

**ARBITRATION RULES OF THE UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE**

Prepared by an *Ad hoc* Working Party on Arbitration of the Committee on the Development of Trade, United Nations Economic Commission for Europe. (United Nations, document E/ECE/625/Rev.1; E/ECE/TRADE 81/Rev.1, 20 January 1966)

**I.—GENERAL PROVISIONS**

*Article 1*

Where parties provide that disputes arising or to arise out of a contract made between them shall be referred to arbitration under the Economic Commission for Europe's Arbitration Rules (hereinafter called "the Rules"), then such disputes shall be settled in manner and upon the terms and conditions hereinafter mentioned, subject to such modification as the two parties can by consent make in those terms and conditions.<sup>1</sup>

*Article 2*

For the purposes of applying the present Rules the "Appointing Authority" of the place of arbitration or of the country where the respondent has his habitual place of residence or seat shall be the Chambers of Commerce or other institutions set out in the Annex.

**II.—ARBITRATORS**

**A. DESIGNATION**

*Article 3*

The party having recourse to arbitration (called "the claimant") shall, by registered letter, referring to the arbitration agreement, give notice of the dispute to the other party (called "the respondent").

Such notice shall also call upon the respondent to reach agreement with the claimant on the appointment of an arbitrator or arbitrators and propose to him either

<sup>1</sup>

*Model form of arbitration clause*

Any dispute arising out of, or relating to this contract, which the parties have not been able to settle amicably shall be finally settled by arbitration, in accordance with the ECE's Arbitration Rules which the parties declare to be known to them.

Recommended additional provisions:

1. The place of arbitration shall be .....
2. The Appointing Authority for the appointment of an arbitrator or arbitrators shall be .....

- (a) the appointment of a sole arbitrator, with the name and address of the arbitrator proposed by the claimant, or
- (b) the appointment of three arbitrators, each party appointing an arbitrator and the two arbitrators thus appointed choosing the presiding arbitrator, with the name and address of the arbitrator appointed by the claimant, or
- (c) the appointment of a specific arbitral institution which shall be charged with the settlement of the dispute in accordance with its own rules.

#### Article 4

Where the parties have not within thirty days from the date of receipt by the respondent of the notice given by the claimant agreed on the choice of a sole arbitrator or an arbitral institution or if within forty-five days arbitrators or a presiding arbitrator have not been appointed, the claimant shall have the right to apply to the Appointing Authority designated in the arbitration agreement, and where none is so designated, then to the Appointing Authority of the place of arbitration if that is fixed by such agreement.

The Appointing Authority shall, if the parties confirm their agreement thereto in writing, appoint

- (a) a sole arbitrator, or
- (b) an arbitral institution, which shall be charged with the settlement of the dispute in accordance with its own rules.

Failing agreement by the parties on the appointment of a sole arbitrator or an arbitral institution, the Appointing Authority shall invite the parties each to appoint an arbitrator, the arbitrators so appointed choosing another arbitrator as presiding arbitrator.

If within a period of thirty days from the date of despatch of the Appointing Authority's invitation one of the parties fails to appoint an arbitrator or should the arbitrators appointed by the parties fail within a period of forty-five days to agree on the choice of the presiding arbitrator, the Appointing Authority will *ex officio* proceed to such appointment.

#### Article 5

If the arbitration agreement does not fix either the Appointing Authority or the place of arbitration, then, for the effective performance of the acts referred to in Article 4, the claimant shall have the option of applying either

- (a) to the Appointing Authority of the country where the respondent has his habitual residence or his seat, or
- (b) to the Special Committee set up under Article IV of the European Convention on International Commercial Arbitration of 21 April 1961.

If the parties have their habitual residence or seat in countries where there exists a National Committee of the International Chamber of Commerce, the claimant can also apply to the court of arbitration of the International Chamber of Commerce.

### B. REMOVAL

#### Article 6

Either party may challenge an arbitrator, presiding arbitrator, or a sole arbitrator where any circumstance exists capable of casting justifiable doubts on his impartiality or independence. Any such challenge must be made to the Arbitral Tribunal as soon as the party desiring to challenge is aware of the existence of such circumstance, and in any

case before the award is made. Should the challenge be sustained or the Arbitrator retire, a substitute arbitrator, a substitute presiding arbitrator, or a substitute sole arbitrator as the case may be, shall be appointed by the person(s) originally empowered under the Rules to appoint the arbitrator, presiding arbitrator or sole arbitrator.

*Article 7*

The person(s) appointing a substitute arbitrator, a substitute presiding arbitrator, or a substitute sole arbitrator shall give notice in writing to the arbitrators and to the other party—or to the parties alone where the substitute sole arbitrator is appointed by the Appointing Authority—as to the substitute arbitrator's, the substitute presiding arbitrator's or the substitute sole arbitrator's appointment, name and address, within a period of thirty days of the sustaining of the challenge or the retirement of the Arbitrator.

*Article 8*

Should the person, or persons, required to appoint a substitute arbitrator, a substitute presiding arbitrator or a substitute sole arbitrator fail to give notice in the manner and within the time-limit above referred to, the appointment shall be made by the Appointing Authority. The Appointing Authority in this Article and in Articles 10, 11 and 12 shall be the Appointing Authority referred to in Article 4 or the institution specified under Article 5.

C. DEATH OR INCAPACITY OF THE ARBITRATOR

*Article 9*

Should an arbitrator appointed by either party, or on behalf of such party, die or become incapable of acting, the other arbitrators shall give notice to the person originally empowered to appoint an arbitrator under the Rules, requiring him within a period of thirty days to appoint a substitute arbitrator, and to give notice in writing to the arbitrators and to the other party of the appointment, name and address of the substitute arbitrator.

*Article 10*

Should a sole arbitrator die or become incapable of acting, then at the request of either party the Appointing Authority shall call upon the parties to appoint within a period of thirty days a substitute sole arbitrator.

*Article 11*

Should a presiding arbitrator die or become incapable of acting, the other arbitrators shall within a period of thirty days appoint a substitute presiding arbitrator and give notice in writing to the parties and the Appointing Authority of his appointment, name and address.

*Article 12*

Should the person(s) called upon to appoint a substitute arbitrator, a substitute presiding arbitrator or a substitute sole arbitrator, as the case may be, under the provisions of Articles 9, 10 or 11 of the Rules, fail to carry out in such manner and within the period mentioned in Articles 9, 10 or 11 of the Rules, as the case may be, the steps laid down in those Articles, then the arbitrators in the case of Article 9, or either party in the case

of Articles 10 and 11, shall request the Appointing Authority to appoint a substitute arbitrator, a substitute presiding arbitrator or a substitute sole arbitrator, as the case may be.

*Article 13*

Where a substitute arbitrator or a substitute presiding arbitrator is appointed under the provisions of Articles 6-9 and 11-12 of the Rules, after the hearing has commenced, it shall be the duty of the arbitrators at the request of the substitute to recommence such hearing *ab initio*.

III.—THE PLACE OF ARBITRATION

*Article 14*

Unless the parties agree on the place where the arbitration is to be held, such place shall be determined by the arbitrators.

IV.—THE PROCEDURE OF ARBITRATION

A. STATEMENT OF CLAIMS AND DOCUMENTS

*Article 15*

Within such period as shall be determined by the arbitrators, the claimant shall supply them with such number of copies of the written statement of claim as they may require, containing the following particulars:

- (a) the names, addresses and occupations of the parties;
- (b) a summary statement of facts;
- (c) the points in issue and what is claimed;
- (d) particulars of witnesses (if any) whom it is desired to call upon to give evidence, it being understood that other witnesses can be called upon during the proceedings.

The statement of claim shall be accompanied in original or copies by the agreement in writing and all relevant documents. A schedule of documents shall also be supplied.

*Article 16*

A copy of every document (including the statement of claim) sent to the arbitrators by the claimant shall be sent to the respondent at the same time.

B. PLEAS AS TO THE ARBITRATORS' JURISDICTION

*Article 17*

The party which intends to raise a plea as to the arbitrators' jurisdiction based on the fact that the arbitration agreement was either non-existent or null and void or had lapsed shall do so not later than the delivery of its statement of claim or defence relating to the substance of the dispute; those based on the fact that arbitrators have exceeded

their terms of reference shall be raised as soon as the question on which the arbitrators are alleged to have no jurisdiction is raised. Where the delay in raising the plea is due to a cause which the arbitrators deem justified, the arbitrators shall declare the plea admissible.

*Article 18*

Subject to any control provided for under the law applicable to the arbitral proceedings, the arbitrators whose jurisdiction is called in question shall be entitled to proceed with the arbitration, to rule on their own jurisdiction and to decide upon the existence or the validity of the arbitration agreement or of the contract of which the agreement forms part.

C. THE DEFENCE COUNTER-CLAIM AND REJOINDER

*Article 19*

The arbitrators shall determine the period within which the respondent shall be required to deliver in writing his defence. The respondent shall be entitled to make within the same period a counter-claim arising out of the same arbitration agreement.

*Article 20*

The provisions of Articles 15 and 16 of the Rules apply *mutatis mutandis* to any defence or counter-claim.

*Article 21*

Should the claimant intend to make a rejoinder to the defence or the counter-claim, the arbitrators shall determine the period within which such rejoinder shall be made. The same provision shall apply to any reply to the rejoinder that the respondent may wish to make.

D. GENERAL PROCEDURAL PROVISIONS

*Article 22*

In the absence of a contrary provision in the Rules, the arbitrators shall be entitled to conduct the arbitration in such manner as they think fit. The arbitrators shall in every case give the parties a fair hearing on the basis of absolute equality.

*Article 23*

Provided that the parties agree, the arbitrators shall be entitled to render an award on documentary evidence without an oral hearing.

*Article 24*

The arbitrators shall be entitled to assess the evidence by all means at their disposal and to decide upon what proof they intend to admit and to appoint experts. At any time during the arbitral procedure the arbitrators shall be entitled to require the parties to produce supplementary documents or exhibits within such period as they shall determine.

*Article 25*

The parties may agree to extend the various time-limits laid down in the Rules for the various acts that they are required to perform. In the absence of such agreement the arbitrators shall be entitled to extend the time-limits, provided that the delay of the party in question is justified.

*Article 26*

The language of the proceedings shall be determined by the arbitrators. They will take the steps necessary to provide for the translation of documents and the interpretation at the hearing into languages understood by the parties.

E. MEASURES OF CONSERVATION AND SECURITY FOR COSTS

*Article 27*

Subject to any legal provisions to the contrary, the arbitrators are authorized by the parties to take any measure of conservation of the goods forming the subject matter in dispute, such as the ordering of their deposit with a third party, the opening of a banker's credit or the sale of perishable goods.

*Article 28*

The arbitrators shall be entitled to require security for the costs of the arbitration proceedings.

F. THE HEARING

*Article 29*

The proceedings shall be held in camera unless both parties request that they be held in public.

*Article 30*

Either party shall be entitled to appear in the arbitration by a duly accredited agent. Either party shall also be entitled to be assisted by persons of his choice.

*Article 31*

Should either party fail to appear at a hearing properly convened without showing sufficient cause, the arbitrators shall be entitled to proceed with the arbitration in its absence.

Should either party without sufficient cause fail to submit documentary evidence when the arbitrators have been requested to render their award on the basis of such evidence without an oral hearing, then the arbitrators shall be entitled to render their award on the evidence before them.

*Article 32*

New claims or counter-claims submitted to the arbitrators must be formulated by the parties in writing. Unless the party against which such new claim or counter-claim has been submitted agrees, the arbitrators may only take cognizance of it if it is within

the limits of their terms of reference. To such new claims or counter-claims the provisions of Articles 15, 16 and 19 shall *mutatis mutandis* apply.

#### G. THE AWARD

##### *Article 33*

Where the arbitral tribunal consists of two arbitrators and a presiding arbitrator, the award shall be made by a majority of votes. Failing a majority, the presiding arbitrator alone shall make the award.

##### *Article 34*

The arbitral award shall be made within nine months of the appointment of the presiding arbitrator or the sole arbitrator, as the case may be.

##### *Article 35*

The time-limit within which the arbitral award must be made may be extended by agreement between the parties. The time-limit in question may also be extended by the arbitrators to the extent that such extension is justified by reason of the replacement of an arbitrator, the necessity of hearing witnesses, the taking of expert opinion or any other valid reason.

##### *Article 36*

The arbitrators shall be entitled to make interim, interlocutory or partial awards, and they shall also be entitled to make an award on agreed terms.

##### *Article 37*

The arbitrators shall be entitled to render their award in a country other than that where the arbitral proceedings preceding the issue of an award have taken place in conformity with the provisions of Article 14.

##### *Article 38*

Subject to the provisions of Article 39 of the Rules, the arbitrators' award shall be based upon the law as determined by the parties for the substance of the dispute. Failing any indication by the parties as to the applicable law, the arbitrators shall apply the proper law under the rule of conflict that the arbitrators deem applicable. In both cases the arbitrators shall take account of the terms of the contract and trade usages.

##### *Article 39*

The arbitrators shall act as *amiables compositeurs* if the parties so decide and if they may do so under the law applicable to the arbitration.

##### *Article 40*

The parties shall be presumed to have agreed that reasons shall be given for the award unless they—

- (a) either expressly declare that reasons shall not be given, or

(b) have assented to an arbitration under which it is not customary to give reasons for awards, provided that in this case neither party requests before the end of the hearing, or if there has not been a hearing then before the making of the award, that reasons be given.

*Article 41*

Awards shall be communicated to the parties by registered letter.

*Article 42*

By submitting to these Rules the parties undertake to carry out the award without delay and, subject to any legal provisions to the contrary, renounce any right of appeal either before another arbitral institution or before a court of law unless otherwise expressly stipulated.

H. COSTS

*Article 43*

The arbitrators shall determine in every case the costs payable.

In general, costs shall be borne by the unsuccessful party. However, the arbitrators shall be entitled to apportion the costs.

ANNEX

LIST OF CHAMBERS OF COMMERCE AND OTHER INSTITUTIONS WHICH MAY BE REQUIRED TO ACT AS  
" APPOINTING AUTHORITY "

*Austria*

Bundeskammer der Gewerblichen Wirtschaft (Federal Economic Chamber), Stubenring 12,  
Wien 1

*Belgium*

Comité belge de la Chambre de commerce internationale (Fédération nationale des Chambres  
de commerce et de l'industrie de Belgique; Fédération des industries belges)<sup>1</sup>

Belgian Committee of the International Chamber of Commerce (National Federation  
of Belgian Chambers of Commerce and Industry; Federation of Belgian Industries)<sup>1</sup>

8 rue des Sols, Bruxelles 1

*Bulgaria*

Chamber of Commerce of Bulgaria, 11A Boulevard Stamboliiski, Sofia

<sup>1</sup> The claimant who wishes to apply to the Belgian Competent Authority should address his request to the Belgian Committee of the International Chamber of Commerce (8 rue des Sols, Bruxelles), which will forward the request to either of the two bodies, shown above in parenthesis, according to their respective jurisdiction.



*Byelorussian SSR*

Vsesoyuznaya trgovaya palata (All-Union Chamber of Commerce), Kuybysheva Street 6, Moscow

*Cuba*

Chamber of Commerce of the Republic of Cuba, Havana

*Czechoslovakia*

Chamber of Commerce of Czechoslovakia, Ul. 28 Rijna, No. 13, Praha 1

*Denmark*

Danish National Committee of the International Chamber of Commerce, Børsen, Copenhagen K

*Federal Republic of Germany*

Deutscher Ausschuss für Schiedsgerichtswesen, Adenauerallee 148, 53 Bonn

*Finland*

Arbitration Board of the Central Chamber of Commerce, Keskuskauppakamari, Helsinki

*France*

Présidence de l'Assemblée des Présidents des Chambres de commerce et d'industrie (Board of the Assembly of Presidents of the Chambers of Commerce and Industry), 27 avenue de Friedland, Paris VIII<sup>e</sup>

*Greece*

Athens Chamber of Commerce and Industry, 8 Amerikis Street, Athens

*Hungary*

Chamber of Commerce of Hungary, Rosenberg Hazaspar Utca 17, Budapest V

*Ireland*

Association of Chambers of Commerce of Ireland, Commercial Buildings, Dame Street, Dublin 2

*Italy*

Associazione Italiana per l'Arbitrato (Italian Association of Arbitration), Via Quintino Sella 69, Roma

*Malta*

Chamber of Commerce, Exchange Buildings, Kingsway, Valletta

*Netherlands*<sup>1</sup>

Chamber of Commerce and Industry of Amsterdam, Damrak 62A, Amsterdam  
Chamber of Commerce and Industry of Rotterdam, Beursgebouw, Coolingsingel 58, Rotterdam  
The Netherlands Institute of Arbitration, Delftsevaart 26, Rotterdam

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<sup>1</sup> At claimant's choice.

*Norway*

Norwegian Section of the International Chamber of Commerce, Oslo Börs, Oslo 1

*Poland*

Polish Chamber for External Trade, 4 Trebacka, Warszawa

*Romania*

Chamber of Commerce of Romania, 22 Bd. N. Balcesco, Bucuresti

*Spain*

Consejo Superior de Camaras de Comercio, Industria y Navegacion (Supreme Board of Chambers of Commerce, Industry and Navigation), Avda. de José Antonio 15, Madrid 14

*Sweden*

Stockholm Chamber of Commerce, V. Trädgardsgatan 9, Stockholm

*Switzerland*

Alliance des Chambres de commerce suisses (Union of Swiss Chambers of Commerce) c/o Chambre de commerce et d'industrie de Genève, 8 rue Petitot, Genève

*Turkey*

Union of Turkish Chambers of Commerce, Industry and Commodity Exchanges, Ankara

*Ukrainian SSR*

Vsesoyuznaya torgovaya palata (All-Union Chamber of Commerce), Kuybysheva Street 6, Moscow

*Union of Soviet Socialist Republics*

Vsesoyuznaya torgovaya palata (All-Union Chamber of Commerce), Kuybysheva Street 6, Moscow

*United Kingdom*

Association of British Chambers of Commerce, 68 Queen Street, London EC4

*Upper Volta*

Chamber of Commerce of Upper Volta, Ouagadougou

*Yugoslavia*

Court of Foreign Trade Arbitration of the Yugoslav Federal Economic Chamber, Knez Mihajlova 10, Belgrade

The institution which may be required to act as the "Appointing Authority" in Eastern Germany is as follows:

Chamber of Foreign Trade of the GDR, 108 Berlin, Unter den Linden 40