23 if the jurisdiction of the Arbitration Court is not given
- d) in the event of a failure of payment of the arbitration fee or the payment of the administrative fee lump sum for administrative costs pursuant to the Principles governing the costs of arbitral proceedings (Sec.41)

(3) The ruling (the order) of discontinuance of proceedings shall be rendered by the board of the Arbitration Court if, when deciding on an objection to the jurisdiction or due to doubts in respect of the jurisdiction of the Arbitration Court in accordance with Sec. 23 hereof, they come to the conclusion that the jurisdiction of the Arbitration Court is not given.

(4) The ruling (the order) of discontinuance shall be governed by the provisions of Secs. 34 through 38 hereof. Until the constitution of the arbitral tribunal, the ruling (the order) of discontinuance shall be made by the president of the Arbitration Court.

7. Costs of Proceedings

Sec. 41

Costs of Arbitration Proceedings

Principles governing the costs of arbitration proceedings attached hereto shall be an integral part of these Rules.

PART IV.

Conciliatory Proceedings

Sec. 42

(1) Upon application, the Arbitration Court may, within its jurisdiction (Sec. 1 hereof) conduct voluntary conciliation proceedings on claims put forward, irrespective of the existence of an arbitration agreement in such a case.

(2) Conciliation may be carried out only with the consent of the other party. Proceedings in this case shall take place before a conciliatory committee, composed of the Secretary, who shall be in chair, and two other members, each party appointing one of them.

(3) The parties shall present their arguments during a meeting convoked by the Secretary for the purpose of carrying out the conciliation. The meeting should result in a draft settlement which the parties shall be free to accept or reject.

(4) The draft settlement recommended by the conciliatory committee to the parties upon termination of the meeting shall not prejudice the parties in the following dispute, if any. In addition, no statement made by them during the conciliatory proceedings can prejudice their respective rights.

(5) The fee for conciliation shall amount to one half the fee and lump sum to cover the administrative costs, to be paid in respect of arbitral proceedings. The fee and the lump sum fee shall be paid in advance, each party advancing one half (1/2) thereof. As far as costs for translation and interpretations are concerned, the respective provisions of the Rules relating to these services in arbitration proceedings shall apply accordingly.

PART V.

Entry into Force

Sec. 43

The present Rules shall enter into force and become effective as from May 1st, 2002.