

## **PART 8 – MAKING OF AWARD AND TERMINATION OF PROCEEDINGS**

### **46 Rules applicable to substance of dispute**

- (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute.
- (2) Any designation of the law or legal system of a given country shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country and not to its conflict of laws rules.
- (3) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.
- (4) The arbitral tribunal shall decide on what is fair and right only if the parties have expressly authorised it to do so.
- (5) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.
- (6) The arbitral tribunal may award any remedy or relief that could have been ordered by the court if the dispute had been the subject of civil proceedings in that court.

### **47 Decision-making by panel of arbitrators**

- (1) If there is more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members.
- (2) Questions on rules of procedure may be decided by a presiding arbitrator, if so authorised by the parties or all members of the arbitral tribunal.

### **48 Settlement**

- (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.
- (2) An award on agreed terms shall be made in accordance with the provisions of section 51 and shall state that it is an award.
- (3) An award made under this section has the same status and effect as any other award on the merits of the case.

**49 Interest up to making of award**

- (1) Where an arbitral tribunal determines to make an award for the payment of money, whether on a claim for a liquidated or an unliquidated amount, the tribunal may, subject to sub-section (2), include in the sum for which the award is made, interest at such reasonable rate as the tribunal determines on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made.
- (2) Sub-section (1) does not –
  - (a) authorise the awarding of interest upon interest;
  - (b) apply in relation to any amount upon which interest is payable as of right whether by virtue of an agreement or otherwise; or
  - (c) affect the damages recoverable for the dishonour of a bill of exchange.

**50 Interest on debt under award**

- (1) This section applies if –
  - (a) an arbitral tribunal makes an award for the payment of an amount of money; and
  - (b) under the award, the amount is to be paid by a due date.
- (2) The arbitral tribunal may direct that interest, including compound interest, is payable if the amount is not paid on or before the due date.
- (3) The arbitral tribunal may set a reasonable rate of interest.
- (4) The interest is payable –
  - (a) from the day immediately following the due date; and
  - (b) on so much of the amount as remains unpaid.
- (5) The direction is taken to form part of the award.

**51 Form and contents of award**

- (1) The award shall be made in writing, signed by the arbitrator or arbitrators and delivered to each party.
- (2) If there is more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.
- (3) The award shall state –
  - (a) the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under section 48; and

- (b) its date and the place of arbitration.
- (4) This section shall apply to a correction or an interpretation of an award under section 53 or to an additional award under section 54.

## **52 Termination of proceedings**

- (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with sub-section (2).
- (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when –
  - (a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute;
  - (b) the parties agree on the termination of the proceedings; or
  - (c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to sections 53, 54 and 58 (4).

## **53 Correction and interpretation of award**

- (1) A party may request the arbitral tribunal within 30 days of receipt of an award, unless otherwise agreed by the parties, to –
  - (a) correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature; or
  - (b) give an interpretation of a specific point or part of the award.
- (2) A party making a request under sub-section (1) must notify the other party of the request.
- (3) If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within 30 days of receipt of the request.
- (4) An interpretation given under sub-section 3 shall form part of the award.
- (5) The arbitral tribunal may correct any error of the type referred to in sub-section (1)(a) on its own initiative within 30 days of the date of the award.
- (6) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction or an interpretation.

**54 Additional award**

- (1) A party may request the arbitral tribunal within 30 days of receipt of an award, unless otherwise agreed by the parties, to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.
- (2) If the arbitral tribunal considers the request under sub-section (1) to be justified, it shall make the additional award within 60 days.
- (3) The arbitral tribunal may extend, if necessary, the period of time within which it shall make an additional award under sub-section (2).

**55 Costs of the arbitration**

- (1) For the purposes of sections 56 and 57, “**costs of the arbitration**” means —
  - (a) the arbitrators’ fees and expenses;
  - (b) the fees and expenses of any arbitral institution concerned; and
  - (c) the legal or other costs of the parties.
- (2) Any such reference includes the costs of or incidental to any proceedings to determine the amount of the recoverable costs of the arbitration.

**56 Agreement to pay costs in any event**

An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid if made after the dispute in question has arisen.

**57 Award of costs**

- (1) The arbitral tribunal may make an award allocating the costs of the arbitration as between the parties, subject to any agreement of the parties.
- (2) Unless the parties otherwise agree, the tribunal shall award costs on the general principle that costs should follow the event except where it appears to the tribunal that in the circumstances this is not appropriate in relation to the whole or part of the costs.

## **PART 9 – RECOURSE AGAINST AWARD**

**58 Application for setting aside as exclusive recourse against arbitral award**

- (1) Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with sub-sections (2) and (3).