

MALTA

ATT Nru. II ta' l-1996

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jinkoraġixxi u jiffacilita l-arranġament ta' tilwim f'Malta permezz ta' arbitraġġ, biex jistabilixxi ċ-Ċentru dwar l-Arbitraġġ ta' Malta bħala ċentru għal arbitraġġ domestiku u arbitraġġ kummerċjali internazzjonali, u biex jagħmel dispożizzjonijiet li jkunu jirregolaw it-tmexxija ta' proċedimenti ta' l-arbitraġġ, u għall-għarfien u eżekuzzjoni ta' ċerti deċiżjonijiet ta' arbitraġġ.

ACT No. II of 1996

AN ACT enacted by the Parliament of Malta.

AN ACT to encourage and facilitate the settlement of disputes through arbitration in Malta, to establish the Malta Arbitration Centre as a centre for domestic arbitration and international commercial arbitration, to make provisions regulating the conduct of arbitration proceedings and the recognition and enforcement of certain arbitral awards.

Naghti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

13 ta' Frar, 1996

ATT Nru. II ta' l-1996

ATT biex jinkoraġixxi u jiffacilita l-arranġament ta' tilwim f' Malta permezz ta' arbitraġġ, biex jistabilixxi ċ-Centru dwar l-Arbitraġġ ta' Malta bħala centru għal arbitraġġ domestiku u arbitraġġ kummerċjali internazzjonali, u biex jagħmel dispożizzjonijiet li jkunu jirregolaw it-tmexxija ta' proċedimenti ta' l-arbitraġġ, u għall-għarfien u eżekuzzjoni ta' ċerti deċiżjonijiet ta' arbitraġġ.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:—

TAQSIMA I

Preliminari

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1996 dwar l-Arbitraġġ, u għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-gustizzja jista' jistabilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għanijiet differenti ta' dan l-Att.

Titolu fil-qosor
u bidu fis-sehh.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma' tehtiegħ mod iehor:

Tifsir.

“Bord” tfisser il-Bord ta' Gvernaturi ta' ċ-Centru;

“Ċentru” tfisser iċ-Ċentru dwar l-Arbitraġġ ta' Malta mwaqqaf bl-artikolu 3 ta' dan l-Att;

“Chairman” tfisser iċ-Chairman tal-Bord;

“ftehim ta' arbitraġġ” tfisser ftehim kif imfisser fl-Artiklu 7 tal-Mudell ta' Ligi;

“Ministru” tfisser il-Ministru responsabbli għall-gustizzja;

“Mudell ta’ Liġi” tfisser il-Mudell ta’ Liġi dwar Arbitraġġ Kummerċjali Internazzjonali adottat fil-21 ta’ Ġunju, 1985 mill-Kummissjoni tan-Nazzjonijiet Uniti dwar id-Dritt tal-Kummerċ Internazzjonali li hemm fl-Ewwel Skeda li tinsab ma’ dan l-Att;

“Registratur” tfisser ir-registratur taċ-Ċentru;

“tribunal ta’ l-arbitraġġ” tfisser arbitru uniku jew għadd ta’ arbitri;

“żmien finanzjarju” tfisser żmien ta’ hames snin li jibda fl-ewwel jum ta’ Jannar ta’ sena partikolari u jtemm fil-wieħed u tletin jum ta’ Diċembru tal-hames sena li tigi wara dik is-sena; iżda l-ewwel żmien finanzjarju taċ-Ċentru għandu jkun dak iż-żmien li jibda meta tigi fis-seħh it-Taqsima III ta’ dan l-Att u jtemm fil-31 jum ta’ Diċembru tas-sena li tigi minnufih wara dik is-sena meta t-Taqsima III imsemmija tkun bdiet isseħh.

TAQSIMA II

Twaqqif u Funzjonijiet taċ-Ċentru

Twaqqif taċ-Ċentru dwar l-Arbitraġġ ta’ Malta.

3. (1) B’dan qiegħed jitwaqqaf Ċentru, li jissejjaħ iċ-Ċentru dwar l-Arbitraġġ ta’ Malta, għall-ghanijiet u biex ikollu l-funzjonijiet stipulati b’dan l-Att.

(2) Iċ-Ċentru jkun korp magħqud li jkollu personalità ġuridika distinta u li jkun jista’, bla ħsara għad-dispożizzjonijiet ta’ dan l-Att, jagħmel kuntratti, jakkwista, iżomm u jiddisponi minn kull xorta ta’ proprjetà għall-ghanijiet tal-funzjonijiet tiegħu, iħarrek u jiġi mħarrek, u jagħmel kull haġa u jidhol f’kull negozju li jkunu inċidentali jew li jwasslu għall-eżerċizzju jew twettieq tal-funzjonijiet tiegħu taħt dan l-Att.

(3) Għandu jintlaqa’ bi prova kull dokument li jinhareġ bħala strument magħmul jew maħruġ miċ-Ċentru u li jkun iffirmat miċ-*Chairman* jew membru ieħor tal-Bord, uffiċjal jew impjegat taċ-Ċentru li jista’ jiġi stabbilit b’avviż maħruġ miċ-*Chairman* u li jiġi pubblikat fil-Gazetta, u għandu jitqies, sakemm ma tingiebx prova kuntrarja, bħala strument magħmul jew maħruġ miċ-Ċentru.

Twaqqif u għamla tal-Bord tal-Gvernaturi.

4. (1) Jitwaqqaf Bord li jkun responsabbli għall-politika u għall-amministrazzjoni ġenerali ta’ l-affarijiet u x-xogħol taċ-Ċentru.

(2) Il-Bord ikun jikkonsisti f’mhux anqas minn hames u mhux aktar minn disa’ membri, li jinħatru mill-President ta’ Malta li jaġixxi fuq il-parir tal-Ministru, u wieħed minnhom jinħatar mill-Ministru bħala *Chairman*. Il-Ministru jahtar ukoll membru ieħor bħala *Deputy Chairman* u dak il-membru jkollu s-setgħat kollha u jwettaq il-funzjonijiet kollha taċ-*Chairman* meta dan ikun assenti, jew sakemm jinħatar *Chairman* ġdid wara r-riżenja, temm ta’ hatra, jew mewt taċ-*Chairman*.

(3) Il-Ministru jagħzel il-membri tal-Bord minn fost persuni li jidhirlu li jkunu kwalifikati għaldaqshekk minhabba f'li kellhom esperjenza u jkunu urew hila fi hwejjeg li kellhom x'jaqsmu ma' arbitraġġ internazzjonali jew domestiku, konċiljazzjoni u arrangament ta' tilwim, kummerċ internazzjonali, negozju, industrija, investimenti u affarijiet marittimi; l-Avukat Generali jkun membru *ex officio* tal-Bord.

5. Ma jkunx kwalifikat sabiex jinhatar bhala *Chairman* jew *Deputy Chairman* tal-Bord min ma jkunx ipprattika ta' avukat f'Malta għal perijodu jew perijodi li b'kollox jammontaw għal mhux anqas minn tnaix-il sena.

Kwalifiki tač-
Chairman u tad-
Deputy Chairman.

6. Bla h̄sara għad-dispożizzjonijiet ta' l-artikoli 4, 7 u 9 ta' dan l-Att, il-membri tal-Bord għandhom jibqgħu fil-kariga għal żmien sitt snin u b'dawk il-patti u l-kondizzjonijiet li l-Ministru jista' jqis li jkunu xierqa; u meta membru jtemm milli jkun membru, huwa jkun eligibbli għal hatra mill-ġdid:

Għal kemm żmien
jinhatar il-Bord.

Iżda l-Ministru jista' f'kull żmien itemm, fuq rakkomandazzjoni tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja mwaqqfa bl-artikolu 101A tal-Kostituzzjoni ta' Malta, il-hatra ta' membru tal-Bord jekk fil-fehma tiegħu, kif tiġi konfermata birakkomandazzjoni ta' dik il-Kummissjoni kif imsemmi qabel, dak il-membri ma jkunx idoneju li jibqa' f'dik il-kariga jew ikun sar inkapaċi filli jibqa' jwettaq sew dmirijietu bhala membru tal-Bord, u l-imsemmija Kummissjoni hija b'dan vestita bil-funzjoni u bis-setgħa li tagħmel rakkomandazzjoni lill-Ministru kif imsemmi qabel.

7. Persuna tkun skwalifikata milli tinhatar, jew milli tibqa', membru tal-Bord ta' l-Awtorità jekk:

Skwalifika minn
jew milli wiehed
ikun membru
tal-Bord.

(a) tkun legalment inabilitata; jew

(b) tkun ġudikata falluta skond il-liġi ta' xi pajjiż jew tkun għamlet skrittura jew arrangament ta' h̄las mal-kredituri tagħha; jew

(c) tkun instabet hatja ta' reat li jolqot il-fiduċja pubblika, jew serq jew frodi; jew

(d) salv kif provdut fis-subartikolu (3) ta' l-artikolu 4, tkun uffiċjal pubbliku; jew

(e) ikollha xi interess finanzjarju jew iehor f'xi intrapriża jew attività li x'aktarx tolgot bi preġudizzju t-twertieq ta' dmirijietha bhala membru tal-Bord.

Riżenji.

8. (1) Membru tal-Bord jista' jirriżenja mill-kariga tiegħu bilmezz ta' ittra li jindirizza lill-Ministru.

(2) Il-hatra ta' persuna bhala membru tal-Bord, u t-temma ta' dik il-kariga jew riżenja minnha, għandhom jiġu avżati fil-Gazzetta.

Registatur u impjegati oħra taċ-Ċentru.

9. (1) Iċ-Ċentru jkollu Registatur, li jagħmilha wkoll ta' Segretarju tal-Bord.

(2) Bla hsara għad-dispożizzjonijiet tal-Kostituzzjoni u ta' kull liġi oħra li tapplika, ir-Registatur u l-impjegati l-oħra taċ-Ċentru għandhom jinhatru mill-Bord b'dawk il-patti u kondizzjonijiet li dak il-Bord iqis xierqa.

(3) Ir-rappreżentanza legali taċ-Ċentru tkun vestita fir-Registatur, jew kull persuna li tiġi awtorizzata għal dak l-ghan mill-Bord.

Funzjonijiet taċ-Ċentru.

10. (1) Il-funzjonijiet taċ-Ċentru jkunu:

(i) (a) li jġib 'il quddiem lil Malta bhala ċentru għall-arbitraġġ kummerċjali internazzjonali;

(b) li jipprovdi għal kif għandu jitmexxa l-arbitraġġ internazzjonali f'Malta;

(ċ) li jinkoraġixxi l-arbitraġġ domestiku bhala mezz ta' arrangament ta' tilwim;

(d) li jipprovdi l-facilitajiet meħtieġa għat-tmexxija ta' arbitraġġ;

(e) li jagħti pariri lill-Gvern fuq kull haġa msemmija fis-subparagrafi ta' qabel ta' dan il-paragrafu ta' dan is-subartikolu;

(f) li jwettaq il-funzjonijiet l-oħra kollha li jiġu lilu assenjati b'din il-liġi jew b'kull liġi oħra; u

(g) li jwettaq kull funzjoni oħra supplimentari jew anċillari ma' dak li hemm imsemmi qabel.

(ii) Bla hsara għad-dispożizzjonijiet l-oħra ta' dan l-Att, iċ-Ċentru, bi ftehim mal-Ministru, jkollu s-setgħa, li titwettaq permezz tal-Bord tiegħu, li jagħmel regoli li jiġu pubblikati fil-Gazzetta u li jkunu jipprovdu dwar:

(a) il-proċedura għall-arbitraġġi;

(b) il-mod u l-htigiet għar-registrazzjoni ta' dokument taht dan l-Att;

(ċ) linji ta' prinċipju u għażla ta' mudelli jew forom għall-formulazzjoni ta' kull klawsola u ftehim ta' l-arbitraġġ; u

(d) kull haġa oħra li dwarha jistgħu jsiru regoli taht kull dispożizzjoni ta' dan l-Att.

(2) Iċ-Ċentru jista', minn żmien għal żmien, jahtar gruppi ta' arbitri għal arbitraġġi domestiċi u gruppi ta' arbitri għal arbitraġġi internazzjonali:

Iżda persuna tista' tkun inkluża f'iktar minn grupp wiehed.

(3) Il-gruppi ta' arbitraġġ domestiku jistgħu jinhatru dwar hwejjeġ li għandhom x'jaqsmu mal-kummerċ, assigurazzjoni, kollizzjonijiet tat-traffiku, kostruzzjoni ta' bini, is-settur marittimu u kull qasam ieħor li iċ-Ċentru minn żmien għal żmien jista' jqis li jkun spedjenti. Il-gruppi jintgħamlu minn fost persuni li fil-fehma taċ-Ċentru jkollhom kwalifiki tajba biex iwettqu d-dmirijiet u l-funzjonijiet ta' arbitri f'xi qasam partikolari ta' perizja.

(4) Iċ-Ċentru għandu jwaqqaf Kumitat ta' Pariri dwar Arbitraġġ Internazzjonali li jintgħamel minn mhux aktar minn hames membri, inkluż iċ-*Chairman* taċ-Ċentru, li jkollu l-funzjoni li jagħti pariri liċ-Ċentru fuq kull haġa li jkollha x'taqsam ma' l-arbitraġġi kummerċjali internazzjonali u li jirrakkomanda liċ-Ċentru persuni li, fil-fehma tiegħu, ikollhom kwalifiki tajba biex iwettqu d-dmirijiet u l-funzjonijiet ta' arbitri f'arbitraġġi kummerċjali internazzjonali.

(5) Iċ-Ċentru, li jaġixxi fuq ir-rakkomandazzjoni tal-Kumitat ta' Pariri dwar Arbitraġġ Internazzjonali, għandu jahtar gruppi ta' arbitri għal arbitraġġ kummerċjali internazzjonali fuq hwejjeġ bħal negozju, kummerċ, assigurazzjoni u investimenti internazzjonali u mas-settur marittimu.

(6) Persuna tista' titneħħa minn xi grupp ta' arbitri miċ-Ċentru f'kull żmien, u persuna tista' f'kull żmien tirriżenja permezz ta' ittra li tiġi indirizzata lir-Registatur:

Iżda kull tneħħija jew riżenja bħal dik ma għandhomx jitqiesu li jinkludu t-tneħħija jew ir-riżenja ta' dik il-persuna minn xi proċedimenti ta' arbitraġġ li huwa jkun seta' diġà gie mahtur fihom qabel it-tneħħija jew ir-riżenja tiegħu.

(7) Bil-għan li jhajar l-arrangament ta' tilwima, iċ-Ċentru jista', bil-qbil tal-partijiet u skond regoli magħmula miċ-Ċentru taht dan l-Att, jagħmel użu minn proċeduri ta' medjazzjoni, konċiljazzjoni jew proċeduri oħra f'kull żmien qabel jew matul il-proċedimenti ta' arbitraġġ.

TAQSIMA III

Finanzi

11. (1) Iċ-Ċentru għandu jiehu hsieb li jithejja f'kull żmien finanzjarju, u mhux aktar tard minn sitt xhur qabel tmiem kull żmien finanzjarju jadotta, estimi tal-qliegħ u tan-nefqa taċ-Ċentru għaż-żmien finanzjarju li jkun minnufih imiss.

Estimi
taċ-Ċentru.

(2) L-estimi jsiru f'dik l-għamla u jkun fihom dak it-tagħrif u dawk il-paraguni ma' żminijiet finanzjarji ta' qabel hekk kif il-Ministru jista' jordna. L-estimi għandhom iqisu kull kontribuzzjoni tal-Gvern, jekk ikun il-każ, fid-dhul taċ-Ċentru hekk kif il-Ministru jista' jindika liċ-Ċentru li jkun ser jirrakkomanda lill-Kamra tad-Deputati għaż-żmien finanzjarju li jkun qed jiġi kkunsidrat, skond l-artikolu 13 ta' dan l-Att.

(3) Malli ċ-Ċentru jadotta l-estimi tiegħu, il-Bord għandu minnufih jibgħat kopja tagħhom lill-Ministru.

Dhul
taċ-Ċentru.

12. (1) Kull dhul taċ-Ċentru jintgħamel mid-drittijiet li jithallsu għas-servizzi provduti minnu bis-saħħa ta' dan l-Att u minn kull kontribuzzjoni li jista' jagħmel il-Gvern u li ssir skond l-artikolu 13 ta' dan l-Att.

(2) Il-Ministru jista', wara li jikkonsulta liċ-Ċentru, jistabbilixxi permezz ta' regolamenti d-drittijiet li għandhom jithallsu liċ-Ċentru għal kull servizz, faċilità jew haġa oħra provduta minnu skond dan l-Att jew bis-saħħa tat-tweġtieq tal-funzjonijiet tiegħu taht dan l-Att.

Kontribuzzjoni
tal-Gvern.

13. (1) Il-Ministru jista', wara li jikkonsulta maċ-Ċentru u ma' kull persuna jew awtorità oħra u bi ftehim mal-Ministru responsabbli għall-finanzi, jindika liċ-Ċentru bil-miktub l-ammont ta' kontribuzzjoni tal-gvern li jkollha ssir liċ-Ċentru u li jkollha tigi inkluża fl-estimi tagħha għaż-żmien finanzjarju li jkun imiss. Dik l-indikazzjoni li ssir mill-Ministru kif imsemmi qabel għandha tintehmeż ma' l-estimi taċ-Ċentru li jinġhataw lill-Ministru.

(2) Malli l-estimi jiġu approvati mill-Kamra, sew jekk ikollhom emendi jew le kif hemm provdut f'dan l-Att, is-somma li tigi approvata fl-estimi bhala l-kontribuzzjoni tal-gvern għandha tithallas liċ-Ċentru mill-Fond Konsolidat mingħajr ebda awtorizzazzjoni oħra minbarra dan l-Att.

(3) Minkejja d-dispożizzjonijiet tas-subartikoli (1) u (2) ta' dan l-artikolu, il-kontribuzzjoni tal-gvern għall-ewwel żmien finanzjarju taċ-Ċentru għandha tkun ta' somma ta' Lm200,000 u dik is-somma għandha tithallas liċ-Ċentru mill-Fond Konsolidat mingħajr ebda awtorizzazzjoni oħra minbarra dan is-subartikolu.

TAQSIMA IV

Arbitraġġ Domestiku

Arbitraġġ
domestiku.

14. (1) Ftehim ta' arbitraġġ domestiku huwa ftehim ta' arbitraġġ li ma jidholx taht it-Taqsima V ta' dan l-Att, u b'mod partikolari taht l-Artikolu 1(3) tal-Mudell ta' Ligi.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, il-partijiet jistgħu jaqblu li dak il-ftehim ma jkunx ftehim ta' arbitraġġ domestiku, u li għandu jiġi regolat bit-Taqsima V ta' dan l-Att; izda f'dawk il-każi d-dispożizzjonijiet ta' l-artikolu 58 ma japplikawx.

15. (1) Fil-każ ta' ftehim ta' arbitraġġ domestiku, li jsir bis-saħha tas-subartikolu (1) ta' l-artikolu 14, it-tilwimiet għandhom jitrangaw skond id-dispożizzjonijiet ta' din it-Taqsima, bla ħsra għal kull tibdil bħalma (a) il-partijiet jistgħu jaqblu dwaru bil-miktub, u (b) jista' jkun permiss bil-liġi.

Proċedura
l'arbitraġġ
domestiku.

(2) Ikun validu ftehim ta' arbitraġġ jekk il-mertu tat-tilwima ikun jista' jitranga b'arbitraġġ.

(3) Minkejja kull dispożizzjoni li hemm fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jekk parti fi ftehim ta' arbitraġġ, jew xi persuna li tagħmel it-talba permezz jew bis-setgħa tal-parti, tibda xi proċedimenti legali f'xi qorti kontra kull parti oħra fil-ftehim ta' arbitraġġ jew xi persuna li tagħmel it-talba permezz jew bis-setgħa ta' dik il-parti, dwar kull haġa miftehma li tiġi riferita għall-arbitraġġ, kull parti f'dawk il-proċedimenti legali tista' f'kull żmien qabel ma tressaq xi eċċezzjonijiet jew tmexxi mod ieħor fil-proċedimenti, titlob lil dik il-qorti li twaqqaf il-proċedimenti, u dik il-qorti jew imħallef tagħha, kemm-il darba ma jkunx sodisfatt li l-ftehim ta' arbitraġġ ikun sar inoperattiv jew ma jistax jitkompli, jew li fil-fatt ma jkun hemm ebda kwistjoni bejn il-partijiet dwar il-kwistjoni miftehma li tiġi riferita, għandha tordna li jitwaqqfu l-proċedimenti.

(4) Meta dawk il-proċedimenti li hemm imsemmija fis-subartikolu (3) jkunu nġiebu quddiem xi qorti, jistgħu madankollu jinbdew jew jitkoplew proċedimenti ta' arbitraġġ u tista' tingħata deċiżjoni filwaqt li l-kwistjoni tkun għadha pendent quddiem il-qorti.

(5) Kull haġa li tagħti lok għal kwistjoni, ukoll wara li tkun inbdiet azzjoni legali dwarha fil-qorti, tkun tista', kemm-il darba dik il-haġa ma tkunx waħda minn dawk imsemmija fis-subartikolu (6) ta' dan l-artikolu, titranga bil-mezz ta' arbitraġġ jekk il-partijiet kollha fit-tilwima jaqblu li jsir hekk.

(6) Tilwim li jolqot kwistjonijiet ta' l-istat ċivili tal-persuna, inkluż dak li jkollu x'jaqsam ma' separazzjoni personali u annullament ta' żwieġ, ma jistax jitranga bil-mezz ta' arbitraġġ.

(7) Kull sottomissjoni għal arbitraġġ domestiku li ssir minn amministratur, jew minn xi hadd li mhuwiex hieles li jiddisponi mill-haġa, hija nulla.

16. (1) Għall-ghanijiet ta' din it-Taqsima, kull avviż, inklużi notifikazzjoni, komunika jew proposta, għandhom jitqiesu li jkunu ġew riċevuti jekk dawn ikunu personalment twasslu għand min kienu indirizzati jew jekk ikunu twasslu fl-indirizz fejn soltu joqgħod, fond kummerċjali jew indirizz postali, jew, jekk ebda wiehed minn dawn ma jkun jista' jinstab wara li jkun sar sħarriġ raġonevoli, fl-aħħar indirizz residenzjali jew kummerċjali magħruf. L-avviż jitqies li jkun ġie riċevut fil-jum meta jkun hekk twassal.

Avviż u kalkolu
ta' perijodi
ta' żmien.

(2) Għall-ghanijiet ta' kalkolu ta' perijodu ta' żmien taht din it-Taqsima, dak il-perjodu għandu jibda għaddej fil-jum li jiġi minnufih wara l-jum meta jkunu ġew riċevuti xi avviż, notifikazzjoni, komunika

jew proposta. Jekk l-ahhar jum ta' dak il-perijodu jkun btala ufficjali jew jum li mhux tax-xoghol, il-perijodu ghandu jigggedded sa l-ewwel jum tax-xoghol li jigi minnufih wara. Il-btajjel pubblici jew jiem li mhumiex tax-xoghol li jahbtu matul iz-zmien li jkun ghaddej dak il-perijodu ghandhom jigu inkluzi fil-kalkolu tal-perijodu.

Avviz ta' arbitragg.

17. (1) Dik il-parti li tibda l-proceduri ta' arbitragg (hawnhekk izjed 'il quddiem imsejha "ir-rikorrent") ghandha tippreżenta ghand ir-Registratur avviz ta' arbitragg ghal registrazzjoni ghand ic-Centru sabiex dan jigi notifikat lill-parti l-oħra (hawnhekk izjed 'il quddiem imsejha "l-intimat").

(2) Il-procedimenti ta' l-arbitragg ghandhom jitqiesu li jibdew isehhu fid-data meta l-avviz ta' arbitragg jasal ghand l-intimat.

(3) L-avviz ta' l-arbitragg ghandu jkun fih dan li ġej:

(a) talba li t-tilwima tingieb f'arbitragg;

(b) l-ismijiet u l-indirizz tal-partijiet;

(c) referenza għall-klawzola ta' arbitragg jew għall-ftehim ta' arbitragg separat li tkun qed issir referenza ghalih;

(d) referenza għall-kuntratt li minnu, jew ir-relazzjoni guridika definita li dwarha, titnissel it-tilwima;

(e) ix-xorta generali tat-talba kif ukoll indikazzjoni dwar l-ammont li jkun involut, jekk ikun hemm;

(f) il-kumpens jew ir-rimedju li wiehed ikun qed ifittex li jikseb;

(g) proposta dwar l-ghadd ta' arbitri, jekk il-partijiet ma jkunux qabel qablu dwarhom.

(4) L-avviz ta' l-arbitragg jista' jkun fih ukoll:

(a) il-proposti għall-hatra ta' arbitru wiehed;

(b) l-ghoti ta' avviz dwar il-hatra ta' arbitru msemmi fl-artikolu 21; u

(c) it-talba bil-miktub imsemmija fl-artikolu 29.

Rappreżentanza u assistenza.

18. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, il-partijiet jistghu jkunu rappreżentati jew assistiti minn persuni li jagħzlu huma. L-ismijiet u l-indirizzi ta' dawk il-persuni ghandhom jinghataw bil-mezz ta' komunika bil-miktub lill-parti l-oħra; dik il-komunika ghandha tispeċifika jekk il-hatra tkunx qeghda ssir għall-ghanijiet ta' rappreżentanza jew ta' assistenza.

(2) Prattikant legali jew persuna li ma tkunx kwalifikata skond il-Ligijiet ta' Malta tista' taġixxi f'isem ta' xi parti fi procediment ta' arbitragg li dan l-Att ikun japplika ghalih, inkluz li jidher quddiem it-tribunal ta' l-arbitragg, u ma ghandux għaldaqshekk jitqies li jkun kiser xi ligi ta' Malta li tirregola l-prattika tal-professjoni legali.

19. Jekk il-partijiet ma jkunux qabel qablu fuq l-ghadd ta' arbitri, ^{Ghadd ta' arbitri.} u jekk fi żmien hmistax-il jum wara li l-intimat jasallu l-avviż ta' l-arbitraġġ il-partijiet ma jkunux qablu li għandu jkun hemm arbitru wiehed biss, għandhom jinhatru tliet arbitri:

Iżda jekk l-ammont in kwistjoni jkun ta' inqas minn 5,000 lira Maltija, joqgħod arbitru uniku.

20. (1) Jekk ikun se jinhatar arbitru uniku, kull parti tista' ^{Hatra ta' arbitri.} tipproponi lill-oħra l-ismijiet ta' persuna waħda jew iktar minn waħda, li waħda minnhom tista' toqgħod bhala l-uniku arbitru.

(2) Jekk fi żmien tletin jum wara li xi parti taslilha proposta magħmula skond is-subartikolu (1), il-partijiet ma jkunux ftehm u dwar l-għażla ta' arbitru uniku, l-arbitru uniku għandu jinhatar miç-*Chairman*.

(3) Iç-*Chairman* għandu, fuq talba ta' xi parti, jahtar l-uniku arbitru kemm jista' jkun malajr; id-deċiżjoni tiegħu tkun finali u konkluziva.

(4) Meta jkun qiegħed jagħmel il-hatra, iç-*Chairman* għandu jqis kull haġa li x'aktarx tiżgura l-hatra ta' arbitru indipendenti u imparzjali u l-membri tal-Gruppi ta' Arbitraġġ Domestiku mwaqqfa bis-subartikolu (2) ta' l-artikolu 10.

(5) Arbitru ma jkunx responsabbli għal danni minhabba f'xi haġa li huwa jagħmel jew jonqos milli jagħmel bhala arbitru:

Iżda arbitru jkun responsabbli għar-rigward ta' kull haġa li huwa jagħmel xjentement jew li jonqos milli huwa jagħmel bhala arbitru meta l-azzjoni jew l-omissjoni tiegħu tkun attribwibbli għal xi qerq jew frodi minn naħa tiegħu.

21. (1) Meta jkollhom jinhatru tliet arbitri, kull waħda mill-^{Arbitru li jippresjedi.} partijiet tahtar arbitru wiehed. Iż-żewġ arbitri hekk mahtura mbagħad jagħzlu t-tliet arbitru li jagħmilha ta' arbitru li jippresjedi t-tribunal ta' l-arbitraġġ.

(2) Jekk fi żmien tletin jum wara li jasal l-avviż ta' parti dwar il-hatra ta' arbitru, il-parti l-oħra ma tkunx avżat lill-ewwel parti dwar l-arbitru li tkun hatret, l-ewwel parti tista' titlob liç-*Chairman* li jahtar it-tieni arbitru.

(3) Jekk fi żmien tletin jum wara l-hatra tat-tieni arbitru, iż-żewġ arbitri ma jkunux qablu dwar l-għażla ta' l-arbitru li jkun ser jippresjedi, l-arbitru li jkun ser jippresjedi għandu jinhatar miç-*Chairman*.

(4) Iç-*Chairman* għandu japplika d-dispożizzjonijiet ta' l-artikolu 20 f'kull hatra li huwa jagħmel bis-saħħa tad-dispożizzjonijiet tas-subartikoli (2) jew (3) ta' l-artikolu 21.

Talba lié
Chairman biex
jahtar arbitru.

22. (1) Meta *é-Chairman* jintalab sabiex jahtar arbitru bis-sahha ta' l-artikolu 20 jew 21, il-parti li taghmel it-talba ghandha tippreżenta ghand ir-Registatur avviz ghal hatra u hemm taghmel referenza ghall-avviz ta' l-arbitragg prezentat bis-sahha ta' l-artikolu 17.

(2) Ié-Ċentru jista' jehtieg lil kull parti li taghtih dak it-taghrif li jqis li jkun mehtieg sabiex iwettaq il-funzjoni tieghu.

(3) Meta iigu persuni ghall-hatra bhala arbitri, l-ismijiet, l-indirizzi u n-nazzjonalita taghhom ghandhom jigu indikati flimkien ma' deskrizzjoni tal-professjoni, kwalifiki u esperjenza taghhom.

Imparzialita
jew indipendenza.

23. (1) Persuna li jkellmuha bhala arbitru prospettiv ghandha tizvela lil min ikellimha dwar il-possibilita li tinhatar arbitru kull haqa li x'aktarx tnissel dubbji gustifikabbli dwar l-imparzialita jew l-indipendenza taghha.

(2) Galadarba arbitru jkun inhatar jew intghazel, huwa ghandu jizvela kull haqa msemija fis-subartikolu ta' qabel lill-partijiet kemm-il darba huma ma jkunux qabel gew mgħarrfa b'dawn l-affarijiet minnu stess.

Rikuza ta' arbitru.

24. (1) Arbitru jista' jigi rikuzat jekk ikun hemm xi haqa li tnissel dubbju gustifikabbli dwar l-imparzialita jew l-indipendenza ta' dak l-arbitru.

(2) Parti tista' tirrikuza lil dak l-arbitru li hija tkun hatret biss meta jkun hemm ragunijiet li hija ssir taf bihom wara li tkun saret il-hatra.

Avviz ta' rikuzza.

25. (1) Meta parti jkollha hsieb li tirrikuza arbitru din ghandha taghti avviz tar-rikuza tieghu fi zmien hmistax-il jum wara li l-hatra ta' l-arbitru rikuzat tkun giet notifikata lill-parti rikuzanti jew fi zmien hmistax-il jum wara li é-ċirkostanzi msemija fl-artikoli 23 u 24 ikunu saru magħrufa minn dik il-parti.

(2) Ir-rikuza ghandha tigi notifikata lir-Registatur, lill-parti l-oħra, lill-arbitru li jkun qiegħed jigi rikuzat u lill-membri l-oħra tat-tribunal ta' l-arbitragg. L-avviz ghandu jsir bil-miktub u ghandu jkun fih ukoll ir-ragunijiet ghaliex tkun qegħda ssir dik ir-rikuza.

(3) Meta arbitru jkun gie rikuzat minn parti wahda l-parti l-oħra tista' taqbel ma' dik ir-rikuza. L-arbitru jista' wkoll, wara r-rikuza, jirtira mill-kariga tieghu. Dan ma jkun ifisser f'ebda każ li wieħed ikun qiegħed jaċċetta l-validita tar-ragunijiet miġjuba ghal dik ir-rikuza. Fiż-żewġ każijiet il-proċedura provduta fl-artikoli 20 jew 21 ghandha tintuza ghalkollox biex issir il-hatra ta' arbitru sostitut ukoll jekk ikun gara li matul il-proċess tal-hatra ta' l-arbitru rikuzat xi parti tkun naqset milli twettaq id-dritt li jkollha li tahtar jew li tiehu sehem fil-hatra.

26. (1) Jekk il-parti l-oħra ma taqbilx mar-rikuża u l-arbitru rikuzat ma jirtirax, id-deċiżjoni fuq dik ir-rikuża għandha tittiehed mi-*Chairman*, u d-deċiżjoni tiegħu tkun finali u konkluziva. Meta l-arbitru rikuzat ma jirtirax.

(2) Meta *Chairman* isostni rikuża, huwa għandu jahtar arbitru sostitut.

27. (1) Meta jiġri li jmut jew jirriżenja arbitru filwaqt li jkun għaddejnin il-proċedimenti ta' l-arbitraġġ għandu jinħatar jew jingħażel arbitru sostitut bis-saħħa tal-proċedura provduta fl-artikoli 20 sa 23 li kienet tkun applikata għall-hatra jew l-għażla ta' dak l-arbitru li jkun qed jiġi sostitwit. Sostituzzjoni ta' arbitru.

(2) Meta jiġri li arbitru jonqos milli jaġixxi jew meta jkun hemm impossibilità *de jure* jew *de facto* li jwettaq il-funzjonijiet tiegħu, għandha tapplika l-proċedura dwar ir-rikuża u s-sostituzzjoni ta' arbitru li hemm fl-artikoli ta' qabel.

28. (1) Bla hsara għal kull ftehim bejn il-partijiet, it-tribunal ta' l-arbitraġġ għandu jiddeċiedi, minnufih wara li jinħatar, l-ilsien jew l-ilsna li jkollhom jintużaw fil-proċedimenti; kemm-il darba l-partijiet ma jiftehmux mod ieħor, l-ilsien li jintgħażel għandu jkun il-Malti. Din id-deċiżjoni għandha tkun applikata dwar it-talba bil-miktub, ir-risposta ta' l-intimat, u kull dikjarazzjoni oħra bil-miktub u, fil-każ ta' seduti fejn jinstemgħu l-partijiet, dwar l-ilsien jew l-ilsna li għandhom jintużaw waqt dawk is-seduti. Ilsien.

(2) It-tribunal ta' l-arbitraġġ jista' jordna li kull dokument mehmuż mat-talba bil-miktub jew mar-risposta ta' l-intimat, u kull dokument jew esibit supplimentari preżentati waqt il-proċedimenti, għandhom jingiebu fl-ilsien jew ilsna originali hekk miftehma bejn il-partijiet jew stabbiliti mit-tribunal ta' l-arbitraġġ.

29. (1) Kemm-il darba t-talba bil-miktub ma kienetx tinsab fl-avviż ta' l-arbitraġġ, fi żmien li jiġi stabbilit mit-tribunal ta' l-arbitraġġ, ir-rikorrent għandu jwassal it-talba bil-miktub tiegħu lill-intimat u lil kull wiehed mill-arbitri. Kopja tal-kuntratt, u tal-ftehim ta' l-arbitraġġ jekk dawn ma jkunux jinsabu fil-ftehim ta' l-arbitraġġ, għandhom jintehmzu mat-talba. Talba bil-miktub.

(2) It-talba bil-miktub għandu jkun fiha dawn il-partikolaritajiet:

- (a) l-ismijiet u l-indirizzi tal-partijiet;
- (b) dikjarazzjoni tal-fatti li jsostnu t-talba;
- (c) il-kwistjonijiet fil-mertu;

(d) is-soluzzjoni jew ir-rimedju li parti tkun qed tfitteb li tiksew.

(3) Ir-rikorrent jista' jehmeż mat-talba bil-miktub tiegħu dawk id-dokumenti li jqis relevanti jew jista' jżid referenza għad-dokumenti jew provi oħra li jkun bi ħsiebu jippreżenta.

Risposta ta' l-intimat.

30. (1) L-intimat għandu jwassal id-dikjarazzjoni tiegħu bil-miktub lir-rikorrent u lil kull wiehed mill-arbitri f'dak iż-żmien li jiġi hekk stabbilit mit-tribunal ta' l-arbitraġġ.

(2) Ir-risposta ta' l-intimat għandu jkun fiha risposta għall-partikolaritajiet (b), (ċ) u (d) tat-talba bil-miktub imsemmija fis-subartikolu (2) ta' l-artikolu 29. L-intimat jista' jehmeż mar-risposta tiegħu dawk id-dokumenti li jkun jistrieħ fuqhom għad-difiża tiegħu jew jista' jżid referenza għad-dokumenti jew kull prova oħra li jkun bi ħsiebu jġib.

(3) Fir-risposta tiegħu, jew f'kull stadju ulterjuri fil-proċedimenti ta' l-arbitraġġ, jekk it-tribunal ta' l-arbitraġġ jiddeċiedi li d-dewmien kien ġustifikat fiċ-ċirkostanzi, l-intimat jista' jagħmel kontro-talba li titnissel mill-istess kuntratt jew jistrieħ fuq talba li titnissel mill-istess kuntratt bil-għan li ssir tpaċija.

(4) Id-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 29 għandhom japplikaw għal kontro-talba u għal talba li wiehed ikun qed jistrieħ fuqha bil-għan li jasal għal tpaċija.

Emendi fid-dikjarazzjonijiet.

31. Filwaqt li jkunu għaddejnin il-proċedimenti ta' l-arbitraġġ kull parti tista' temenda jew tissupplementa t-talba jew ir-risposta tagħha kemm-il darba t-tribunal ta' l-arbitraġġ ma jqisx li ma jkunx sew li tithalla ssir dik l-emenda meta wiehed iqis id-dewmien fl-għemil tagħha jew il-preġudizzju lill-parti l-oħra jew kull ċirkostanza ġustifikabbli oħra. Madankollu, talba ma tistax tiġi emendata b'tali mod li talba kif emendata tkun tohrog' il barra mill-għan tal-klawżola ta' arbitraġġ jew tal-ftehim ta' arbitraġġ separat.

Eċċezzjonijiet dwar il-ġurisdizzjoni tat-tribunal ta' l-arbitraġġ.

32. (1) It-tribunal ta' l-arbitraġġ ikollu s-setgħa li jiddeċiedi dwar dawk l-oġġezzjonijiet li jsiru dwar in-nuqqas ta' ġurisdizzjoni tiegħu, inkluża kull oġġezzjoni dwar l-eżistenza jew il-validità tal-klawżola ta' arbitraġġ jew tal-ftehim ta' arbitraġġ separat.

(2) It-tribunal ta' l-arbitraġġ ikollu s-setgħa jiddeċiedi dwar l-eżistenza jew il-validità tal-kuntratt li klawżola ta' arbitraġġ tkun tinsab fih. Għall-għanijiet ta' l-artikolu 32, klawżola ta' arbitraġġ li tinsab f'kuntratt u li tkun tipprovdi għal arbitraġġ skond din il-Parti għandha titqies bħala ftehim indipendenti mill-patti l-oħra tal-kuntratt. Deċiżjoni mit-tribunal ta' l-arbitraġġ li l-kuntratt ikun null u bla effett ma għandhiex tkun tisser *ipso jure* li l-klawżola ta' arbitraġġ tkun invalida ukoll.

(3) L-eċċezzjoni li t-tribunal ta' l-arbitraġġ ma jkollux ġurisdizzjoni għandha tingieb mhux iżjed tard minn meta ssir ir-risposta ta' l-intimat jew, fil-każ ta' kontro-talba, fir-risposta għal kontro-talba.

(4) Generalment, it-tribunal ta' l-arbitraġġ għandu jiddeċiedi eċċezzjoni dwar il-ġurisdizzjoni tiegħu bħala eċċezzjoni preliminari:

Iżda t-tribunal ta' l-arbitraġġ jista' jibqa' għaddej bl-arbitraġġ u jaqta' dwar dik l-eċċezzjoni fid-deċiżjoni finali tiegħu.

33. It-tribunal ta' l-arbitraġġ għandu jiddeċiedi x' dikjarazzjonijiet oħra bil-miktub, b'żieda mat-talba bil-miktub u mar-risposta ta' l-intimat, għandhom jenhtieġu minghand il-partijiet jew jistgħu jiġu preżentati minnhom u għandu jistabbilixxi kull żmien li matulu jkunu jistgħu jingiebu dawk id-dikjarazzjonijiet. Dikjarazzjonijiet oħra bil-miktub.

34. Il-perijodi ta' żmien stabbiliti mit-tribunal ta' l-arbitraġġ biex jingiebu dikjarazzjonijiet bil-miktub (inklużi t-talba u r-risposta ta' l-intimat) ma għandhomx ikunu ta' aktar minn hamsa w erbghin jum: Perijodi ta' żmien.

Iżda t-tribunal ta' l-arbitraġġ jista' jgedded kull żmien jekk dan it-tigdid jidher li jkun mehtieġ.

35. (1) Kull parti jkollha r-responsabbiltà li ġġib kull prova tal-fatti li fuqhom tkun qegħda tistrieħ biex issostni t-talba jew id-difiża tagħha. Min għandu jġib il-provi.

(2) It-tribunal ta' l-arbitraġġ jista', jekk iqis li dan ikun xieraq, jehtieġ lil xi parti li tagħti lit-tribunal u lill-parti l-oħra, matul dak iż-żmien li t-tribunal ta' l-arbitraġġ jista' jiddeċiedi, sommarju tad-dokumenti u kull prova oħra li dik il-parti tkun bi hsiebha tipprezenta biex issostni l-fatti in kwistjoni li tkun semmiet fit-talba bil-miktub jew fir-risposta ta' l-intimat.

(3) F'kull żmien waqt il-proċedimenti ta' l-arbitraġġ it-tribunal ta' l-arbitraġġ jista' jehtieġ lill-partijiet iġibu dokumenti, esibiti jew kull prova oħra matul kull perijodu jew żmien li t-tribunal ta' l-arbitraġġ jista' jiddeċiedi dwaru.

36. (1) Bla hsara għad-dispożizzjonijiet ta' l-artikolu 37, ix-xhieda f'arbitraġġ għandhom iġibu l-provi tagħhom jew billi jixhdu *viva voce* jew bil-mezz ta' affidavit, u bla hsara għad-dispożizzjonijiet ta' l-artikoli rilevanti ta' din it-Taqsima, ir-regoli tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u ta' kull liġi li minn żmien għal żmien tkun isseħħ f'Malta għandhom ikunu japplikaw ukoll għall-ghoti ta' xiehda *viva voce* jew bil-mezz ta' affidavit quddiem it-tribunal ta' l-arbitraġġ l-istess bħalma jgħoddu għal kif tingieb ix-xiehda quddiem qorti ta' ġurisdizzjoni ċivili. Provi.

(2) Iċ-Ċentru jista' jagħmel regoli li jistabbilixxu ż-żminijiet li fihom għandhom jingiebu l-provi u kif għandhom jingiebu, u l-partijiet jistgħu jiftehmu, minkejja dak kollu msemmi qabel u d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, li l-provi tax-xhieda għandhom jingiebu f'dawk iż-żminijiet u b'dak il-mod li jista' jiġi stabbilit bejn il-partijiet:

Iżda dak il-ftehim ma jistax ikun inkompatibbli ma' xi regola magħmula miċ-Ċentru u minnu dikjarata li ma tithassarx.

(3) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 37, meta tkun tenhtieg ix-xiehda ta' xi persuna, ir-Registatur jista' johrog mandati ta' tahrik ta' xhieda sabiex igieghel lil xhud jattendi quddiem arbitru jew arbitri biex jaghti xiehda jew igib mieghu xi dokumenti quddiem tribunal ta' l-arbitragg. Ir-rikors ghall-hrug tal-mandat ghandu jigi ffirmat ukoll mill-arbitru uniku, jew mill-arbitru li jippresjedi, u ghandu jigi prezentat fir-registru tal-Prim'Awla tal-Qorti Civili mir-Registatur.

(4) Id-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu ghandhom ikunu japplikaw *mutatis mutandis* meta ghall-ghanijiet ta' procedimenti quddiem tribunal ta' arbitragg, ikunu jenhtiegu li jinharqu xi awtorizzazzjoni jew ittra rogatorja ghar-rigward ta', jew ikun jenhtieg affidavit minn, persuna li ma tkunx toqghod fit-territorju li ghandhom gurisdizzjoni fuqu l-qrati ta' Malta.

(5) Malli jigi prezentat rikors li ghalih japplikaw is-subartikoli (3) u (4), ir-Registatur tal-Qrati ghandu jinnotifika l-mandat jew xort'ohra jagixxi dwar ir-rikors bl-istess mod daqslikieku dak ir-rikors jew mandat kienu nharqu jew gew approvati mill-Prim'Awla tal-Qorti Civili.

(6) Meta persuna li tkun giet imharrka regolarment biex tidher quddiem tribunal ta' arbtiragg skond dan l-artikolu tonqos milli tidher quddiem dak it-tribunal bla ma jkollha skuza ragonevoli, it-tribunal jista' jaghmel rapport dwar dan lir-Registatur li ghandu b'rikors iressaq dak ir-rapport quddiem il-Prim'Awla tal-Qorti Civili u jitlobha tittratta l-każ bl-istess mod bhallikieku l-persuna msemmija tkun naqset milli tidher quddiem dik il-Qorti meta tkun giet imharrka regolarment u wara dan il-Qorti ghandha tittratta l-każ b'dak il-mod.

Smigh tal-partijiet.

37. (1) Fil-każ ta' seduta fejn jinstemghu l-partijiet jew xi xhieda, it-tribunal ta' l-arbitragg ghandu jaghti lill-partijiet avviż bil-quddiem sew dwar id-data, il-hin u l-post fejn din tkun ser issir.

(2) Jekk ikollhom jinstemghu x-xhieda, mill-anqas hmistax il-jum qabel is-seduta kull parti ghandha tgharraf lit-tribunal u lill-parti l-ohra bl-ismijiet u l-indirizzi tax-xhieda li tkun bi hsiebha ggib, dwar is-suggett li dwaru, u b'liema ilsna, dawk ix-xhieda jkunu ser jixhdu.

(3) It-tribunal ta' l-arbitragg ghandu jaghmel arrangamenti sabiex issir it-traduzzjoni ta' kull dikjarazzjoni verbali li ssir matul seduta u ghal registrazzjoni tas-seduta jekk dawn jitqiesu mehtiega mit-tribunal fiċ-ċirkostanza tal-każ, jew jekk il-partijiet ikunu qablu ma' dan u jkunu gharrfu lit-tribunal ta' l-arbitragg b'dak il-ftehim mill-anqas hmistax-il jum qabel is-smiegh.

(4) Kull seduta ssir *in camera* kemm-il darba l-partijiet ma jiftehmx mod iehor. It-tribunal ta' l-arbitragg jista' jehdieg li xi xhud jew xhieda johorgu barra mill-kamra waqt is-smiegh ta' xhieda ohra. It-tribunal ta' l-arbitragg huwa hieles li jistabbilixxi l-mod li bih ghandhom jigu ezaminati x-xhieda.

(5) It-tribunal ta' l-arbitraġġ ghandu jistabbilixxi l-ammissibilità, ir-rilevanza, is-sustanza u l-valur ta' kull prova miġjuba.

38. (1) Kemm-il darba l-partijiet ma jiftehmux mod iehor, kull parti tista' titlob lill-Qorti biex tohroġ xi att kawtelatorju minn dawk elenkati fis-subartikolu (1) ta' l-artikolu 830 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili bla hsara għad-dispożizzjonijiet tas-subartikoli li ġejjin ta' dan l-artikolu.

Miżuri
għal żmien
limitat u
atti
kawtelatorji.
Kap. 12.

(2) Meta skond is-subartikolu (1) ta' dan l-artikolu jkun inhareġ att kawtelatorju, dak l-att għandu jibqa' jsehh sa dak iż-żmien meta jiskadi jew jiġi revokat skond id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jew sa dak iż-żmien meta t-tribunal ta' l-arbitraġġ b'deċiżjoni mogħtija għal dak il-ghan jordna lill-parti li tkun qegħda tohroġ l-att kawtelatorju li tirtira dak l-att u tohroġ il-kontromandat relattiv.

(3) Minkejja kull haġa li jista' jkun hemm fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili iż-żmien stabbilit fil-Kodiċi li fih l-azzjoni dwar id-dritt imsemmi fl-att kawtelatorju għandha tingieb ikun ta' hmistax-il jum minn meta jiġi preżentat l-att għudizzjarju li fih il-qorti tintalab li tohroġ l-att kawtelatorju. Għandhom japplikaw ukoll id-dispożizzjonijiet ta' dak il-Kodiċi dwar it-tigdid ta' dak iż-żmien.

(4) Dik l-azzjoni li tissema fis-subartikolu (3) ta' dan l-artikolu għandha titqies li tkun ittiehdet fil-każ li jinbdew il-proċedimenti ta' l-arbitraġġ. Għall-ghanijiet ta' dan is-subartikolu l-proċedimenti ta' l-arbitraġġ jitqiesu li jkunu nbdev fid-data msemmija fis-subartikolu (2) ta' l-artikolu 17.

(5) Il-persuna li jkun inhareġ l-att kawtelatorju fuq talba tagħha skond dan l-artikolu għandha, fiż-żmien imsemmi fis-subartikolu (3) ta' dan l-artikolu, tippreżenta nota fl-atti tal-proċedimenti għall-hruġ ta' dak l-att kawtelatorju flimkien ma' ċertifikat mir-Regjistratur li jkun juri li jkun beda proċedimenti ta' arbitraġġ skond is-subartikolu (4) ta' dan l-artikolu.

(6) Kemm-il darba l-partijiet ma jiftehmux mod iehor, it-tribunal ta' l-arbitraġġ jista', fuq talba ta' xi parti, jordna lil xi parti biex tiehu dawk il-miżuri protettivi għal żmien limitat li t-tribunal jista' jidhirlu meħtieġa dwar il-kwistjoni li tkun is-sugġett tat-tilwima. It-tribunal ta' l-arbitraġġ jista' jeħtieġ lil xi parti biex tipprovdi garanzija xierqa f'dak li jkollu x'jaqsam ma' dawk il-miżuri.

39. (1) It-tribunal ta' l-arbitraġġ jista' jahtar espert wiehed jew iktar minn wiehed biex jagħmlu rapport lit-tribunal, bil-miktub, dwar dawk l-affarijiet speċifiċi li t-tribunal jista' jiddeċiedi dwarhom. Kopja tat-termini ta' referenza li jkollu l-espert, kif stabbiliti mit-tribunal ta' l-arbitraġġ, għandhom jiġu mgħarrfa lill-partijiet.

Esperti.

(2) Il-partijiet għandhom jagħtu lill-espert kull tagħrif rilevanti jew iġibu għall-ispezzjon tiegħu kull dokument jew oġġett rilevanti li huwa jista' jkun jenħtieġ mingħandhom. Kull tilwima bejn xi parti u espert dwar ir-rilevanza tat-tagħrif jew oġġett meħtieġ għandha tiġi riferita lit-tribunal ta' l-arbitraġġ għad-deċiżjoni tiegħu.

(3) Malli t-tribunal ta' l-arbitraġġ jirċevi r-rapport ta' l-espert, it-tribunal ta' l-arbitraġġ għandu jwassal kopja tar-rapport lill-partijiet li jingħataw l-opportunità jesprimu, bil-miktub, il-fehma tagħhom dwar ir-rapport. Kull parti jkollha jedd teżamina kull dokument li l-espert ikun sejjes ir-rapport tiegħu fuqu.

(4) Fuq talba ta' xi waħda mill-partijiet, wara li l-espert ikun għamel ir-rapport tiegħu, dak l-espert ikun jista' jinstema' waqt seduta li fiha l-partijiet ikollhom l-opportunità li jkunu preżenti u li jagħmlulu domandi. F'din is-seduta kull parti tkun tista' ġġib esperti bħala xhieda sabiex dawn jagħtu x-xhieda tagħhom fuq il-kwistjonijiet pendent. Id-dispożizzjonijiet ta' l-artikolu 36 għandhom japplikaw għal dawk il-proċedimenti.

Nuqqasijiet.

40. (1) Jekk fiż-żmien stabbilit mit-tribunal ta' l-arbitraġġ irrikorrent ikun naqas milli jgħarraf it-talba tiegħu mingħajr ma jkun ta raġuni valida biżżejjed għaliex ikun għamel dan, it-tribunal ta' l-arbitraġġ għandu jorog ordni sabiex jitwaqqfu l-proċedimenti ta' l-arbitraġġ. Jekk, fiż-żmien stabbilit mit-tribunal ta' l-arbitraġġ, l-intimat ikun naqas milli jgħarraf id-dikjarazzjoni tiegħu mingħajr ma jkun ta raġuni valida biżżejjed għaliex ikun għamel dan, it-tribunal ta' l-arbitraġġ għandu jordna li l-proċedimenti għandhom jtkomplew.

(2) Jekk xi waħda mill-partijiet, debitament notifikata skond din it-Taqsima, li jkollha tidher waqt seduta tonqos milli tidher għaliha mingħajr ma tagħti raġuni valida biżżejjed għal dak in-nuqqas, it-tribunal ta' l-arbitraġġ jista' jimxi 'l quddiem bl-arbitraġġ.

(3) Jekk waħda mill-partijiet, debitament mistiedna biex iġġib prova dokumentarja, tonqos milli tagħmel dan fiż-żmien lilha stabbilit, mingħajr ma tagħti raġuni valida biżżejjed għal dak in-nuqqas, it-tribunal ta' l-arbitraġġ jista' jgħaddi biex jagħti d-deċiżjoni tiegħu fuq il-provi li jkunu nġiebu quddiemu.

Għeluq ta' seduti.

41. (1) It-tribunal ta' l-arbitraġġ jista' jistaqsi lill-partijiet jekk ikollhomx iktar provi xi jġibu jew xhieda jew sottomissjonijiet x'jagħmlu u, jekk dawn ma jkunx hemm aktar minnhom, jista' jiddikjara li s-seduti jkunu nġhalqu.

(2) It-tribunal ta' l-arbitraġġ jista', jekk iqis li jkun hekk meħtieġ minhabba f'ċirkostanzi eċċezzjonali, jiddeċiedi, minn jeddu jew wara li jsirlu rikors minn xi parti, li jerga' jiftaħ is-seduti f'kull żmien qabel ma tingħata d-deċiżjoni.

Twarrib tar-regoli.

42. Meta xi parti tkun taf li xi dispożizzjoni ta', jew hteġa bis-saħħa ta', din it-Taqsima ma tkunx tharset u madankollu tkompli għaddejja bl-arbitraġġ mingħajr ma tiddikjara minnufih l-oġġezzjoni tagħha għal dak in-nuqqas ta' tharis, dik il-parti għandha titqies li tkun warrbet il-jedd tagħha li tagħmel oġġezzjoni.

Deciżjonijiet.

43. (1) Meta jkun hemm tliet arbitri, kull deciżjoni ta' l-arbitraġġ jew deciżjoni ohra tat-tribunal ta' l-arbitraġġ għandha tittiehed minn maġġoranza ta' l-arbitri.

(2) F'każ ta' kwestjonijiet proċedurali, meta ma jkun hemm ebda maġġoranza jew meta t-tribunal ta' l-arbitraġġ hekk jawtorizza, l-arbitru li jkun qiegħed jippresjedi jista' jiddeċiedi waħdu, kif sugġett għal kull reviżjoni, jekk ikun hemm, mit-tribunal ta' l-arbitraġġ.

44. (1) B'zieda ma' l-ghoti ta' deċiżjoni finali, it-tribunal ta' l-arbitraġġ għandu jedd li jagħti deċiżjonijiet temporanji, interlokutorji jew in parti.

Għamla tad-deċiżjoni, temporanja, interlokutorja jew parzjali.

(2) Id-deċiżjoni għandha tingħata bil-miktub fil-lok fejn isir l-arbitraġġ. Din għandha tkun waħda finali u vinkolanti fuq il-partijiet kollha. Il-partijiet għandhom iwettqu d-deċiżjoni mingħajr dewmien.

(3) It-tribunal ta' l-arbitraġġ għandu jagħti r-raġunijiet li d-deċiżjoni tkun imsejsa fuqhom, kemm-il darba l-partijiet ma jkunux qablu li ma għandha tingħata ebda raġuni.

(4) Deċiżjoni għandha tkun iffirmata mill-arbitri u għandu jkun fiha d-data meta u l-post fejn jitqies li tkun ingħatat id-deċiżjoni. Meta jkun hemm tliet arbitri u wieħed minnhom jonqos milli jiffirma, id-deċiżjoni għandu jkun fiha r-raġuni għal dak in-nuqqas ta' firma.

(5) Id-deċiżjoni tista' ssir pubblika biss bil-kunsens taż-żewġ partijiet.

(6) Kopji tad-deċiżjoni ffirmata mill-arbitri għandhom jitwasslu lill-partijiet mit-tribunal ta' l-arbitraġġ.

(7) It-tribunal ta' l-arbitraġġ għandu, mhux aktar tard minn disghin jum wara d-data msemmija fis-subartikolu (4) ta' dan l-artikolu, jipprezenta d-deċiżjoni lir-Registatur sabiex din tiġi registrata għand iċ-Centru u għandu jhares id-dispożizzjonijiet rilevanti ta' dan l-Att u l-htigiet tar-registrazzjoni stabbiliti miċ-Centru.

45. (1) It-tribunal ta' l-arbitraġġ għandu japplika, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, dik il-liġi li tiġi indikata mill-partijiet bħala applikabbli għall-mertu tat-tilwima. Fin-nuqqas ta' indikazzjoni bħal dik mill-partijiet, it-tribunal ta' l-arbitraġġ għandu japplika l-liġi ta' Malta inklużi r-regoli fil-liġi ta' Malta dwar konflitt ta' liġijiet.

Liġi li tapplika, amiable compositeur.

(2) It-tribunal ta' l-arbitraġġ għandu jiddeċiedi bħala *amiable compositeur* jew *ex aequo et bono* biss jekk il-partijiet ikunu espressament awtorizzaw lit-tribunal ta' l-arbitraġġ li jagħmel hekk.

(3) F'kull każ, it-tribunal ta' l-arbitraġġ għandu jiddeċiedi skond il-patti tal-kuntratt u għandu, jekk dan ikun rilevanti, iqis kull użu kummerċjali li jkun japplika għal dik it-transazzjoni.

(4) Kemm-il darba ma jġix miftiehem mod iehor bejn il-partijiet jew jġi provdut mod iehor f'dan l-Att jew bis-saħha tiegħu, it-tribunal ta' l-arbitraġġ jista' jmessi l-arbitraġġ b'dak il-mod li jidhirlu xieraq. Is-setgħa mogħtija lit-tribunal ta' l-arbitraġġ tinkludi s-setgħa li jiddeċiedi dwar l-ammissibilità, ir-relevanza, il-materjalità u l-piż ta' xi prova.

Transazzjoni ta' tilwimiet jew raġunijiet oħra għat-temma tagħhom.

46. (1) Jekk qabel ma tingħata d-deċiżjoni, il-partijiet jaqblu dwar transazzjoni tat-tilwima, it-tribunal ta' l-arbitraġġ għandu jew jorog ordni għat-temma tal-proċedimenti ta' l-arbitraġġ jew, jekk hekk mitlub miż-żewġ partijiet u dan jġi aċċettat mit-tribunal ta' l-arbitraġġ, jirreġistra t-transazzjoni fl-għamla ta' deċiżjoni arbitrali skond il-patti miftehma. It-tribunal ta' l-arbitraġġ mhuwex obligat li jagħti raġunijiet għal deċiżjoni bħal dik.

(2) Jekk qabel ma tingħata d-deċiżjoni, it-komplija tal-proċedimenti arbitrali ma tibqax aktar meħtieġa jew issir impossibbli għal xi raġuni li mhux imsemmija fis-subartikolu (1), it-tribunal ta' l-arbitraġġ għandu jgħarraf lill-partijiet dwar il-ħsieb tiegħu li jorog ordni għat-temma tal-proċedimenti. It-tribunal ta' l-arbitraġġ ikollu s-setgħa li jorog dak l-ordni kemm-il darba xi parti ma gġibx raġunijiet ġustifikabbli ta' oġġezzjoni għal dan.

(3) Kopji ta' l-ordni għat-temma tal-proċedimenti ta' arbitraġġ jew tad-deċiżjoni arbitrali fuq patti miftehma, bil-firma ta' l-arbitri, għandhom jitwasslu mit-tribunal ta' l-arbitraġġ lill-partijiet u lir-Registatur. Meta tingħata deċiżjoni arbitrali fuq il-patti miftehma, għandhom japplikaw id-dispożizzjonijiet tas-subartikoli (2) u (4) sa (7) ta' l-artikolu 44.

Tifsir tad-deċiżjoni.

47. (1) Fi żmien hmistax-il jum wara li taslilhom id-deċiżjoni, kull parti, wara li tagħti avviż ta' dan lill-parti l-oħra, tista' titlob lit-tribunal ta' l-arbitraġġ li jagħti tifsir tad-deċiżjoni.

(2) It-tifsira għandha tingħata bil-miktub fi żmien hamsa w erbghin jum wara li tasal it-talba. It-tifsira mogħtija għandha tagħmel sehem mid-deċiżjoni u għandhom ikunu japplikaw id-dispożizzjonijiet tas-subartikoli (2) sa (7) ta' l-artikolu 44.

Tiswija tad-deċiżjoni.

48. (1) Fi żmien hmistax-il jum minn meta taslilhom id-deċiżjoni, kull parti, wara li tagħti avviż ta' dan lill-parti l-oħra, tista' titlob lit-tribunal ta' l-arbitraġġ li jsewwi fid-deċiżjoni xi żbalji ta' komputazzjoni, żbalji klerikali jew tipografiċi, jew żbalji oħra ta' dik l-għamla. It-tribunal ta' l-arbitraġġ jista' fi żmien tletin jum minn meta jgħarraf id-deċiżjoni tiegħu, jagħmel dawk it-tiswijiet minn jeddu.

(2) Dawk it-tiswijiet għandhom isiru bil-miktub, u għandhom ikunu japplikaw id-dispożizzjonijiet tas-subartikoli (2) sa (7) ta' l-artikolu 44.

Deċiżjoni addizzjonali.

49. (1) Fi żmien hmistax-il jum wara li titwasslilhom id-deċiżjoni, kull parti, wara li tkun tat avviż lill-parti l-oħra, tista' titlob lit-tribunal ta' l-arbitraġġ li jagħti deċiżjoni addizzjonali dwar talbiet magħmula waqt il-proċedimenti arbitrali iżda li jkunu thallew barra mid-deċiżjoni.

(2) Jekk it-tribunal ta' l-arbitraġġ iqis it-talba għal deċiżjoni addizzjonali bħala waħda ġustifikata u jqis li l-omissjoni tkun tista' tisewwa minghajr il-htieġa ta' ebda smiegh jew prova oħra, it-tribunal għandu jiffinalizza d-deċiżjoni tiegħu fi żmien hamsa w erbghin jum minn meta tasallu t-talba.

(3) Meta tinghata deċiżjoni addizzjonali għandhom ikunu japplikaw id-dispożizzjonijiet tas-subartikoli (2) sa (7) ta' l-artikolu 44.

50. It-tribunal ta' l-arbitraġġ għandu jistabbilixxi l-ispejjeż ta' l-arbitraġġ fid-deċiżjoni nnifisha. L-espressjoni "spejjeż" tinkludi biss: Spejjeż.

(a) id-drittijiet tat-tribunal ta' l-arbitraġġ li għandhom jinharġu separatament għal kull arbitru u li jiġu stabbiliti mit-tribunal innifsu skond l-artikolu 51;

(b) l-ispejjeż ta' l-ivvjagġar u spejjeż oħra magħmula mill-arbitri;

(c) l-ispejjeż mahruġa għall-parir ta' esperti u ta' kull għajnuna oħra meħtieġa mit-tribunal ta' l-arbitraġġ;

(d) l-ispejjeż ta' l-ivvjagġar u spejjeż oħra ta' xhieda sal-limitu li dawk l-ispejjeż ikunu approvati mit-tribunal ta' l-arbitraġġ;

(e) l-ispejjeż għal rappreżentanza u assistenza legali tal-parti li tirbaħ l-arbitraġġ jekk dawk l-ispejjeż ikunu ntalbu matul il-proċedimenti ta' l-arbitraġġ, u biss sa dak l-ammont li t-tribunal ta' l-arbitraġġ jistabbilixxi li jkun raġonevoli;

(f) kull dritt u spiża li jithallsu liċ-Centru.

51. (1) Id-drittijiet tat-tribunal ta' l-arbitraġġ għandhom ikunu raġonevoli fl-ammont tagħhom meta wiehed iqis l-ammont involut fit-tal-wima, kemm tkun komplikata l-kwistjoni, iż-żmien li l-arbitri jieħdu fuq dik it-tal-wima u kull ċirkostanza oħra rilevanti tal-każ. Drittijiet.

(2) Meta jiġi biex jistabbilixxi x'ikunu d-drittijiet tiegħu, it-tribunal ta' l-arbitraġġ għandu jqis dik l-iskeda ta' drittijiet għall-arbitraġġ mahruġa miċ-Centru sal-limitu li t-tribunal iqis li jkun xieraq fiċ-ċirkostanzi tal-każ.

(3) It-tribunal ta' l-arbitraġġ għandu jistabbilixxi d-drittijiet tiegħu biss wara li jiġi konsultat iċ-Centru li jista' jagħmel kull kumment li jqis xieraq lit-tribunal ta' l-arbitraġġ għar-rigward ta' dawk id-drittijiet.

52. (1) Hlief kif hemm provdut fis-subartikolu (2) ta' dan l-artikolu, l-ispejjeż ta' l-arbitraġġ għandhom normalment jiġu sopportati mill-parti li titlef. Madankollu, it-tribunal ta' l-arbitraġġ jista' jaqsam dawk l-ispejjeż bejn il-partijiet jekk dan jistabbilixxi li l-qsim f'ishma jkun raġonevoli, wara li wiehed iqis iċ-ċirkostanzi tal-każ. Fil-prinċipju min jitlef jissopporti l-ispejjeż.

(2) Għal dak li għandu x'jaqsam ma' l-ispejjeż tar-rappreżentanza u assistenza legali msemmija fil-paragrafu (e) ta' l-artikolu 50, it-tribunal ta' l-arbitraġġ, wara li jqis iċ-ċirkostanzi tal-każ ikun hieles li jistabbilixxi liema parti jkollha ssofri dawk l-ispejjeż jew jista' jaqsam dawk l-ispejjeż bejn il-partijiet jekk dan jistabbilixxi li dak il-qsim ikun raġonevoli.

(3) Meta t-tribunal ta' l-arbitraġġ johroġ ordni għat-temma tal-proċedimenti ta' l-arbitraġġ jew jagħti deċiżjoni fuq patti miftehma, dan għandu jistabbilixxi l-ispejjeż ta' l-arbitraġġ imsemmija fl-artikolu 50 u fl-artikolu 51 fit-test ta' dik l-ordni jew deċiżjoni.

(4) Ma għandu jingabar ebda dritt addizzjonali minn tribunal ta' l-arbitraġġ għal kull tifsir ta', jew tiswija fi, jew żieda ma', id-deċiżjoni tiegħu taht l-artikoli 47 sa 49.

Depożitu ta' l-ispejjeż.

53. (1) Meta jitwaqqaf it-tribunal ta' l-arbitraġġ, dan jista' jitlob lil kull parti li tiddepożita għand iċ-Ċentru somma ndaqs bejniethom b'avvanż ta' l-ispejjeż imsemmija fil-paragrafi (a), (b), (ċ) u (f) ta' l-artikolu 50.

(2) Filwaqt li jkunu għaddejnin il-proċedimenti ta' l-arbitraġġ, it-tribunal ta' l-arbitraġġ jista' jitlob li jsir depożitu supplimentari mill-partijiet biex ikopri xi spejjeż oħra.

(3) It-tribunal ta' l-arbitraġġ għandu jistabbilixxi l-ammonti ta' kull depożitu jew depożitu supplimentari biss wara li jkun ikkonsulta iċ-Ċentru li jista' jagħmel kull kumment lit-tribunal ta' l-arbitraġġ li jista' jqis xieraq dwar l-ammont ta' dawk id-depożiti u depożiti supplimentari.

(4) Jekk id-depożiti meħtieġa ma jithallsux għal kollox fi żmien tletin jum wara li tasal it-talba, it-tribunal ta' l-arbitraġġ għandu jgħarraf b'dan lill-partijiet sabiex parti waħda jew l-oħra minnhom tkun tista' tagħmel il-hlas meħtieġ. Jekk dak il-hlas ma jsirx, it-tribunal ta' l-arbitraġġ jista' jordna s-sospensjoni jew it-tmiem tal-proċedimenti ta' l-arbitraġġ.

(5) Wara li tkun inghatat id-deċiżjoni, it-tribunal ta' l-arbitraġġ għandu jagħti rendikont lill-partijiet dwar id-depożiti li jkun irċieva u jrodd lura lill-partijiet kull bilanċ mhux minfuq li jista' jkun hemm.

Lok fejn isir l-arbitraġġ.

54. (1) Kemm-il darba l-partijiet ma jiftehmux mod iehor, il-proċedimenti ta' l-arbitraġġ li jitmexxew taht din it-Taqsima ta' dan l-Att għandhom isiru fil-lok provdut għal dak l-għan miċ-Ċentru.

(2) It-tribunal ta' l-arbitraġġ jista' jiltaqa' kull fejn iqis xieraq sabiex jispezzjona xi oġġetti, proprjetà oħra jew dokumenti. Il-partijiet għandhom jinghataw avviż dwar dan żmien qabel sabiex huma jkunu jistgħu jattendu għal dik l-ispezzjoni.

TAQSIMA V

Arbitraġġ Internazzjonali Kummerċjali

55. (1) Bla ħsara għal dak li jinsab f'din it-Taqsima, il-Mudell ta' Ligi għandu jiffirma parti mil-Ligijiet ta' Malta u jkun hekk esegwibbli. Mudell ta' Ligi.

(2) Fil-Mudell ta' Ligi:

“Stat” tfisser Malta u kull stat barrani li jkun;

“dan l-Istat” tfisser Malta.

56. (1) Bil-għan li jitfisser il-Mudell ta' Ligi, tista' ssir riferenza: Tifsir.

(a) għall-ħidma tal-Kummissjoni tan-Nazzjonijiet Uniti dwar id-Dritt tal-Kummerċ Internazzjonali; u

(b) għad-dokumenti preparatorji tal-Mudell ta' Ligi.

(2) Is-subartikolu (1) għandu japplika bla ħsara għall-applikazzjoni ta' l-Att dwar l-Interpretazzjoni għall-iskop tat-tifsir ta' dan l-Att. Kap. 249.

57. Il-funzjonijiet imsemmija fl-Artiklu 6 tal-Mudell ta' Ligi għandhom jitwettqu minn: L-Artiklu 6 tal-Mudell ta' Ligi.

(a) iċ-*Chairman* għar-rigward ta' l-Artikli 11(3), 11(4), 13(3) u 14; u

(b) il-Qorti ta' l-Appell għar-rigward ta' l-Artikli 16(3), 34(2) u 35(1).

58. B'riferenza għall-Artikli 34(2)(b)(ii) u 36(1)(b)(ii) tal-Mudell ta' Ligi, għall-għanijiet ta' dawk l-Artikli qiegħed b'dan jiġi dikjarat li deċiżjoni ta' arbitraġġ tkun konfligġenti mal-ordni pubbliku ta' Malta jekk: L-Artikli 34 u 36 tal-Mudell ta' Ligi.

(a) id-deċiżjoni tkun inkisbet bi, jew intlaqtet minn, frodi jew korruzzjoni; jew

(b) ikunu nkisru r-regoli tal-gustizzja naturali fl-ghoti tad-deċiżjoni.

59. Meta, kieku ma kienx għall-applikazzjoni ta' dan l-artikolu, ikunu japplikaw għar-rigward ta' deċiżjoni ta' arbitraġġ sew il-Kapitlu VIII tal-Mudell ta' Ligi kif ukoll it-Taqsima VII ta' dan l-Att fuq l-Għarfien u l-Eżekuzzjoni ta' Deċiżjonijiet ta' Arbitraġġ Barranin, il-Kapitlu VIII tal-Mudell ta' Ligi għandu jitqies bħala li ma jkunx japplika għar-rigward ta' dik id-deċiżjoni. Il-Kapitlu VIII tal-Mudell ta' Ligi ma jghoddx f'ċerti każi.

Arrangament ta' tilwim b'mod differenti minn dak fil-Mudell ta' Ligi.

60. (1) Meta l-partijiet fi ftehim ta' arbitragġ regolat minn din it-Taqsima ta' dan l-Att ikunu ftehm (sew fil-ftehim jew f'kull dokument ieħor li jkun bil-miktub) li kull tilwima li jkun hemm jew li jista' jkun hemm bejniethom għandha tiġi determinata b'mod differenti minn kif maħsub fil-Mudell ta' Ligi, f'dak il-każ ikunu japplikaw id-dispożizzjonijiet li jirregolaw arbitragġ domestiku.

(2) Fil-każ kontemplat fis-subartikolu ta' qabel dan, il-partijiet huma obbligati, qabel ma jinħatar it-tribunal ta' l-arbitragġ, li jgħarrfu bil-miktub lir-Registratur bil-mod kif għandha tiġi determinata t-tilwima.

Registrazzjoni miċ-Ċentru.

61. (1) Qabel ma deċiżjoni ta' arbitragġ li tingħata bis-saħħa tal-Mudell ta' Ligi ma tkun tista' tingħaraf u tiġi esegwita mill-Qrati ta' Malta, dik id-deċiżjoni għandha tiġi registrata miċ-Ċentru minkejja kull dispożizzjoni tal-Kapitlu VIII tal-Mudell ta' Ligi.

(2) B'riferenza għas-subartikolu (1) ta' dan l-artikolu, kull parti tista' tippreżenta d-deċiżjoni lir-Registratur sabiex din tiġi registrata għand iċ-Ċentru, u għandha tħares id-dispożizzjonijiet relevanti ta' dan l-Att u l-htigiet ta' registrazzjoni skond regoli magħmula miċ-Ċentru.

Artklu 17 tal-Mudell ta' Ligi.

62. Bla hsara għad-dispożizzjonijiet ta' l-artikolu 61, il-Kapitlu VIII tal-Mudell ta' Ligi japplika għal kull ordni tat-tribunal ta' l-arbitragġ li ssir bis-saħħa ta' l-Artiklu 17 tal-Mudell ta' Ligi li tkun tehtieg lil xi parti:

- (a) li tiehu miżura temporanja ta' protezzjoni; jew
- (b) li tipprovdi garanzija f'dak li għandu x'jaqsam ma' dik il-miżura;

bħallikieku kull riferenza f'dak il-Kapitlu għal deċiżjoni ta' arbitragġ jew għal deċiżjoni kienet riferenza għal ordni bħal dik.

Imghax sa meta tingħata d-deċiżjoni.

63. (1) Kemm-il darba l-partijiet fi ftehim ta' arbitragġ regolat b'din it-Taqsima ta' dan l-Att ma jkunux ftehm mod ieħor, meta tribunal ta' arbitragġ jaqtagħha li jagħti deċiżjoni għall-hlas ta' flus (sew fuq talba għal ammont likwidat jew mhux likwidat), it-tribunal jista', bla hsara għas-subartikolu (2), jinkludi fl-ammont mogħti fid-deċiżjoni dak l-imghax b'dik ir-rata raġonevoli li t-tribunal jista' jistabbilixxi fuq l-ammont shih ta' flus jew parti minnu, u għaž-żmien kollu jew parti minnu bejn id-data meta tkun inbdiet it-tilwima, u d-data meta tingħata d-deċiżjoni.

- (2) Is-subartikolu (1):
 - (a) ma jawtorizzax l-għoti ta' imghax fuq imghax;
 - (b) ma japplikax dwar ammont li fuqu jithallas imghax bi dritt sew bis-saħħa ta' xi ftehim jew mod ieħor; u
 - (c) ma jolqotx id-danni li jistgħu jintalbu meta kambjala ma tiġix onorata.

64. Kemm-il darba l-partijiet fi ftehim ta' arbitragġ regolat b'din it-Taqsima ta' dan l-Att ma jkunux ftehimu mod ieħor, meta tribunal ta' arbitragġ jagħti deċiżjoni dwar hlas ta' flus, it-tribunal jista' jordna li, imghax b'dik ir-rata raġonevoli li t-tribunal jista' jistabbilixxi, għandu jithallas mid-data msemmija fl-Artiklu 31(3) tal-Mudell ta' Liġi jew minn dik id-data li tiġi aktar tard hekk kif it-tribunal jispeċifika.

Imghax fuq debitu msemmi f'deċiżjoni.

65. (1) Kemm-il darba l-partijiet fi ftehim ta' arbitragġ regolat b'din it-Taqsima ta' dan l-Att ma jkunux ftehimu mod ieħor, it-tribunal ta' l-arbitragġ għandu jistabbilixxi l-ispejjeż u d-drittijiet ta' l-arbitragġ fid-deċiżjoni skond l-artikoli 50, 51, 52 u 53 *mutatis mutandis*.

Spejjeż u drittijiet.

(2) Meta deċiżjoni ma tkun issemmi xejn dwar l-ispejjeż u d-drittijiet ta' l-arbitragġ, kull parti fi ftehim ta' arbitragġ tista', fi żmien erbatax-il jum minn meta tasliha d-deċiżjoni, titlob lit-tribunal ta' l-arbitragġ li jagħti direttivi dwar kif isir il-hlas ta' dawk l-ispejjeż u drittijiet, u ma' dan, wara li t-tribunal jara xi tkun il-fehma tar-Registatur u ta' kull parti li tixtieq tagħti l-fehma tagħha, it-tribunal għandu jemenda d-deċiżjoni tiegħu skond is-subartikolu (1) ta' l-artikolu 65.

66. Is-subartikolu (5) ta' l-artikolu 20 ta' dan l-Att japplika għal kull arbitru involut f'arbitragġi li jsiru bis-saħħa ta' din it-Taqsima ta' dan l-Att.

Responsabbiltà ta' l-arbitru.

67. Bi ftehim tal-partijiet jew fuq talba ta' xi parti, skond il-każ, meta t-tribunal ta' l-arbitragġ, skond il-Mudell ta' Liġi, jagħmel seduti jew proċedimenti msejsa fuq dokumenti jew materjal ieħor, l-artikolu 18 ta' dan l-Att għandu japplika mingħajr preġudizzju għall-Mudell ta' Liġi.

Rappreżentanza fi proċedimenti.

68. Din it-Taqsima ma tapplikax għar-rigward ta' arbitragġ kummerċjali internazzjonali bejn partijiet li jkollhom ftehim ta' arbitragġ li jkunu għamtu qabel id-dhul fis-seħħ ta' din it-Taqsima ta' dan l-Att kemm-il darba l-partijiet ma jkunux ftehimu mod ieħor.

Applikazzjoni ta' din it-Taqsima.

TAQSIMA VI

Setgħat tal-Qorti dwar l-Arbitragġi

69. Salv id-dispożizzjonijiet tal-Kostituzzjoni u ta' l-Att dwar il-Konvenzjoni Ewropea, f'dawk li huma affarijiet regolati b'dan l-Att, ebda qorti ma għandha tintervjeni jew ikollha ġurisdizzjoni f'xi haġa bħal dik hliet meta jkun hekk provdut f'dan l-Att.

Sa fejn tista' l-qorti tintervjeni.

Kap. 319.

70. (1) Id-deċiżjoni li tingħata wara u skond ftehim ta' arbitragġ skond it-Taqsima IV ta' dan l-Att, għandha, meta tiġi registrata miċ-Ċentru, kif provdut fl-artikolu 72 ta' dan l-Att, tikkostitwixxi titolu eżekuttiv għall-għanijiet tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Twarrub ta' deċiżjoni.

Kap. 12.

(2) Tista' tittiehed azzjoni biss kontra deċiżjoni ta' arbitraġġ mogħtija skond it-Taqsima IV bil-mezz ta' rikors fil-Qorti ta' l-Appell fejn jintalab li d-deċiżjoni ma tiġix esegwita skond dawn id-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(3) Bla ħsara għad-dispożizzjonijiet ta' l-artikolu 71, il-Qorti ta' l-Appell għandha tagħmel digriet li deċiżjoni ma għandhiex tiġi esegwita biss jekk:

(a) ir-rikorrent iġib provi għas-sodisfazzjon tal-Qorti ta' l-Appell illi:

(i) xi parti fil-ftehim ta' l-arbitraġġ kellha xi inkapaċità li żzommha milli tidhol f'dak il-ftehim; jew li dak il-ftehim ma kienx validu skond dik il-liġi li l-partijiet għamluh sugġett għaliha; jew

(ii) il-parti li tkun inġhatat id-deċiżjoni kontriha ma tkunx ġiet avżata kif imiss dwar il-ħatra ta' xi arbitru jew dwar il-proċedimenti ta' arbitraġġ jew inkella kien mod iehor miżmum milli jġib 'il quddiem il-każ tiegħu; jew

(iii) id-deċiżjoni tkun tittratta dwar xi tilwima li ma tkunx kontemplata minn, jew li tidhol, fil-patti li bihom isehh l-arbitraġġ, jew ikun fiha konklużjonijiet fuq kwistjonijiet li jmorru 'l hemm mill-iskop li għalih kellu jsehħ dak l-arbitraġġ:

Iżda jekk deċiżjonijiet fuq kwistjonijiet miġjuba fl-arbitraġġ jistgħu jinfirdu minn dawk il-kwistjonijiet li ma jkunx hekk miġjuba, dik il-parti tad-deċiżjoni li jkun fiha konklużjonijiet fuq kwistjonijiet mhux miġjuba fl-arbitraġġ tkun tista' titwarrab; jew

(iv) l-għamla tat-tribunal ta' l-arbitraġġ jew il-proċedura ta' arbitraġġ ma kienux skond il-ftehim tal-partijiet, kemm-il darba dak il-ftehim ma kienx konfliġġenti ma' xi dispożizzjoni ta' dan l-Att li minnha l-partijiet ma jistgħux jidderogaw, jew, fin-nuqqas ta' ftehim bħal dak, ma kienux skond dan l-Att.

(b) jirrizulta lill-Qorti ta' l-Appell illi:

(i) is-sugġett li dwaru hemm kwistjoni fit-tilwima ma jistax jitranga bil-mezz ta' arbitraġġ skond il-Liġijiet ta' Malta; jew

(ii) id-deċiżjoni tmur kontra l-ordni pubbliku ta' Malta.

(4) Ir-rikors imsemmi fis-subartikolu (2) ta' dan l-artikolu għandu jsir fi żmien tletin jum minn meta ssir in-notifika lir-rikorrent bil-mezz ta' att ġudizzjarju tar-registrazzjoni tad-deċiżjoni għand iċ-Ċentru skond dan l-Att.

71. Meta l-Qorti ta' l-Appell tintalab li twarrab xi decizjoni, dik il-Qorti tista', meta dan ikun xieraq, u meta dan hekk jintalab minn xi parti, tissospendi l-procedimenti ta' twarrib ghal dak iz-żmien li jiġi stabbilit minnha, sabiex tingħata opportunità lit-tribunal ta' l-arbitraġġ li jkompli l-procedimenti ta' l-arbitraġġ jew li jieħu kull azzjoni oħra li fil-fehma tat-tribunal telimina r-raġunijiet għat-twarrib.

Tkomplija ta' procedimenti ta' arbitraġġ.

72. (1) Meta skond dan l-Att tkun meħtieġa r-registrazzjoni ta' xi decizjoni jew dokument għand iċ-Ċentru, dik ir-registrazzjoni għandha ssir billi dik id-decizjoni jew dak id-dokument, jew kopja awtentika tagħhom, jiġu depożitati għand ir-Registatur flimkien ma' kull hlas li minn żmien għal żmien jsta' jiġi preskritt għal dik ir-registrazzjoni.

Registrazzjoni għand u miċ-Ċentru.

(2) Ir-Registatur għandu jiċhad li jirregistra decizjoni jew dokument jekk dawn ma jkunux konformi ma' xi dispożizzjoni ta' dan l-Att jew tar-regoli magħmula miċ-Ċentru li jkollhom x'jaqsmu ma' l-Att.

(3) Fil-każ ta' arbitraġġ imsemmi skond it-Taqsima IV ta' dan l-Att id-dispożizzjonijiet tas-subartikoli (2), (3), (4) u (5) ta' l-artikolu 38, u dawk ta' l-artikolu 70 u ta' l-artikolu 71 għandhom japplikaw biss u l-procedimenti jkunu validi biss meta, qabel il-bidu tal-procedimenti, il-ftehim ta' l-arbitraġġ jiġi registrat għand iċ-Ċentru skond l-artikolu 17 ta' dan l-Att.

(4) Fil-każ ta' arbitraġġ, li jitmexxa skond it-Taqsima IV ta' dan l-Att, id-decizjoni ma tiġix registrata kemm-il darba l-ftehim ta' l-arbitraġġ ma jkunx ġie registrat qabel għand iċ-Ċentru skond l-artikolu 17 ta' dan l-Att.

(5) Jekk ir-Registatur jiċhad li jirregistra xi decizjoni jew dokument, il-parti li tkun qieghda titlob dik ir-registrazzjoni tista', fi żmien tletin jum minn dik iċ-ċaħda, titlob liċ-*Chairman* sabiex huwa jordna lir-Registatur jaċċetta dik ir-registrazzjoni, u d-decizjoni ta' l-imsemmi *Chairman* tkun waħda finali.

(6) Il-fatt li decizjoni jew dokument ikun ġie aċċettat għar-registrazzjoni miċ-Ċentru ma jzomm 'il hadd milli jkun jista' jikkontesta l-validità ta' dik id-decizjoni jew ta' dak id-dokument taħt xi dispożizzjoni ta' dan l-Att.

73. (1) Iċ-*Chairman* tal-Bord tal-Gvernaturi għandu regolarment jagħmel rapport lill-Bord dwar kull decizjoni li huwa jagħti skond xi setgħa f'dan l-Att jew bis-saħħa tiegħu.

Iċ-*Chairman* għandu jagħmel rapport.

(2) Kull decizjoni bħal dik ma tkunx tista' tiġi riveduta mill-Bord, iżda kull membru ta' dak il-Bord jista' jitlob li kull oġġezzjoni li jista' jkollu għal dik id-decizjoni tiġi registrata fil-minuti tal-Bord u dak il-membru jista' wkoll jagħmel rapport dwar dan lill-Ministru.

TAQSIMA VII

Gharfien u Eżekuzzjoni ta' Deċiżjonijiet ta' Arbitraġġ Barranin

Eżekuzzjoni ta' deċiżjonijiet ta' arbitraġġ barranin.

74. (1) Salv id-dispożizzjonijiet ta' l-artikoli rilevanti ta' dan l-Att, deċiżjonijiet ta' arbitraġġ barranin, li għalihom japplikaw it-trattati miġjuba fit-Tieni Skeda li tinsab ma' dan l-Att, għandhom jiġu esegwiti mill-Qrati ta' Malta hekk kif dawn jiġu reġistrati għand iċ-Ċentru bl-istess mod bhallikieku dawk id-deċiżjonijiet kienu ngħataw taht it-Taqsima IV ta' dan l-Att.

(2) Il-Ministru jista' b'avviż fil-Gazzetta jżid, iħassar jew jissostitwixxi l-elenku ta' trattati li Malta qegħda Parti fihom u li jidhru fit-Tieni Skeda li tinsab ma' dan l-Att.

(3) Ċertifikat iffirmit mill-Ministru responsabbli għall-affarijiet barranin, jew minn kull uffiċjal pubbliku li jinhatar minn dak il-Ministru għal dak il-ghan b'avviż fil-Gazzetta, li jfisser li, fil-waqt speċifikat fl-istess ċertifikat, xi stat ikun iffirma u irratifika jew ikun iddenunċja, jew ha xi azzjoni ohra taht it-trattati elenkati fl-Iskedi li jinsabu ma' dan l-Att dwar it-territorju speċifikat fiċ-ċertifikat, ikun ta' prova konkluziva quddiem qorti jew awtorità ohra tal-fatti li jkunu fih dikjarati.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 74, kull deċiżjoni ta' arbitraġġ mogħtija bis-saħħa ta' ftehim multilaterali jew bilaterali li Malta tkun qegħda parti fih għandha, malli din tiġi reġistrata miċ-Ċentru, tiġi esegwita mill-Qrati ta' Malta bl-istess mod bhallikieku dik id-deċiżjoni ngħatat skond it-Taqsima IV ta' dan l-Att.

Arbitraġġ taht liġijiet ohra.

75. (1) Għall-ghanijiet ta' dan l-Att, kull kwistjoni meħtieġa b'xi liġi ohra, sew jekk barranija jew domestika, li tiġi deċiża b'arbitraġġ, id-dispożizzjonijiet ta' dik il-liġi għandhom jinqraw, kemm-il darba dawn ma jipprovdux għal arbitraġġ quddiem xi bord, tribunal jew awtorità ohra mwaqqfa għal dak l-ghan, bhallikieku dik il-liġi l-ohra kienet ftehim ta' arbitraġġ.

(2) Kull deċiżjoni ta' arbitraġġ mogħtija skond is-subartikolu (1) ta' dan l-artikolu għandha tingħata għarfien u tiġi esegwita mill-Qrati ta' Malta hekk kif din tiġi reġistrata għand iċ-Ċentru, bl-istess mod bhallikieku dik id-deċiżjoni kienet mogħtija skond it-Taqsima IV ta' dan l-Att.

Arranġament ta' tilwim dwar investiment internazzjonali.

76. (1) Deċiżjonijiet li jinġhataw skond u bis-saħħa tal-Konvenzjoni dwar l-Arranġament ta' Tilwim dwar l-Investimenti bejn Stati u Ċittadini ta' Stati ohra, liema konvenzjoni nfethet għall-firma

f'Washington fit-18 ta' Marzu, 1965, (liema konvenzjoni hawn iktar 'il quddiem f'dan l-artikolu tissejjah bhala "il-Konvenzjoni" u qed tingieb fit-Tielet Skeda li tinsab ma' dan l-Att) ghandhom ikunu maghrufin u jigu esegwiti mill-Qrati ta' Malta bhallikieku dawk id-deciżjonijiet kienu sentenzi finali skond il-ligijiet ta' Malta.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ghandhom japplikaw biss ghal dawk id-deciżjonijiet fuq tilwim li jingiebu f'arbitraġġ mill-partijiet imdahhla fih skond il-Konvenzjoni u li ma jkunux mod ieħor esklużi skond l-istess Konvenzjoni.

(3) Għall-ghanijiet ta' l-Artiklu 54 tal-Konvenzjoni, l-awtorità kompetenti ghandha tkun iċ-Ċentru.

(4) Il-Prim Ministru jista' b'ordni fil-Gazzetta u minkejja kull liġi oħra, jiddisponi li jaghti sehħ lil xi taqsima tal-Konvenzjoni, u minghajr preġudizzju għall-ġeneralità ta' dak kollu msemmi qabel huwa jista' b'dak l-ordni jaghti dawk l-immunitajiet u eżenzjonijiet minn kull liġi skond kif jista' jkun meħtieġ mill-Konvenzjoni.

TAQSIMA VIII

Mixellanji

77. Jekk ikun hemm xi nuqqas ta' qbil bejn it-test Malti u dak Inġliż fl-Ewwel, fit-Tieni u fit-Tielet Skedi li jinsabu ma' dan l-Att, jipprevali t-test Inġliż.

Isien użat fl-iskedi.

78. (1) L-Ordinanza fuq il-Protokoll dwar il-Klawsoli ta' Arbitraġġ u l-Ordinanza dwar id-Deciżjonijiet ta' Arbitraġġ ta' Tribunali Stranġieri huma b'dan imħassrin.

Thassir u emenda ta' liġijiet oħra.

Kap. 82.
Kap. 83.

(2) Il-liġijiet miġjuba fl-Ewwel Kolonna fir-Raba' Skeda li tinsab ma' dan l-Att ghandhom isehħu skond l-emendi magħmulin għalihom li hemm fit-Tieni Kolonna ta' l-istess Skeda.

79. Bla ħsara għall-artikolu 68, dan l-Att japplika għal kull ftehim ta' arbitraġġ, sew jekk magħmul qabel jew wara l-bidu fis-sehħ ta' dan l-Att, u għal kull arbitraġġ taħt dak il-ftehim:

Dispożizzjoni transitorja.

Izda meta proċedimenti ta' arbitraġġ kienu bdew qabel id-data tal-bidu fis-sehħ ta' dan l-Att u jkunu ghadhom pendent f'dik id-data f'dak il-każ, minkejja kull haġa li hemm f'dan l-Att, dawk il-proċedimenti jibqghu regolati bil-liġi applikabbli għalihom qabel il-bidu fis-sehħ ta' dan l-Att sakemm il-partijiet kollha f'dawk il-proċedimenti ma jaqblux li dan l-Att għandu japplika għal dawk il-proċedimenti b'effett mid-data ta' dak il-qbil u f'dan il-każ dan l-Att għandu japplika b'dak il-mod.

L-EWWEL SKEDA

**KUMMISSJONI TAN-NAZZJONIJIET UNITI DWAR ID-DRITT
TAL-KUMMERĊ INTERNAZZJONALI
MUDELL TA' LIĠI FUQ L-ARBITRAĠĠ KUMMERĊJALI
INTERNAZZJONALI*
(ADOTTAT FIL-21 TA' ĠUNJU, 1985)**

Mudell ta' Liġi UNCITRAL fuq l-Arbitraġġ Kummerċjali Internazzjonali

(kif adottat mill-Kummissjoni tan-Nazzjonijiet Uniti dwar id-Dritt tal-Kummerċ Internazzjonali fil-21 ta' Ġunju, 1985)

**KAPITLU I
DISPOŻIZZJONIJIET ĠENERALI**

ARTIKLU 1

Applikabilità**

(1) Din il-Liġi tapplika għal arbitraġġ kummerċjali*** internazzjonali, kif sugġett għal kull ftehim li jkun hemm fis-sehh bejn dan l-Istat u kull Stat ieħor jew Stati oħrajn.

(2) Id-dispożizzjonijiet ta' din il-Liġi, hliet għall-artikli 8, 9, 35 u 36, japplikaw biss jekk il-lok ta' l-arbitraġġ ikun jinsab fit-territorju ta' dan l-Istat.

(3) Arbitraġġ ikun wiehed internazzjonali jekk:

(a) il-partijiet fi ftehim ta' arbitraġġ ikollhom, filwaqt tat-tmiem ta' dak il-ftehim, il-postijiet tan-negozju tagħhom fi Stati differenti; jew

(b) xi wiehed minn dawn il-postijiet li ġejjin ikun jinsab barra mill-Istat fejn il-partijiet ikollhom il-postijiet tagħhom tan-negozju:

(i) il-lok ta' l-arbitraġġ jekk dan ikun stabbilit fi, jew skond u bis-saħħa ta', l-ftehim ta' l-arbitraġġ;

(ii) kull post fejn ikollha titwettaq parti sostanzjali mill-obbligazzjonijiet tar-relazzjoni kummerċjali jew il-post li miegħu jkollu l-iktar x'jaqsam is-sugġett tat-tilwima; jew

(ċ) il-partijiet ikunu espressament ftehm u li s-sugġett tal-ftehim ta' arbitraġġ ikollu x'jaqsam ma' iżjed minn pajjiż wiehed.

* Riprodott mir-Rapport tal-Kummissjoni tan-Nazzjonijiet Uniti dwar id-Dritt tal-Kummerċ Internazzjonali fuq il-hidma tat-tmintax-il seduta (Ġunju 3-21, 1985), *Official Records* ta' l-Assemblea Generali tan-N.U., l-Erbghin Sessjoni, Supplement Nru. 17 (A/40/17, Annex I, pagn 81-93).

** It-Titoli ta' l-Artikli qeghdin hemm għal għanijiet ta' riferenza biss u ma għandhomx jintuzaw għal għanijiet ta' interpretazzjoni.

*** L-espressjoni "kummerċjali" għandha tinghata interpretazzjoni wiesgha sabiex tkopri materji li jtnisslu minn kull relazzjoni ta' xorta kummerċjali, sew jekk kontrattwali sew jekk le. Relazzjonijiet ta' xorta kummerċjali jinkludu dawn it-transazzjonijiet li ġejjin, iżda mhumiex limitati bihom: kull transazzjoni kummerċjali għall-provvista jew skambju ta' oġġetti jew servizzi; ftehim ta' distribuzzjoni; rappreżentanza kummerċjali jew aġenzija; *factoring*; *kiri*; kostruzzjoni ta' xoghlijiet; konsulenza; inġinerija; liċenzjar; investimenti; finanzjar; banek; assigurazzjoni; ftehim ta' esplojtazzjoni jew konċessjoni; *joint venture* u għamlet oħra ta' ko-operazzjoni industrijali jew kummerċjali; trasport ta' oġġetti jew ta' passigġieri bl-ajru; bil-bahar, ferrovija jew triq.

(4) Ghall-ghanijiet tal-paragrafu (3) ta' dan l-artiklu:

(a) jekk parti jkollha iżjed minn post wiehed tan-negozju, il-post tan-negozju jkun dak il-post li l-aktar ikollu relazzjoni mal-ftehim ta' l-arbitraġġ;

(b) jekk parti ma jkollhiex post tan-negozju, għandha ssir riferenza għall-post fejn soltu toqgħod.

(5) Din il-Liġi ma għandhiex tolgot kull liġi oħra ta' dan l-Istat li bis-saħħa tagħha ċertu tilwimiet ma jkunux jistgħu jingiebu f'arbitraġġ jew ikunu jistgħu jingiebu f'arbitraġġ biss skond dispożizzjonijiet oħra li ma jkunux dawk ta' din il-Liġi.

ARTIKLU 2

Tifsir u Regoli ta' Interpretazzjoni

Għall-ghanijiet ta' din il-Liġi:

(a) "arbitraġġ" tfisser kull arbitraġġ sew jekk amministrat minn istituzzjoni permanenti ta' arbitraġġ sew jekk le;

(b) "tribunal ta' l-arbitraġġ" tfisser arbitru uniku jew grupp ta' arbitri;

(ċ) "qorti" tfisser korp jew organu tas-sistema ġudizzjarju ta' Stat;

(d) meta dispożizzjoni ta' din il-Liġi, hlief għall-artiklu 28, tħalli lill-partijiet hielsa li jstabbilixxu xi haġa, dik il-libertà tinkludi l-jedd tal-partijiet li jawtorizzaw lil xi terza persuna, li tista' tkun ukoll istituzzjoni, li tistabbilixxi dik il haġa;

(e) meta dispożizzjoni ta' din il-Liġi tirreferi għall-fatt li l-partijiet ikunu ftehm u jew li jistgħu jiftehm u jew b'xi mod ieħor tirreferi għal ftehim bejn il-partijiet, dak il-ftehim ikun jinkludi kull regola ta' arbitraġġ imsemmija f'dak il-ftehim;

(f) meta dispożizzjoni ta' din il-Liġi, li ma tkunx fl-artikli 25(a) u 32(2)(a), tkun tirreferi għal talba, din tkun tapplika wkoll għal kontro-talba, u meta tkun tirreferi għal eċċezzjoni, din tkun tapplika wkoll għal eċċezzjoni għal dik il-kontro-talba.

ARTIKLU 3

Wasla ta' komunikazzjonijiet bil-miktub

(1) Kemm-il darba ma jiġix miftiehem mod ieħor mill-partijiet:

(a) komunikazzjoni bil-miktub għandha titqies li tkun waslet jekk din tasal lill-indirizzat personalment jew jekk din tasal fil-post tan-negozju tiegħu, fir-residenza fejn soltu joqgħod jew fl-indirizz postali tiegħu; jekk wara li ssir tftitxija raġonevoli ebda wiehed minn dawn ma jkun jista' jinsab, komunikazzjoni bil-miktub għandha titqies li tkun waslet jekk din tintbagħat fil-post tan-negozju l-aħħar magħruf tal-persuna indirizzata, fir-residenza fejn soltu joqgħod jew fl-indirizz postali permezz ta' ittra registrata jew b'kull mezz ieħor li jipprovdi riferata indikattiva tat-tentattiv li titwassal dik il-komunikazzjoni;

(b) il-komunikazzjoni ghandha titqies li tkun waslet fil-jum illi hekk titwassal.

(2) Id-dispożizzjonijiet ta' dan l-artiklu ma japplikawx ghal komunikazzjonijiet fi procedimenti tal-qorti.

ARTIKLU 4

Rinunzja ta' jedd ta' oġġezzjoni

Parti li tkun taf li xi dispożizzjoni ta' din il-Liġi li l-partijiet jistgħu jidderogaw minnha jew li xi htieġa li hemm fil-ftehim ta' arbitraġġ ma tkunx tharset u madankollu tkompli bl-arbitraġġ mingħajr ma tiddikjara l-oġġezzjoni tagħha ghal dak in-nuqqas ta' tharis mingħajr ebda dewmien mhux xieraq jew, jekk ikun hemm xi żmien ghal dan, f'dak il-perijodu ta' żmien, ghandha titqies li tkun irrinunzjat għall-jedd tagħha li toġġezzjona.

ARTIKLU 5

Sa fejn tista' tintervjeni l-qorti

Fi hwejjeġ regolati b'din il-Liġi, ebda qorti ma ghandha tintervjeni hlief kif provdut f'din il-Liġi.

ARTIKLU 6

Il-qorti jew xi awtorità oħra ghal ċerti funzjonijiet ta' għajnuna u sorveljar f'arbitraġġ

Il-funzjonijiet imsemmija fl-artikli 11(3), 11(4), 13(3), 14, 16(3) u 34(2) ghandhom jitwettqu minn[Kull Stat li jadotta dan il-mudell ta' liġi jispeċifika l-qorti, il-qrati jew, fejn hemm imsemmija, awtorità oħra li tkun kompetenti li twettaq dawk il-funzjonijiet.]

KAPITLU II

FTEHIM TA' ARBITRAĠĠ

ARTIKLU 7

Tifsir u għamla ta' ftehim ta' arbitraġġ

(1) "Ftehim ta' arbitraġġ" huwa ftehim bejn il-partijiet li jissottomettu ghal arbitraġġ kull tilwima jew xi tilwim li jkunu tnisslu jew li jistgħu jitnisslu bejniethom għar-rigward ta' relazzjoni legali definita, sew jekk kontrattwali sew jekk le. Ftehim ta' arbitraġġ jista' jkun fl-għamla ta' klawżola ta' arbitraġġ jew fl-għamla ta' ftehim separat.

(2) Il-ftehim ta' arbitraġġ għandu jsir bil-miktub. Ftehim ikun bil-miktub jekk dan ikun jinsab f'dokument iffirmit mill-partijiet jew fi skambju ta' ittri, *telex*, telegrammi jew mezzi oħra ta' telekomunikazzjoni li jipprovdu prova tal-ftehim, jew fi skambju ta' dikjarazzjonijiet ta' talba u ta' eċċezzjonijiet li fihom jiġi allegat minn xi parti li jkun hemm xi ftehim u dan ma jiġix miċhud mill-parti l-oħra. Ir-riferenza f'kuntratt ghal dokument li jkun fih klawżola ta' arbitraġġ jikkostitwixxi ftehim ta' arbitraġġ kemm-il darba l-kuntratt ikun bil-miktub u r-riferenza tkun tali li tagħmel lil dik il-klawżola parti mill-kuntratt.

ARTIKLU 8

Ftehim ta' arbitraġġ u talba sostantiva quddiem qorti

(1) Qorti li tingieb azzjoni quddiemha fi kwistjoni li tkun is-sugġett ta' ftehim ta' arbitraġġ ghandha, jekk xi parti hekk titlob mhux iktar tard minn meta taghmel l-ewwel dikjarazzjoni taghha fuq il-meriti tat-tilwima, tirriferi lill-partijiet ghall-arbitraġġ kemm-il darba ma tiddeċidix li l-ftehim huwa null u bla effett, inoperattiv jew li ma jistax jitwettaq.

(2) Meta tkun ingiebet azzjoni msemmija fil-paragrafu (1) ta' dan l-artiklu, il-proċedimenti ta' arbitraġġ jistghu madankollu jinbdew jew jitkomplew, u tkun tista' tinghata deċizjoni ta' arbitraġġ, filwaqt li l-azzjoni tkun ghadha pendent quddiem il-qorti.

ARTIKLU 9

Ftehim ta' arbitraġġ u miżuri kawtelatorji mill-qorti

Mhuwiex inkompatibbli ma' ftehim ta' arbitraġġ li xi parti titlob, qabel jew matul il-proċedimenti ta' arbitraġġ, minghand xi qorti ghal xi miżura kawtelatorja u li qorti taghti miżura bhal dik.

KAPITLU III

GHAMLA TA' TRIBUNAL TA' ARBITRAĠĠ

ARTIKLU 10

Ghadd ta' arbitri

- (1) Il-partijiet huma hielsa li jistabbilixxu bejniethom l-ghadd ta' arbitri.
- (2) Fir- nuqqas li jistabbilixxu kif imsemmi, l-ghadd ta' arbitri jkun ta' tlieta.

ARTIKLU 11

Hatra ta' arbitri

- (1) Hadd ma jista' jigi prekluz minhabba fin-nazzjonalità tiegħu milli jaghmilha ta' arbitru, kemm-il darba ma jigix miftiehem mod iehor bejn il-partijiet.
- (2) Il-partijiet huma hielsa li jiftehmu dwar proċedura ta' hatra ta' arbitru jew arbitri, bla hsara ghad-dispożizzjonijiet tal-paragrafi (4) u (5) ta' dan l-artiklu.
- (3) Fin-nuqqas ta' ftehim bhal dak,

(a) f'arbitraġġ fejn ikun hemm tliet arbitri, kull parti ghandha tahtar arbitru wiehed, u ż-żewġ arbitri li hekk jinhatru ghandhom jahtru lit-tielet arbitru; jekk parti tonqos milli tahtar fi żmien tletin jum minn meta tasliha talba mill-parti l-oħra biex taghmel dan, jew jekk iż-żewġ arbitri jonqsu milli jiftehmu fuq it-tielet arbitru fi żmien tletin jum mill-hatra tagħhom, il-hatra ghandha ssir, fuq talba ta' xi parti, mill-qorti jew awtorità oħra speċifikati fl-artiklu 6;

(b) f'arbitraġġ fejn ikun hemm arbitru uniku, jekk il-partijiet ma jkunux jistghu jiftehmu dwar arbitru, dan ghandu jinhatar, fuq talba ta' xi parti, mill-qorti jew awtorità oħra speċifikati fl-artiklu 6.

- (4) Meta, fi proċedura ta' hatra miftehma bejn il-partijiet,
- (a) xi parti tonqas milli tagixxi kif inhu mehtieg taht dik il-proċedura, jew
 - (b) il-partijiet, jew żewġ arbitri, ma jkunux jistgħu jaslu fi ftehim minnhom mistenni taht dik il-proċedura, jew
 - (c) xi terza persuna, inkluża istituzzjoni, tonqos milli twettaq xi funzjoni lilha fdata taht dik il-proċedura,

kull parti tista' titlob lill-qorti jew awtorità oħra speċifikata fl-artiklu 6 sabiex tiegħu l-miżuri mehtieġa, kemm-il darba l-ftehim fuq il-proċedura ta' hatra ma' tkunx tipprovdi mezzi oħra sabiex tassigura li ssir il-hatra.

(5) Ma għandux ikun hemm appell minn deċiżjoni fuq materja fdata bil-paragrafu (3) jew (4) ta' dan l-artiklu lill-qorti jew awtorità oħra speċifikata fl-artiklu 6. Fil-hatra ta' arbitru, il-qorti jew awtorità oħra għandha tqis sew kull kwalifika mehtieġa mill-arbitru bil-ftehim tal-partijiet u kull konsiderazzjoni oħra li x'aktarx tiżgura l-hatra ta' arbitru indipendenti u imparzjali u, fil-każ ta' arbitru uniku jew tat-tielet arbitru, għandha tikkunsidra wkoll kemm ikun tajjeb li jinhatar arbitru ta' nazzjonalità differenti minn dawk tal-partijiet.

ARTIKLU 12

Rikuża ta' arbitri

(1) Meta tiġi avvicinata persuna dwar il-possibilità li tinhatar bhala arbitru, hija għandha tiżvela kull ċirkostanza li tista' tqajjem dubbji ġustifikabbli dwar l-imparzjalità jew l-indipendenza tagħha. Minn żmien il-hatra tiegħu u tul il-proċedimenti ta' l-arbitraġġ, arbitru għandu minghajr dewmien jiżvela xi ċirkostanzi bhal dawk lill-partijiet kemm-il darba huma ma jkunux qabel tgharrfu dwarhom minnu stess.

(2) Arbitru jista' jiġi rikuzat biss jekk ikunu jeżistu ċirkostanzi li jqajmu dubbji ġustifikabbli dwar l-imparzjalità jew indipendenza tiegħu, jew jekk ma jkollux il-kwalifiki miftehma bejn il-partijiet. Xi parti tkun tista' tirrikuża lil xi arbitru mahtur minnha, jew li jkun ha sehem fil-hatra tiegħu, fil-każ biss li jkun hemm raġunijiet li jsir jaf bihom wara li tkun saret il-hatra.

ARTIKLU 13

Proċedura ta' rikuża

(1) Bla hsara għad-dispożizzjonijiet tal-paragrafu (3) ta' dan l-artiklu, il-partijiet jistgħu jaqblu dwar proċedura ta' kif jagħmlu rikuża ta' arbitru.

(2) Fin-nuqqas ta' ftehim bhal dak, xi parti li jkollha hsieb li tirrikuża arbitru għandha, fi żmien hmistax-il jum minn meta ssir taf bil-hatra tat-tribunal ta' l-arbitraġġ jew minn meta ssir taf b'xi ċirkostanzi msemmija fl-artiklu 12(2), tibghat dikjarazzjoni bil-miktub li jkun fiha r-raġunijiet għaliex tkun qegħda tintalab ir-rikuża tat-tribunal ta' l-arbitraġġ. Kemm-il darba l-arbitru li tkun intalbet ir-rikuża tiegħu ma jirtirax mill-kariga tiegħu jew il-parti l-oħra ma taqbilx mar-rikuża tiegħu, ikun it-tribunal ta' l-arbitraġġ li jaqta' dwar ir-rikuża mitluba.

(3) Jekk ma tirnaxxi rikuzà li ssir taht xi proċedura miftehma bejn il-partijiet jew taht il-proċedura tal-paragrafu (2) ta' dan l-artiklu, il-parti li tkun qed titlob ir-rikuza tista' fi żmien tletin jum minn meta tkun irċeviet avviż tad-deċiżjoni li tkun tiegħa ir-rikuza, titlob lill-qorti jew awtorità oħra speċifikati fl-artiklu 6 li jiddeċiedu dwar dik ir-rikuza, u dik id-deċiżjoni ma jkun jista' jsir ebda appell minnha; filwaqt li talba bhal dik tkun għadha pendenti, it-tribunal ta' l-arbitraġġ, inkluż l-arbitru li tkun qed tintalab ir-rikuza tiegħu, jkunu jistgħu jkomplu bil-proċedimenti ta' arbitraġġ kif ukoll jagħtu deċiżjoni.

ARTIKLU 14

Nuqqas jew impossibilità ta' hidma

(1) Jekk minhabba f'xi raġuni li tohroġ mil-liġi jew mill-fatti arbitru ma jibqax kapaċi li jwettaq il-funzjonijiet tiegħu, jew għal raġunijiet oħra jonqos milli jaġixxi mingħajr dewmien żejjed, il-kariga tiegħu ta' arbitru ttemm jekk huwa jirtira mill-kariga tiegħu jew jekk il-partijiet jaqblu li l-kariga għandha hekk ittemm. Inkella, jekk xi waħda minn dawn ir-raġunijiet tibqa' tagħti lok għal kontroversja, kull waħda mill-partijiet tista' titlob lill-qorti jew awtorità oħra speċifikati fl-artiklu 6 li tiddeċiedi dwar it-tmiem tal-mandat, u dik id-deċiżjoni ma jkun jista' jsir ebda appell minnha.

(2) Meta taht dan l-artiklu jew l-artiklu 13(2), arbitru jirtira mill-kariga tiegħu jew xi parti tiftiehem dwar it-tmiem tal-kariga tiegħu bħala arbitru, dan ma jkunx jimplika li tkun qegħda tiġi aċċettata xi raġuni minn dawk imsemmija f'dan l-artiklu jew fl-artiklu 12(2).

ARTIKLU 15

Hatra ta' arbitru sostitut

Meta l-kariga ta' arbitru ttemm taht l-artikli 13 jew 14 jew minhabba fl-irtir tiegħu mill-kariga għal kull raġuni li tkun, jew minhabba fir-revoka tal-kariga tiegħu bi ftehim tal-partijiet, jew f'kull każ ieħor ta' temma fil-kariga tiegħu, għandu jinhatar arbitru sostitut skond ir-regoli li kienu jghoddu għall-hatra ta' l-arbitru li jkun qed jiġi sostitwit.

KAPITLU IV

ĠURISDIZZJONI TAT-TRIBUNAL TA' ARBITRAĠĠ

ARTIKLU 16

Kompetenza tat-tribunal ta' l-arbitraġġ li jiddeċiedi dwar il-ġurisdizzjoni tiegħu

(1) It-tribunal ta' l-arbitraġġ jista' jiddeċiedi dwar il-ġurisdizzjoni tiegħu stess, inkluża kull oġġezzjoni dwar jekk ikunx hemm ftehim ta' arbitraġġ jew il-validità tiegħu. Għal dak l-għan, klawżola ta' arbitraġġ li tkun tagħmel parti minn kuntratt għandha titqies bħala ftehim indipendenti mill-patti l-oħra tal-kuntratt. Deċiżjoni mit-tribunal ta' l-arbitraġġ li kuntratt ikun null u bla effett ma jimplikax *ipso jure* l-invalidità tal-klawżola ta' l-arbitraġġ.

(2) Eċċezzjoni li tribunal ta' l-arbitraġġ ma jkollux ġurisdizzjoni għandha tingieb mhux aktar tard minn meta tiġi preżentata d-dikjarazzjoni tad-difiża. Parti ma tkunx

prekluża milli ġġib eċċezzjoni bhal dik minhabba l-fatt li tkun hatret arbitru jew ipparteċipat fil-hatra tiegħu. Eċċezzjoni li tribunal ta' l-arbitraġġ kien qiegħed *ultra vires* l-awtorità lil mogħtija għandha tingieb minnufih hekk kif il-meritu li jkun qed jiġi allegat bħala li jkun *ultra vires* l-awtorità lil mogħtija l-ewwel titqajjem matul il-proċedimenti ta' l-arbitraġġ. It-tribunal ta' l-arbitraġġ jista', f'kull każ, jammetti eċċezzjoni ulterjuri jekk dan jikkunsidra li d-dewmien ikun ġustifikat.

(3) It-tribunal ta' l-arbitraġġ jista' jiddeċiedi eċċezzjoni msemmija fil-paragrafu (2) ta' dan l-artiklu jew bħala kwistjoni preliminari jew f'deċiżjoni dwar il-meritu. Jekk it-tribunal ta' l-arbitraġġ jiddeċiedi bħala kwistjoni preliminari li jkollu ġurisdizzjoni, kull parti tista' titlob, fi żmien tletin jum minn meta jkun waslilha avviż ta' dik id-deċiżjoni, lill-qorti speċifikata fl-artiklu 6 li tiddeċiedi dwar il-kwistjoni, liema deċiżjoni ma jkun jista' jsir ebda appell minnha; filwaqt li dik it-talba tkun għadha pendenti, it-tribunal ta' l-arbitraġġ jista' jkompli l-proċedimenti ta' l-arbitraġġ u jagħti deċiżjoni.

ARTIKLU 17

Setgħa tat-tribunal ta' l-arbitraġġ li jordna miżuri temporanji

Kemm-il darba ma jiġix miftiehem mod iehor bejn il-partijiet, u fuq talba ta' kull parti, it-tribunal ta' l-arbitraġġ jista' jordna lil xi parti li tiegħu kull miżura temporanja ta' protezzjoni li jqis meħtieġa dwar il-kwistjoni tat-tilwima.

It-tribunal ta' l-arbitraġġ ikollu jedd jitlob lil xi parti li tagħti garanzija xierqa dwar dawk il-miżuri.

KAPITLU V

KIF JITMEXXEW IL-PROĊEDIMENTI TA' L-ARBITRAĠĠ

ARTIKLU 18

Il-partijiet jiġu trattati b'mod indaqs

Il-partijiet għandhom jiġu trattati b'mod indaqs u kull parti għandha tingħata kull opportunità li tippreżenta l-każ tagħha.

ARTIKLU 19

Kif jiġu stabbiliti r-regoli ta' proċedura

(1) Bla hsara għad-dispożizzjonijiet ta' din il-Liġi, il-partijiet huma hielsa li jiftehmu dwar il-proċedura li għandha tiġi segwita mit-tribunal ta' l-arbitraġġ fit-tmexxija ta' proċedimenti.

(2) Fin-nuqqas ta' ftehim bhal dak, it-tribunal ta' l-arbitraġġ jista', bla hsara għad-dispożizzjonijiet ta' din il-Liġi, imexxi l-arbitraġġ b'dak il-mod li jqis li jkun xieraq. Is-setgħa mogħtija lit-tribunal ta' l-arbitraġġ tinkludi s-setgħa li jstabbilixxi l-ammissibilità, ir-relevanza, is-sustanza u l-importanza ta' kull prova li tingieb.

ARTIKLU 20

Lok ta' l-arbitraġġ

(1) Il-partijiet huma hielsa li jaqblu dwar il-lok fejn isir l-arbitraġġ. Fin-nuqqas ta' ftehim b'hal dak, il-lok fejn isir l-arbitraġġ għandu jiġi stabbilit mit-tribunal ta' l-arbitraġġ wara li jqis iċ-ċirkostanzi tal-każ, inkluża l-konvenjenza tal-partijiet.

(2) Minkejja d-dispożizzjonijiet tal-paragrafu (1) ta' dan l-artiklu, it-tribunal ta' l-arbitraġġ jista' jiltaqa', kemm-il darba l-partijiet ma jiftehmux mod ieħor, kull fejn iqis li jkun xieraq kemm għall-konsultazzjonijiet li jsiru fost il-membri tiegħu, kemm għas-smiġh ta' xhieda, esperti jew il-partijiet, jew għall-ispezzjon ta' oġġetti, proprjetà jew dokumenti oħra.

ARTIKLU 21

Bidu ta' proċedimenti ta' arbitraġġ

Kemm-il darba ma jiġix miftiehem mod ieħor bejn il-partijiet, il-proċedimenti ta' l-arbitraġġ għar-rigward ta' xi tilwima partikolari jinbdew fid-data meta l-intimat tasallu talba li t-tilwima tittiehed f'arbitraġġ.

ARTIKLU 22

Ilsien

(1) Il-partijiet huma hielsa li jiftehmux dwar l-ilsien jew l-ilsna li għandhom jintużaw fil-proċedimenti ta' l-arbitraġġ. Fin-nuqqas ta' ftehim b'hal dak, it-tribunal ta' l-arbitraġġ għandu jstabbilixxi l-ilsien jew l-ilsna li għandhom jintużaw fil-proċedimenti. Dan il-ftehim jew ordni, kemm-il darba ma jiġix speċifikat mod ieħor fl-att, għandu jkun japplika għal kull dikjarazzjoni bil-miktub li ssir minn xi parti, kull smiġh u kull deċiżjoni ta' arbitraġġ, jew kull deċiżjoni jew komunikazzjoni oħra li jingħataw mit-tribunal ta' arbitraġġ.

(2) It-tribunal ta' l-arbitraġġ jista' jordna li kull prova dokumentarja għandha tingieb flimkien ma' traduzzjoni fl-ilsien jew fl-ilsna miftehma bejn il-partijiet jew stabbiliti mit-tribunal ta' l-arbitraġġ.

ARTIKLU 23

Dikjarazzjonijiet

(1) Fil-perijodu ta' żmien miftiehem bejn il-partijiet jew li jiġi stabbilit mit-tribunal ta' l-arbitraġġ, ir-rikorrent għandu jiddikjara xi jkunu dawk il-fatti li fuqhom tkun imsejsa t-talba, il-mertu tal-każ, u s-soluzzjoni jew ir-rimedju mistennija, u l-intimat għandu jiddikjara d-difiża tiegħu ukoll fit-termini ta' dawn il-partikolaritajiet, kemm-il darba l-partijiet ma jkunux ftehmux mod ieħor dwar l-elementi meħtieġa ta' dawk id-dikjarazzjonijiet. Flimkien mad-dikjarazzjonijiet tagħhom il-partijiet jistgħu jipprezentaw kull dokument li jqisu li jkun relevanti jew jistgħu jżidu riferenza għal kull dokument jew prova oħra li jkunu ser jipprezentaw.

(2) Kemm-il darba l-partijiet ma jiftehmux mod ieħor, kull parti tista' temenda jew tissupplementa t-talba jew id-difiża tagħha filwaqt li jkunu għaddejn il-proċedimenti ta' l-arbitraġġ, sakemm it-tribunal ta' l-arbitraġġ ma jqisx li ma jkunx xieraq li jippermetti li ssir dik l-emenda meta jitqies id-dewmien fl-għemil tagħha.

proċedimenti ta' l-arbitraġġ, sakemm it-tribunal ta' l-arbitraġġ ma jqisx li ma jkunx xieraq li jippermetti li ssir dik l-emenda meta jitqies id-dewmien fl-ghemil tagħha.

ARTIKLU 24

Smigh u proċedimenti bil-miktub

(1) Bla ħsara għal kull ftehim kuntrarju bejn il-partijiet, it-tribunal ta' l-arbitraġġ għandu jiddeċiedi dwar jekk għandhomx isiru seduti ta' smigh sabiex jingiebu l-provi jew biex issir trattazzjoni orali, jew jekk għandhomx il-proċedimenti jitmexxew fuq il-bażi ta' dokumenti u materjal ieħor. Madankollu, kemm-il darba l-partijiet ma jkunux ftehmli li m'għandhomx isiru seduti, it-tribunal ta' l-arbitraġġ jista' jagħmel dawk is-seduti fi stadju ulterjuri tal-proċedimenti, jekk dan jenhtieg minn xi wahda mill-partijiet.

(2) Għandu jingħata avviż bil-quddiem suffiċjenti lill-partijiet dwar kull smigh u seduta tat-tribunal ta' l-arbitraġġ għall-ghanijiet ta' spezzjon ta' oġġetti, u ta' kull proprjetà jew dokument.

(3) Kull dikjarazzjoni, dokument jew tagħrif ieħor mogħtija lit-tribunal ta' l-arbitraġġ minn xi parti għandhom jiġu notifikati lill-parti l-oħra. Għandu jiġi notifikat ukoll lill-partijiet kull rapport peritali jew dokument li jkun fih xi prova li t-tribunal jista' jibbaża fuqhom fil-formulazzjoni tad-deċiżjoni ta' arbitraġġ tiegħu.

ARTIKLU 25

Nuqqas ta' xi parti

Kemm-il darba l-partijiet ma jiftehmux mod ieħor, jekk, mingħajr ma juru għusta kawża,

(a) ir-rikorrent jonqos milli jinnotifika d-dikjarazzjoni tat-talba tiegħu skond ma hemm fl-artiklu 23(1), it-tribunal ta' l-arbitraġġ itemm il-proċedimenti;

(b) l-intimat jonqos milli jinnotifika d-dikjarazzjoni tiegħu skond ma hemm fl-artiklu 23(1), it-tribunal ta' l-arbitraġġ ikompli għaddej bil-proċedimenti mingħajr ma jqis li dak in-nuqqas fih innifsu jfisser xi ammissjoni għall-allegazzjonijiet tar-rikorrent;

(c) xi parti tonqos milli tidher waqt seduta jew li għib prova dokumentarja, it-tribunal ta' l-arbitraġġ jista' jibqa' għaddej bil-proċedimenti u jagħti d-deċiżjoni tiegħu li tkun bażata fuq il-provi miġjuba.

ARTIKLU 26

Perit mahtur mit-tribunal ta' l-arbitraġġ

(1) Kemm-il darba l-partijiet ma jiftehmux mod ieħor, it-tribunal ta' l-arbitraġġ

(a) jista' jahtar perit jew għadd ta' periti biex jirrelatawlu dwar materji speċifiċi li t-tribunal ta' l-arbitraġġ ikun irid jiddeċiedi dwarhom;

(b) jista' jitlob lil xi parti li tagħti lill-perit kull tagħrif relevanti jew li għib, jew li tipprovdli aċċess għal, kull dokument, oġġett jew proprjetà oħra relevanti għall-ispezzjon tiegħu.

(2) Kemm-il darba l-partijiet ma jiftehmux mod ieħor, jekk xi parti hekk titlob jew jekk it-tribunal ta' l-arbitraġġ iqis li jkun hekk meħtieġ, il-perit għandu, wara li jirrelata r-rapport tiegħu mil-miktub jew bil-fomm, jipparteċipa f'xi seduta meta l-partijiet ikollhom l-opportunità li jistaqsuh domandi u li jgħibu xhieda esperti sabiex dawn jixhdu fuq dak involut.

ARTIKLU 27

Għajnuna mill-qorti fil-ġbir ta' provi

It-tribunal ta' l-arbitraġġ jew xi parti bl-approvazzjoni tat-tribunal ta' l-arbitraġġ tista' titlob li qorti kompetenti ta' dan l-Istat li tagħti l-għajnuna tagħha fil-ġbir ta' provi. Il-qorti tista' tesegwixxi t-talba fil-kompetenza tagħha u skond ir-regoli li dik il-qorti soltu issegwi fil-ġbir ta' provi.

KAPITLU VI

GHOTI TAD-DEĊIŻJONI TA' L-ARBITRAĠĠ U TMIEM TAL-PROCEDIMENTI

ARTIKLU 28

Regoli li japplikaw għall-mertu tat-tilwima

(1) It-tribunal ta' l-arbitraġġ jiddeċiedi t-tilwima skond dawk ir-regoli tal-liġi li l-partijiet ikunu għażlu bħala applikabli għall-mertu tat-tilwima. Kull tismija tal-liġi jew tas-sistema legali ta' xi Stat partikolari għandha tinftiehem, kemm-il darba ma jintqalx mod ieħor, bħala li tkun tagħmel riferenza diretta għad-dritt sostantiv ta' dak l-Istat u mhux għar-regoli fis-seħħ dwar konflitt ta' dritt.

(2) Fin-nuqqas ta' tismija mill-partijiet, it-tribunal ta' l-arbitraġġ jista' japplika dik il-liġi li tiġi stabbilita mir-regoli dwar konflitt ta' dritt li t-tribunal iqis li jkunu japplikaw.

(3) It-tribunal ta' l-arbitraġġ għandu biss jiddeċiedi *ex aequo et bono* jew bħala *amiable compositeur* jekk ikun ġie hekk awtorizzat b'mod espress mill-partijiet li jiddeċiedi b'dan il-mod.

(4) F'kull każ, it-tribunal ta' l-arbitraġġ jiddeċiedi skond il-patti tal-kuntratt u għandu jqis kull użanza ta' dak il-kummerċ li tkun tapplika għal dak in-negozju.

ARTIKLU 29

Deciżjonijiet li jsiru minn gruppi ta' arbitri

Fi procedimenti ta' l-arbitraġġ fejn ikun hemm iktar minn arbitru wieħed, kull deciżjoni tat-tribunal ta' l-arbitraġġ għandha tkun dik, kemm-il darba l-partijiet ma jiftehmux mod ieħor, tal-maġġoranza tal-membri kollha tiegħu. Madankollu, kull kwistjoni ta' procedura tista' tiġi deciża mill-arbitru li jkun qed jippresjedi, jekk huwa jiġi hekk awtorizzat li jagħmel mill-partijiet jew mill-membri kollha tat-tribunal ta' l-arbitraġġ.

ARTIKLU 30

Transazzjoni

(1) Jekk, matul il-proċedimenti ta' l-arbitraġġ, il-partijiet jittransiġu t-tilwima, it-tribunal ta' l-arbitraġġ għandu jtemm il-proċedimenti u, jekk il-partijiet hekk jitolbu u t-tribunal ta' l-arbitraġġ ma jopponix, jivverbalizza dik it-transazzjoni fl-għamla ta' deċiżjoni ta' l-arbitraġġ fuq patti miftehma.

(2) Deċiżjoni ta' l-arbitraġġ fuq ftehim għandha tingħata skond id-dispożizzjonijiet ta' l-artiklu 31 u tiġi dikjarata bħala deċiżjoni ta' l-arbitraġġ. Deċiżjoni ta' l-arbitraġġ bħal dik ikollha l-istess valur u seħħ daqs kull deċiżjoni oħra ta' l-arbitraġġ fuq il-mertu tal-kawża.

ARTIKLU 31

Għamla u kontenut tad-deċiżjoni

(1) Id-deċiżjoni għandha ssir bil-miktub u tkun iffirmata mill-arbitru jew arbitri. Fi proċedimenti ta' arbitraġġ fejn ikun hemm iktar minn arbitru wieħed, tkun biżżejjed il-firma tal-maġġoranza tal-membri kollha tat-tribunal ta' l-arbitraġġ, sakemm jiġi dikjarat għaliex xi firma ma tkunx tidher fuq id-deċiżjoni.

(2) Fid-deċiżjoni għandhom jiġu dikjarati r-raġunijiet li fuqhom din tkun imsejsa, kemm-il darba l-partijiet ma jkunux qablu li ma għandha tingħata ebda raġuni jew li d-deċiżjoni ta' l-arbitraġġ tkun waħda fuq ftehim skond l-artiklu 30.

(3) Fid-deċiżjoni għandhom jiġu dikjarati d-data u l-lok ta' l-arbitraġġ kif stabbiliti skond l-artiklu 20(1). Id-deċiżjoni għandha titqies li tkun saret f'dak il-lok.

(4) Wara li tingħata d-deċiżjoni, għandha tingħata lil kull parti kopja li tkun iġġib il-firma ta' l-arbitri skond il-paragrafu (1) ta' dan l-artiklu.

ARTIKLU 32

Tmiem ta' proċedimenti

(1) Il-proċedimenti ta' l-arbitraġġ jintemmu bid-deċiżjoni finali ta' l-arbitraġġ jew b'ordni tat-tribunal ta' l-arbitraġġ skond il-paragrafu (2) ta' dan l-artiklu.

(2) It-tribunal ta' l-arbitraġġ jagħmel ordni sabiex itemm il-proċedimenti ta' xi arbitraġġ kull meta:

(a) ir-rikorrent iċedi t-talba tiegħu, kemm-il darba l-intimat ma joġġezzjonax għal dan u t-tribunal ta' l-arbitraġġ jagħraf li l-intimat ikollu interess legittimu f'li jikseb deċiżjoni finali għat-tilwima;

(b) il-partijiet jiftehmu li jtemmu l-proċedimenti;

(ċ) jiġi mgharraf lit-tribunal ta' l-arbitraġġ li għal xi raġuni jew oħra, it-komplija tal-proċedimenti ma tkunx aktar meħtieġa jew tkun saret impossibbli.

(3) Il-mandat tat-tribunal ta' l-arbitraġġ jintemmu ma' tmiem il-proċedimenti ta' l-arbitraġġ, bla hsara għad-dispożizzjonijiet ta' l-artikli 33 u 34(4).

ARTIKLU 33

Tiswija u tifsir tad-deċiżjoni ta' l-arbitraġġ; deċiżjoni addizzjonali

(1) Kemm-il darba l-partijiet ma jkunux ftehm u dwar xi perijodu ta' żmien ieħor, fi żmien tletin jum minn meta tasliha d-deċiżjoni ta' l-arbitraġġ:

(a) parti tista' titlob, filwaqt li tavża b'dan lill-parti l-oħra, lit-tribunal ta' l-arbitraġġ li jikkoreġi fid-deċiżjoni kull żball ta' komputazzjoni, klerikali jew tipografiku jew ta' kull xorta bħal dawk;

(b) parti tista' titlob, jekk il-partijiet ikunu hekk ftehm u bejniethom u filwaqt li dik il-parti tavża b'dan lill-parti l-oħra, lit-tribunal ta' l-arbitraġġ li jagħti interpretazzjoni dwar xi punt partikolari jew xi parti mid-deċiżjoni.

Jekk it-tribunal ta' l-arbitraġġ iqis li t-talba tkun waħda ġustifikata, dan għandu jagħmel il-korrezzjoni jew jagħti l-interpretazzjoni tiegħu fi żmien tletin jum minn meta tasallu t-talba. Dik l-interpretazzjoni tkun tagħmel parti mid-deċiżjoni.

(2) It-tribunal ta' l-arbitraġġ jista' jikkoreġi kull żball bħal dawk imsemmija fil-paragrafu (1)(a) ta' dan l-artiklu minn jeddu fi żmien tletin jum minn meta jagħti d-deċiżjoni tiegħu.

(3) Kemm-il darba l-partijiet ma jiftehmux mod ieħor, parti tista' titlob, filwaqt li tavża b'dan lill-parti l-oħra, fi żmien tletin jum minn meta tasliha d-deċiżjoni, lit-tribunal ta' l-arbitraġġ li jagħti deċiżjoni ulterjuri dwar dawk it-talbiet li għalkemm preżentati filwaqt tal-proċedimenti ta' l-arbitraġġ ikunu tħallew barra mid-deċiżjoni ta' l-arbitraġġ. Jekk it-tribunal ta' l-arbitraġġ iqis it-talba bħala waħda ġustifikata, dan għandu jagħti d-deċiżjoni ulterjuri tiegħu fi żmien sittin jum.

(4) It-tribunal ta' l-arbitraġġ jista' jtawwal, jekk ikun meħtieġ, il-perijodu taż-żmien li matulu tkun tista' tagħmel korrezzjoni jew tagħti interpretazzjoni jew deċiżjoni ulterjuri skond il-paragrafu (1) jew (3) ta' dan l-artiklu.

(5) Id-dispożizzjonijiet ta' l-artiklu 31 għandhom ikunu japplikaw għall-korrezzjoni jew interpretazzjoni tad-deċiżjoni jew tad-deċiżjoni ulterjuri.

KAPITLU VII

KONTESTAZZJONI TA' DEĊIŻJONI TA' L-ARBITRAĠĠ

ARTIKLU 34

**Rikors għat-twarrib ta' deċiżjoni ta' arbitraġġ bħala mod
esklusiv ta' kontestazzjoni**

(1) Kontestazzjoni kontra deċiżjoni ta' arbitraġġ tista' tingieb quddiem qorti biss permezz ta' rikors għat-twarrib tagħha skond ma hemm fil-paragrafi (2) u (3) ta' dan l-artiklu.

(2) Deċiżjoni ta' arbitraġġ tista' titwarrab mill-qorti msemmija fl-artiklu 6 biss jekk:

(a) il-parti li tagħmel ir-rikors iġġib prova li:

(i) xi parti fil-ftehim ta' arbitraġġ imsemmi fl-artiklu 7 kellu xi inkapaċità; jew li dak il-ftehim ma jkunx validu skond il-liġi li l-partijiet ikunu qeghdh sugġett għaliha jew, fin-nuqqas ta' xi indikazzjoni dwar dan, skond il-liġi ta' dan l-Istat; jew

(ii) il-parti li tagħmel ir-rikors ma tkunx inghatat avviż sew tal-hatra ta' l-arbitru jew tal-proċedimenti ta' l-arbitraġġ jew inkella b'xi mod iehor ma kienetx tista' tressaq il-każ tagħha; jew

(iii) id-deċiżjoni ta' l-arbitraġġ tkun tittratta dwar tilwima mhux kontemplata mit-termini ta' l-arbitraġġ jew li ma tkunx taqa' tahtom, jew li jkun fiha xi deċiżjoni dwar hwejjeġ ulterjuri għall-ghan ta' l-arbitraġġ, b'dan illi, jekk id-deċiżjoni fuq hwejjeġ miġjuba fl-arbitraġġ jistghu jinfirdu minn dawk li ma jkunux hekk miġjuba, tkun biss dik il-parti tad-deċiżjoni ta' l-arbitraġġ li jkun fiha d-deċiżjonijiet fuq hwejjeġ mhux miġjuba f'arbitraġġ li tkun tista' titwarrab; jew

(iv) l-għamla tat-tribunal ta' l-arbitraġġ jew il-proċedura ta' l-arbitraġġ ma kienetx skond il-ftehim bejn il-partijiet, kemm-il darba dak il-ftehim kien konfligġenti ma' xi dispożizzjoni ta' din il-Liġi li minnha l-partijiet ma jstgħux jidderogaw, jew, fin-nuqqas ta' dak il-ftehim, l-għamla ma kienetx skond din il-Liġi; jew

(b) jirriżulta lill-qorti illi:

(i) is-sugġett tat-tilwima ma jkunx jista' jitranga b'arbitraġġ skond il-liġi ta' dan l-Istat; jew

(ii) id-deċiżjoni ta' l-arbitraġġ tkun konfligġenti ma' l-ordni pubbliku ta' dan l-Istat.

KAPITLU VIII

GħARFIEN U EŻEKUZZJONI TA' DEĊIŻJONIJET TA' L-ARBITRAĠĠ

ARTIKLU 35

Għarfien u Eżekuzzjoni

(1) Deċiżjoni ta' l-arbitraġġ, irrispettivament, mill-pajjiż fejn tkun inghatat, għandha titqies li tkun vinkolanti u, wara li jsir rikors bil-miktub quddiem il-qorti kompetenti, dan jiġi esegwit bla hsara għad-dispożizzjonijiet ta' dan l-artiklu u ta' l-artiklu 36.

(2) Dik il-parti li toqgħod fuq id-deċiżjoni jew li tagħmel rikors għall-esekuzzjoni tagħha għandha tipprovdi d-deċiżjoni ta' l-arbitraġġ oriġinali kif debitament awtentikata jew kopja debitament ċertifikata tagħha. Jekk sew id-deċiżjoni jew il-ftehim ma jsirux f'islen uffiċjali ta' dan l-Istat, il-parti għandha tipprovdi traduzzjoni debitament ċertifikata tagħhom f'dak l-ilsien.*

* Il-kondizzjonijiet stipulati f'dan il-paragrafu huma intiżi sabiex jistabbilixxu livelli għoljin. Ma jkun, għaldaqstant, b'ebda mod kuntrarju għall-uniformità li l-mudell ta' liġi jrid jikseb jekk Stat jadopera kondizzjonijiet li jkunu inqas onerużi.

ARTIKLU 36

Kif u meta jincahdu l-gharfien jew l-esekuzzjoni

(1) L-gharfien jew l-esekuzzjoni ta' deċiżjoni ta' l-arbitraġġ, irrispettivament mill-pajjiż fejn tkun inghatat, jistgħu jincahdu biss:

(a) fuq talba tal-parti li tingieb kontriha, jekk dik il-parti tippovdi lill-qorti mnejn ikunu ser jinkisbu l-gharfien jew esekuzzjoni prova li:

(i) xi parti fi ftehim ta' l-arbitraġġ imsemmi fl-artiklu 7 kellha xi inkapaċità; jew li dak il-ftehim ma jkunx validu taht dik il-liġi li l-partijiet ikunu għamluh sugġett għaliha jew, fin-nuqqas ta' indikazzjoni dwar dan, taht il-liġi tal-pajjiż fejn tkun saret id-deċiżjoni; jew

(ii) il-parti li tingieb id-deċiżjoni kontriha ma tkunx giet notifikata sew bil-hatra ta' arbitru jew bil-proċedimenti ta' l-arbitraġġ jew inkella ma setgħetx mod iehor tippreżenta l-każ tagħha; jew

(iii) id-deċiżjoni tkun tittratta dwar tilwima li ma tkunx intiża jew taqa' taht il-patti tal-ftehim għall-arbitraġġ, jew jekk ikun fiha deċiżjonijiet dwar hwejjeġ li jmorru 'l hinn mill-ghan tal-ftehim għall-arbitraġġ, b'dan illi jekk id-deċiżjonijiet fuq kwistjonijiet li jingiebu f'arbitraġġ ikunu jistgħu jiġu separati minn dawk li ma jkunux hekk ingiebu, dik il-parti tad-deċiżjoni li jkun fiha deċiżjonijiet fuq kwistjonijiet miġjuba f'arbitraġġ tkun tista' tingharaf u tigi esegwita; jew

(iv) l-ghamla tat-tribunal ta' l-arbitraġġ jew il-proċedura ta' l-arbitraġġ ma kienux skond il-ftehim bejn il-partijiet jew, fin-nuqqas ta' dak il-ftehim, ma kienux skond il-liġi tal-pajjiż fejn ikun seħħ l-arbitraġġ; jew

(v) id-deċiżjoni ma tkunx għadha saret vinkolanti fuq il-partijiet jew tkun twarrbet jew giet sospiża minn xi qorti tal-pajjiż fejn tkun inghatat dik id-deċiżjoni jew li tkun saret taht il-liġijiet tiegħu; jew

(b) jekk jirriżulta lill-qorti li:

(i) il-mertu tat-tilwima ma jkunx jista' jitranga b'arbitraġġ skond il-liġi ta' dan l-Istat; jew

(ii) l-gharfien jew l-esekuzzjoni tad-deċiżjoni kienu jmorru kontra l-ordni pubbliku ta' dan l-Istat.

(2) Jekk ikun sar rikors għat-twarrib jew għas-sospensjoni ta' deċiżjoni ta' arbitraġġ lil xi qorti msemmija fil-paragrafu (1)(a)(v) ta' dan l-artiklu, dik il-qorti mnejn ikun ser jinkiseb dak l-gharfien jew esekuzzjoni tista', jekk hekk tqis li jkun sew li tagħmel, tiddiferixxi d-deċiżjoni tagħha u tista' wkoll, wara li jsirilha rikors minn dik il-parti li tkun trid tikseb l-gharfien jew l-esekuzzjoni tad-deċiżjoni, tordna lill-parti l-oħra li tagħti garanzija tajba għal dan.

IT-TIENI SKEDA

KONVENZJONI TAN-NAZZJONIJIET UNITI DWAR L-GHARFIEN U L-ESEKUZZJONI TA' DEĊIŻJONIJIET TA' ARBITRAĠĠ BARRANIN

(NEW YORK 1958)

ARTIKLU I

1. Din il-Konvenzjoni tgħodd għall-għarfien u l-esekuzzjoni ta' deċiżjonijiet ta' arbitraġġ magħmulin fit-territorju ta' Stat li ma jkunx l-Istat fejn l-għarfien u l-esekuzzjoni ta' dawk id-deċiżjonijiet tkun intalbet u li jsegwu minn kwistjonijiet bejn persuni, sew fiżiċi sew ġuridiċi. Il-Konvenzjoni tgħodd ukoll għal deċiżjonijiet ta' arbitraġġ li ma jkunux ikkunsidrati bħala deċiżjonijiet domestiċi fl-Istat fejn l-għarfien u l-esekuzzjoni tagħhom tkun intalbet.

2. L-espressjoni "deċiżjonijiet ta' arbitraġġ" tinkludi mhux biss deċiżjonijiet li jinghataw minn arbitri mahturin għal kull każ iżda wkoll dawk li jinghataw minn korpi permanenti ta' arbitraġġ li l-partijiet ikunu irrikorrew għalihom.

3. Fl-iffirmar, ratifika jew aċċessjoni għal din il-Konvenzjoni, jew fin-notifika ta' estensjoni taht l-Artiklu X ta' din il-Konvenzjoni, kull Stat jista' fuq il-bażi ta' reċiproċità jiddikjara li jkun ser japplika l-Konvenzjoni għall-għarfien u esekuzzjoni ta' deċiżjonijiet magħmulin biss fit-territorju ta' Stat Kontraenti iehor. Stat jista' wkoll jiddikjara li jkun ser japplika l-Konvenzjoni biss għal kwistjonijiet li jtnisslu minn relazzjonijiet ġuridiċi, sew li jtnisslu minn kuntratt sew jekk le, li jitqiesu bħala li huma kummerċjali taht il-liġi nazzjonali ta' l-Istat li jkun qed jagħmel dik id-dikjarazzjoni.

ARTIKLU II

1. Kull Stat Kontraenti għandu jagħraf ftehim bil-miktub li bih il-partijiet jaqblu li għandhom jiehdu f'arbitraġġ il-kwistjonijiet kollha jew x'uħud minnhom li setghu qamu jew iqumu bejniethom għar-rigward ta' relazzjoni ġuridika definita, sew b'kuntratt sew jekk le, dwar xi haġa li tista' titranġa permezz ta' arbitraġġ.

2. L-espressjoni "ftehim bil-miktub" tinkludi klawsole ta' arbitraġġ f'kuntratt jew fi ftehim ta' arbitraġġ, li jiġi ffirmat mill-partijiet jew li jingiebu fi skambju ta' ittri jew telegrammi.

3. Meta l-qorti ta' Stat Kontraenti tkun qegħda tiegħu konjizzjoni ta' azzjoni dwar kwistjoni li dwarha l-partijiet ikunu għamlu ftehim kif imfisser f'dan l-artiklu, din għandha, fuq talba ta' xi waħda mill-partijiet, tirreferi lill-partijiet għall-arbitraġġ, kemm-il darba ma jirrizultalhiex li dak il-ftehim ikun null u bla effett, inoperattiv jew li ma jkunx jista' jitwettaq.

ARTIKLU III

Kull Stat Kontraenti għandu jagħraf id-deċiżjonijiet ta' arbitraġġ bħala vinkolanti u jsegwihom skond ir-regoli ta' proċedura tat-territorju fejn id-deċiżjoni jkollha ssehh, skond il-kondizzjonijiet stabbiliti f'dawn l-artikli li ġejjin. Ma għandhomx jiġu imposti kondizzjonijiet iktar ta' piż jew jintalab hlas jew drittijiet oghla għall-għarfien jew esekuzzjoni ta' deċiżjonijiet ta' l-arbitraġġ li l-Konvenzjoni tgħodd għalihom milli soltu jiġu imposti fuq l-għarfien u l-esekuzzjoni ta' deċiżjonijiet ta' arbitraġġ domestiċi.

ARTIKLU IV

1. Sabiex tkun tista' tikseb l-għarfien u l-esekuzzjoni msemmija fl-artiklu ta' qabel dan, il-parti li tapplika għal għarfien u esekuzzjoni għandha, fiż-żmien li tapplika, tagħti:

- (a) Id-deċiżjoni oriġinali debitament awtentikata jew kopja debitament ċertifikata tagħha;
- (b) Il-ftehim oriġinali msemmi fl-artiklu II jew kopja debitament ċertifikata tiegħu.

2. Jekk id-deċiżjoni jew il-ftehim imsemmija ma jkunux fl-ilsien uffiċjali tal-pajjiż li fih id-deċiżjoni jkun ser ikollha seħħ, il-parti li tapplika għall-għarfien u l-esekuzzjoni tad-deċiżjoni għandha tipproduċi traduzzjoni ta' dawk id-dokumenti f'dak l-ilsien. Dik it-traduzzjoni għandha tiġi ċertifikata minn traduttur uffiċjali jew li jkun ingħatalu gurament jew minn aġent diplomatiku jew konsulari.

ARTIKLU V

1. L-għarfien u l-esekuzzjoni tad-deċiżjoni jistgħu jincahdu, fuq talba tal-parti li kontriha tintalab, jekk biss dik il-parti ggħib prova lill-awtorità kompetenti li quddiemha jkun qed jintalab l-għarfien u l-esekuzzjoni illi:

(a) Il-partijiet fil-ftehim imsemmi fl-artiklu II kellhom, skond il-liġi li tkun tapplika għalihom, xi inabilità, jew l-imsemmi ftehim ma jkunx validu skond il-liġi li l-partijiet ikunu għamluh sugġett għaliha jew, fin-nuqqas ta' kull indikazzjoni dwar dan, taht il-liġi tal-pajjiż fejn tkun saret id-deċiżjoni; jew

(b) Il-parti li d-deċiżjoni tkun ingiebet kontriha ma nġhatatx avviz xieraq tal-hatra ta' l-arbitru jew tal-proċedimenti ta' l-arbitraġġ jew inkella ma kienx jista' xort'oħra jippreżenta l-każ tiegħu; jew

(ċ) Id-deċiżjoni tkun tolqot kwistjoni li ma tkunx maħsuba jew tidhol fil-ftehim ta' arbitraġġ, jew ikun fiha deċiżjonijiet dwar hwejjeġ li jmorru 'l hinn mill-ghan tal-ftehim ta' arbitraġġ, iżda, jekk id-deċiżjoni dwar hwejjeġ li jittiehdu f'arbitraġġ tista' tinfired minn dawk li ma jkunux ittiehdu fl-arbitraġġ, dik il-parti mid-deċiżjoni li jkun fiha deċiżjonijiet fuq hwejjeġ li jkunu ttiehdu fl-arbitraġġ tista' tingħata għarfien u tiġi esegwita; jew

(d) L-għamla ta' l-awtorità ta' l-arbitraġġ jew il-proċedura ta' l-arbitraġġ ma kienetx skond il-ftehim tal-partijiet, jew, fin-nuqqas ta' ftehim bħal dak, ma kienetx skond il-liġi tal-pajjiż fejn ikun instama' l-arbitraġġ; jew

(e) Id-deċiżjoni tkun għadha ma saritx vinkolanti fuq il-partijiet, jew tkun twarrbet jew giet sospiża minn awtorità kompetenti tal-pajjiż fejn, jew li taht il-liġi tiegħu, tkun ingħatat dik id-deċiżjoni.

2. Jista' wkoll jincahad l-għarfien u l-esekuzzjoni ta' deċiżjoni ta' l-arbitraġġ jekk ikun jirriżulta lill-awtorità kompetenti fil-pajjiż fejn issir riferenza għall-għarfien u esekuzzjoni li:

(a) Is-sugġett tal-kwistjoni ma jistax jitranga b'arbitraġġ taht il-liġi ta' dak il-pajjiż; jew

(b) L-gharfien jew esekuzzjoni tad-deċiżjoni jmur kontra l-ordni pubbliku ta' dak il-pajjiż.

ARTIKLU VI

Jekk talba ghat-twarrib jew thassir tad-deċiżjoni tkun saret lil awtorità kompetenti msemmija fl-artiklu V (1)(e), l-awtorità li quddiemha tkun giet riferita deċiżjoni sabiex din ikollha sehh tista', jekk tqis li tkun hekk xieraq, tiddiferixxi d-deċiżjoni fuq l-esekuzzjoni tad-deċiżjoni ta' l-arbitraġġ u tista' wkoll, fuq talba ta' dik il-parti li tkun qiegħda titlob l-esekuzzjoni tad-deċiżjoni, tordna lill-parti l-oħra li tagħti garanzija xierqa.

ARTIKLU VII

1. Id-dispożizzjonijiet ta' din il-Konvenzjoni ma għandhomx jolqtu l-validità ta' kull ftehim multilaterali jew bilaterali li jirrigwarda l-gharfien u l-esekuzzjoni ta' deċiżjonijiet ta' l-arbitraġġ li jkun sar bejn l-Istati Kontraenti lanqas iċaħħdu lil xi parti li jkollha xi interess minn kull dritt li jista' jkollha sabiex tagħmel użu minn deċiżjoni ta' arbitraġġ bil-mod u sal-limitu permess bil-liġi jew bit-trattati tal-pajjiż fejn issir riferenza għal dik id-deċiżjoni biex ikollha sehh.

2. Il-Protokoll ta' Ġinevra dwar Deċiżjonijiet ta' l-Arbitraġġ Barranin ta' l-1923 u l-Konvenzjoni ta' Ġinevra dwar l-Esekuzzjoni ta' Deċiżjonijiet ta' l-Arbitraġġ Barranin ta' l-1927 għandhom itemmu fis-seħh tagħhom bejn Stati Kontraenti meta dawn jintrabtu u sa fejn ikunu marbuta b'din il-Konvenzjoni.

ARTIKLU VIII

1. Din il-Konvenzjoni għandha tibqa' miftuħa sal-31 ta' Diċembru 1958 għall-firma f'isem xi Membru tan-Nazzjonijiet Uniti kif ukoll f'isem kull Stat ieħor li hu jew minn issa 'l quddiem isir membru ta' xi aġenzija speċjalizzata tan-Nazzjonijiet Uniti, jew li hu jew minn issa 'l quddiem isir parti għall-Istatut tal-Qorti Internazzjonali tal-Ġustizzja, jew kull Stat ieħor li tinhariglu stedina mill-Assemblea Ġenerali tan-Nazzjonijiet Uniti.

2. Din il-Konvenzjoni għandha tiġi ratifikata u l-istrument tar-ratifika għandu jiġi depożitat għand is-Segretarju-Ġenerali tan-Nazzjonijiet Uniti.

ARTIKLU IX

1. Din il-Konvenzjoni għandha tkun miftuħa għall-aċċettazzjoni mill-Istati kollha msemmija fl-artiklu VIII.

2. L-aċċettazzjoni għandha ssehh billi strument ta' aċċettazzjoni jiġi depożitat għand is-Segretarju-Ġenerali tan-Nazzjonijiet Uniti.

ARTIKLU X

1. Stat jista' jiddikjara, fil-waqt tal-firma, ratifika jew aċċettazzjoni. li din il-Konvenzjoni għandha testendi għal kull territorju li dak l-Istat ikun responsabbli għar-relazzjonijiet internazzjonali tiegħu. Dik id-dikjarazzjoni għandu jkollha effett meta l-Konvenzjoni tidhol fis-seħh għal dak l-Istat partikolari.

2. F'kull żmien li jiġi wara estensjoni bħal dik għandha ssir permezz ta' notifika li tiġi indirizzata lis-Segretarju-Ġenerali tan-Nazzjonijiet Uniti u għandha tibda ssehh mid-disgħin jum li jiġi wara l-jum meta s-Segretarju-Ġenerali tan-Nazzjonijiet Uniti jkun irċieva dik in-notifika, jew mid-data tad-dhul fis-sehh tal-Konvenzjoni għal dak l-Istat partikolari, skond liema jiġi l-iktar tard.

3. Għar-rigward ta' dawk it-territorji li din il-Konvenzjoni mhijiex estiża għalihom fil-waqt tal-firma, ratifika jew aċċessjoni, kull Stat partikolari għandu jqis il-possibilità li jiehu l-passi mehtieġa sabiex jestendi l-applikazzjoni ta' din il-Konvenzjoni għal dawk it-territorji, suġġett, meta dan ikun mehtieġ għal raġunijiet kostituzzjonali, għall-kunsens tal-Gvernijiet ta' dawk it-territorji.

ARTIKLU XI

Fil-każ ta' Stat federali jew mhux unitarju, għandhom japplikaw dawn id-dispożizzjonijiet li ġejjin:

(a) Għar-rigward ta' dawk l-artikli ta' din il-Konvenzjoni li huma relattivi għall-ġurisdizzjoni leġislattiva ta' l-awtorità federali, l-obbligi tal-Gvern federali għandhom f'dan il-limitu jkunu l-istess bħal dawk ta' Stati Kontraenti li mhumiex Stati federali;

(b) Għar-rigward ta' dawk l-artikli ta' din il-Konvenzjoni li huma relattivi għall-ġurisdizzjoni leġislattiva ta' Stati jew provinċji kostitwenti li mhumiex, taht is-sistema kostituzzjonali tal-federazzjoni, obbligati li jiehd u azzjoni leġislattiva, il-Gvern federali għandu jara li dawk l-artikli jingiebu b'rakkomandazzjoni favorevoli quddiem l-awtoritajiet proprji ta' stati jew provinċji kostitwenti kemm jista' jkun malajr;

(c) Stat federali li huwa Parti f'din il-Konvenzjoni għandu, fuq talba ta' xi Stat Kontraenti ieħor trasmessa permezz tas-Segretarju-Ġenerali tan-Nazzjonijiet Uniti, jagħti dikjarazzjoni tal-ġurisprudenza u l-prattika tal-federazzjoni u kull unità kostitwenti tagħha dwar kull dispożizzjoni partikolari ta' din il-Konvenzjoni, billi juri sa liema limitu jkun inghata sehh għal dik id-dispożizzjoni permezz ta' azzjoni leġislattiva jew xort'ohra.

ARTIKLU XII

1. Din il-Konvenzjoni għandha tibda ssehh fid-disgħin jum li jiġi wara d-data meta jkun ġie depożitat it-tielet strument ta' ratifika jew aċċessjoni.

2. Għal kull stat li jirratifika jew jaċċedi għal din il-Konvenzjoni wara d-depożitu tat-tielet strument ta' ratifika jew aċċessjoni, din il-Konvenzjoni għandha tibda ssehh fid-disgħin jum wara li dak l-Istat ikun iddepożita l-istrument ta' ratifika jew aċċessjoni tiegħu.

ARTIKLU XIII

1. Kull Stat Kontraenti jista' jiddenunċja din il-Konvenzjoni bil-mezz ta' notifikazzjoni bil-miktub li tinghata lis-Segretarju-Ġenerali tan-Nazzjonijiet Uniti. Id-denunċja għandha ssehh sena wara d-data minn meta tkun irċevuta n-notifikazzjoni mis-Segretarju-Ġenerali.

2. Kull Stat li jkun ghamel dikjarazzjoni jew notifikazzjoni taht l-artiklu X jista', f'kull żmien li jiġi wara, bil-mezz ta' notifikazzjoni lis-Segretarju-Ġenerali tan-Nazzjonijiet Uniti, jiddikjara li din il-Konvenzjoni għandha ttejjem milli tibqa' testendi għal territorju partikolari sena wara d-data meta tkun ġiet riċevuta n-notifikazzjoni mis-Segretarju-Ġenerali.

3. Din il-Konvenzjoni għandha tibqa' tghodd għal deċiżjonijiet ta' arbitraġġ li dwarhom ikunu inbdew proċedimenti ta' għarfien jew ta' esekuzzjoni qabel ma tibda ssehh id-denunċja.

ARTIKLU XIV

Stat Kontraenti ma jkollux jedd li jagħmel użu minn din il-Konvenzjoni kontra Stati Kontraenti oħra hliel sal-limitu li dak l-Istat ikun hu nnifsu ntrabat li japplika l-Konvenzjoni.

ARTIKLU XV

Is-Segretarju-Ġenerali tan-Nazzjonijiet Uniti għandu jinnotifika lill-Istati li jaqgħu taht l-artiklu VIII b'dan li ġej:

- (a) Firem u ratifiki skond l-artiklu VIII;
- (b) Aċċessjonijiet skond l-artiklu IX;
- (ċ) Dikjarazzjonijiet u notifiki taht l-artikli I, X u XI;
- (d) Id-data meta din il-konvenzjoni tibda ssehh skond l-artiklu XII;
- (e) Denunċji u notifiki skond l-artiklu XIII.

ARTIKLU XVI

1. Din il-Konvenzjoni, li tagħha t-testi biċ-Ċiniż, Franciż, Inġliż, Russu u Spanjol huma awtentiċi ndaqs, għandha tiġi depożitata fl-arkivji tan-Nazzjonijiet Uniti.

2. Is-Segretarju-Ġenerali tan-Nazzjonijiet Uniti għandu jibgħat kopja ċertifikata ta' din il-Konvenzjoni lill-Istati li jaqgħu taht l-artiklu VIII.

IT-TIELET SKEDA

KONVENZJONI DWAR L-ARRANĠAMENT TA' TILWIM DWAR L- INVESTIMENTI BEJN STATI U ĊITTADINI TA' STATI OĦRAJN

(WASHINGTON 1965)

PREAMBOLU

L-Istati Kontraenti filwaqt li

Jikkunsidraw il-htieġa għal ko-operazzjoni internazzjonali għal żvilupp ekonomiku, u r-rwol ta' investiment internazzjonali privat f'hdanhom;

Jirrealizzaw il-possibiltà li minn żmien għall-iehor jistgħu jinqalghu tilwimiet li jkollhom x'jaqsmu ma' dak l-investment bejn Stati Kontraenti u ċittadini ta' Stati Kontraenti ohra;

Jagħrfu li għalkemm dawk it-tilwimiet jistgħu soltu jaqgħu taht proċedimenti legali nazzjonali, jista' jkun xieraq li f'ċerti każi jkun hemm metodi ta' arrangament internazzjonali;

Jagħtu importanza partikolari għall-utilità ta' faċilitajiet għal konċiljazzjoni jew arbitraġġ internazzjonali fejn Stati Kontraenti jkunu jistgħu jieħdu t-tilwimiet tagħhom jekk ikunu hekk jixtiequ;

Jixtiequ jistabbilixxu dawk il-faċilitajiet taht l-awspiċi tal-Bank Internazzjonali għar-Rikostruzzjoni u Żvilupp;

Jagħrfu li l-kunsens reċiproku tal-partijiet li jieħdu dawk it-tilwimiet għall-konċiljazzjoni jew għall-arbitraġġ bil-mezz ta' dawk il-faċilitajiet jikkostitwixxi ftehim vinkolanti li jehtieg b'mod partikolari li tinghata konsiderazzjoni sew għal kull rakkomandazzjoni tal-konċiljaturi, u li kull deċiżjoni ta' l-arbitraġġ għandha tithares; u

Jiddikjaraw li ebda Stat Kontraenti m'għandu minhabba fil-fatt sempliċi tar-ratifika, aċċettazzjoni jew approvazzjoni li jkun ta' dwar din il-Konvenzjoni u mingħajr il-kunsens tiegħu ma għandu jitqies li jkollu xi obbligu li jieħu xi tilwima partikolari għall-konċiljazzjoni jew arbitraġġ;

Ftehm u dan li ġej:

KAPITOLU I

ĊENTRU INTERNAZZJONALI GĦALL-ARRANĠAMENT TA' TILWIMIET FUQ L-INVESTIMENT

TAQSIMA 1

Twaqqif u Organizzazzjoni

ARTIKLU 1

(1) Qiegħed b'dan jitwaqqaf iċ-Ċentru Internazzjonali għall-Arranġament ta' Tilwimiet fuq l-Investment (hawnhekk iżjed 'il quddiem imsejjah iċ-Ċentru).

(2) L-għan taċ-Ċentru jkun li jipprovdi faċilitajiet għall-konċiljazzjoni u għall-arbitraġġ ta' tilwimiet fuq l-investment bejn Stati Kontraenti u ċittadini ta' Stati Kontraenti ohra skond id-dispożizzjonijiet ta' din il-Konvenzjoni.

ARTIKLU 2

Is-sede taċ-Ċentru tkun fl-uffiċċju prinċipali tal-Bank Internazzjonali għar-Rikostruzzjoni u Żvilupp (hawnhekk iżjed 'il quddiem imsejjah il-Bank). Is-sede tista' tittiehed post ieħor b'deċiżjoni tal-Kunsill Amministrattiv adottata b'maġġoranza ta' żewġ terzi tal-membri tiegħu.

ARTIKLU 3

Iċ-Ċentru jkollu Kunsill Amministrattiv u Segretarjat u jara li jkun hemm Grupp ta' Konċiljaturi u Grupp ta' Arbitri.

TAQSIMA 2

Il-Kunsill Amministrattiv

ARTIKLU 4

(1) Il-Kunsill Amministrattiv hu kostitwit minn rappreżentant wiehed ta' kull Stat Kontraenti. Persuna li taghmlha minfloku tista' tintbaghat bhala rappreżentant fin-nuqqas tar-rappreżentant prinċipali minn xi laqgħa jew l-inkapaċità tiegħu li jaġixxi.

(2) Fin-nuqqas ta' xi hatra differenti, kull gvernatur jew gvernatur li jagħmlha minfloku tal-Bank mahtur minn Stat Kontraenti jkun ir-rappreżentant tal-Bank *ex officio* u r-rappreżentant li jagħmlha minfloku rispettivament.

ARTIKLU 5

Il-President tal-Bank ikun *Chairman ex officio* tal-Kunsill Amministrattiv (hawnhekk iżjed 'il quddiem imsejjah *Chairman*) iżda ma jkollux vot. Matul in-nuqqas tiegħu jew l-inkapaċità tiegħu li jaġixxi filwaqt ta' xi btala fil-kariga ta' President tal-Bank, il-persuna li għal dak iż-żmien tkun qegħda tagħmlha ta' *Chairman* għandha tagħmlha ta' *Chairman* tal-Kunsill Amministrattiv.

ARTIKLU 6

(1) Mingħajr preġudizzju għas-setgħat u l-funzjonijiet vestita fiha b'dispożizzjonijiet oħra ta' din il-Konvenzjoni, il-Kunsill Amministrattiv għandu

(a) jadotta r-regolamenti amministrattivi u finanzjarji taċ-Ċentru;

(b) jadotta regoli ta' proċedura għat-twaqqif ta' proċedimenti ta' konċiljazzjoni u arbitraġġ;

(ċ) jadotta regoli ta' proċedura għal proċedimenti ta' konċiljazzjoni u arbitraġġ (hawnhekk iżjed 'il quddiem imsejha r-Regoli ta' Konċiljazzjoni u r-Regoli ta' Arbitraġġ);

(d) japprova arrangamenti li jsiru mal-Bank għall-użu tal-facilitajiet amministrattivi u tas-servizzi tal-Bank;

(e) jistabbilixxi l-kondizzjonijiet ta' servizz tas-Segretarju-Ġenerali u ta' kull Viċi Segretarju-Ġenerali;

(f) jadotta l-estimi ta' kull sena ta' dhul u nfieq taċ-Ċentru;

(g) japprova r-rapport ta' kull sena fuq it-tfaddim taċ-Ċentru.

Id-deċiżjonijiet imsemmija fis-subparagrafi (a), (b), (ċ) u (f) hawn qabel għandhom jiġu adottati b'maġġoranza ta' żewġ terzi tal-membri tal-Kunsill Amministrattiv.

(2) Il-Kunsill Amministrattiv jista' jahtar dawk il-kumitati li jqis li jkunu mehtieġa.

(3) Il-Kunsill Amministrattiv ghandu wkoll iwettaq dawk is-setgħat u funzjonijiet oħra li jistabbilixxi li jkunu mehtieġa għat-twettieq tad-dispożizzjonijiet ta' din il-Konvenzjoni.

ARTIKLU 7

(1) Il-Kunsill Amministrattiv ghandu jagħmel laqgħa ta' kull sena kif ukoll kull laqgħa oħra li tista' tiġi stabbilita mill-Kunsill, jew tissejjaħ miċ-*Chairman*, jew tissejjaħ mis-Segretarju-Ġenerali fuq talba ta' mhux anqas minn hames membri tal-Kunsill.

(2) Kull membru tal-Kunsill Amministrattiv ikollu vot wiehed u, hlief kif hawn iktar 'il quddiem ipprovdut, kull haġa li tiġi quddiem il-Kunsill għandha tiġi deċiża b'maġġoranza tal-voti mitfughin.

(3) Il-*quorum* għal kull laqgħa tal-Kunsill Amministrattiv għandu jkun maġġoranza tal-membri tiegħu.

(4) Il-Kunsill Amministrattiv jista' jistabbilixxi, b'maġġoranza ta' żewġ terzi tal-membri tiegħu, proċedura li biha ċ-*Chairman* jista' jikseb vot tal-Kunsill mingħajr ma jsejjaħ laqgħa tal-Kunsill. Il-vot għandu jitqies biss li jkun validu jekk il-maġġoranza tal-membri tal-Kunsill jitfughu l-voti tagħhom fit-terminu stabbilit b'dik il-proċedura.

ARTIKLU 8

Il-Membri tal-Kunsill Amministrattiv u ċ-*Chairman* għandhom jaqdu dmirijethom fiċ-Ċentru mingħajr ma jirċievu ebda hlas.

TAQSIMA 3

Is-Segretarjat

ARTIKLU 9

Is-Segretarjat hu magħmul minn Segretarju Ġenerali, Viċi Segretarju Ġenerali wiehed jew iktar u l-personell tagħhom.

ARTIKLU 10

(1) Is-Segretarju-Ġenerali u kull Viċi Segretarju-Ġenerali għandhom jiġu eletti mill-Kunsill Amministrattiv b'maġġoranza ta' żewġ terzi tal-membri tiegħu mal-hatra taċ-*Chairman* għal żmien ta' servizz li ma jkunx ta' iktar minn sitt snin u jkunu jistgħu jerġgħu jiġu eletti. Wara li jikkonsulta lill-membri tal-Kunsill Amministrattiv, iċ-*Chairman* jipproponi kandidat wiehed jew iktar minn wiehed għal kull kariga bħal dik.

(2) Il-kariga ta' Segretarju-Ġenerali u Viċi Segretarju-Ġenerali ma tkunx kompatibbli mat-twettieq ta' xi funzjoni politika. La s-Segretarju-Ġenerali u lanqas xi Viċi Segretarju-Ġenerali ma jista' jkollu xi mpieg ieħor jew jokkupa ruhu f'xi xogħol ieħor hlief bl-approvazzjoni tal-Kunsill Amministrattiv.

(3) Matul in-nuqqas tas-Segretarju-Ġenerali jew l-inkapaċità tiegħu li jaġixxi, u fil-waqt ta' xi vakanza fl-uffiċċju ta' Segretarju-Ġenerali, il-Viċi Segretarju-Ġenerali

għandu jagħmilha ta' Segretarju-Ġenerali. Jekk ikun hemm iktar minn Viċi Segretarju-Ġenerali wieħed, il-Kunsill Amministrattiv għandu jstabbilixxi bil-quddiem l-ordni li bih għandhom jagħmluha ta' Segretarju-Ġenerali.

ARTIKLU 11

Is-Segretarju-Ġenerali jkun ir-rappreżentant legali u l-uffiċjal ewlieni taċ-Ċentru u jkun responsabbli għall-amministrazzjoni tiegħu, inklużi l-ħatra ta' personell, skond id-dispożizzjonijiet ta' din il-Konvenzjoni u tar-regoli adottati mill-Kunsill Amministrattiv. Huwa għandu jaqdi l-funzjoni ta' registratur u jkollu s-setgħa li jawtentika deċiżjonijiet ta' l-arbitraġġ li jkunu ngħataw bis-saħħa ta' din il-Konvenzjoni, u li jiċċertifika kull kopja tagħhom.

TAQSIMA 4

Il-Gruppi

ARTIKLU 12

Kull Grupp ta' Konċiljaturi u l-Grupp ta' Arbitri għandu jintgħamel minn persuni kwalifikati, li jinhatru kif hawn iktar 'il quddiem stabbilit, u li jkunu jridu jaqdu dmirijiethom f'dawk il-gruppi.

ARTIKLU 13

(1) Kull Stat Kontraenti jista' jahtar għal kull Grupp erba' persuni li jistgħu, iżda mhux ta' bilfors, ikunu ċittadini tiegħu.

(2) *Iċ-Chairman* jista' jahtar għaxar persuni f'kull Grupp. Kull wieħed minn dawk il-persuni hekk mahtura fi Grupp għandu jkollu nazzjonalità differenti minn ta' l-iehor.

ARTIKLU 14

(1) Dawk il-persuni li jinhatru biex joqogħdu fil-Gruppi għandhom ikunu persuni ta' karattru morali għoli u ta' kompetenza rikonossuta fl-oqsma tal-liġi, kummerċ, industrija jew finanzi, li jistgħu jiġu fdati bħala li għandhom għudizzju hieles. Il-kompetenza fil-qasam tal-liġi tkun ta' importanza partikolari fil-każ ta' persuni li joqogħdu fil-Grupp ta' Arbitri.

(2) Meta *ċ-Chairman* jiġi biex jagħmel il-ħatra ta' persuni sabiex joqogħdu fil-Gruppi, huwa għandu iktar u iktar jagħti każ sew ta' l-importanza li jiżgura li fil-Gruppi jkun hemm rappreżentanza tas-sistemi legali prinċipali tad-dinja u ta' l-għamliet ewlenin ta' attività ekonomika.

ARTIKLU 15

(1) Il-membri għandhom joqogħdu fil-Gruppi għal perijodi li jiġgeddu ta' sitt snin.

(2) F'każ ta' mewt jew riżenja ta' xi membru ta' Grupp, dik l-awtorità li tkun hatret lil dak il-membru jkollha jedd tahtar persuna oħra minfloku sabiex hija taqdi dmirijietha għall-kumpliment tal-perijodu li kellu jagħmel dak il-membru.

(3) Il-membri tal-Gruppi għandhom jibqgħu fil-kariga tagħhom sakemm jinhatru dawk li jigu warajhom.

ARTIKLU 16

(1) Persuna tista' toqghod fiż-żewġ Gruppi.

(2) Meta persuna tkun inhatret biex toqghod fl-istess Grupp minn iktar minn Stat Kontraenti wiehed, jew minn Stat Kontraenti wiehed jew iktar u miċ-*Chairman*, huwa għandu jitqies li jkun hekk inhatret mill-awtorità li tkun l-ewwel hatritu jew, jekk dik l-awtorità tkun l-Istat li huwa jkun ċittadin tiegħu, minn dak l-Istat.

(3) Kull hatra għandha tiġi avżata lis-Segretarju-Ġenerali u għandhom jibdedw isehhu mid-data minn meta jasal dan l-avviż.

TAQSIMA 5

Finanzjar taċ-Ċentru

ARTIKLU 17

Jekk in-nefqa taċ-Ċentru ma tiġix koperta bil-hlasijiet miġbura għall-użu tal-faċilitajiet tiegħu, jew minn kull dħul ieħor, id-differenza għandhom jagħmlu tajjeb għaliha dawk l-Istati Kontraenti li jkunu membri tal-Bank skond is-sehem tas-sottoskrizzjoni relattiva tagħhom fl-istokk kapitali tal-Bank, u minn Stati Kontraenti li ma jkunux membri tal-Bank skond regoli adottati mill-Kunsill Amministrattiv.

TAQSIMA 6

Status, Immunitajiet u Privileġġi

ARTIKLU 18

Iċ-Ċentru għandu jkollu personalità ġuridika internazzjonali sħiħa. Dak li ċ-Ċentru jkun jista' jagħmel ġuridikament għandu jinkludi l-kapaċità li

- (a) jagħmel kull kuntratt;
- (b) jakkwista u jnehhi proprjetà mobbli u immobbli;
- (ċ) jibda proċedimenti legali.

ARTIKLU 19

Sabiex iċ-Ċentru jkun jista' jwettaq il-funzjonijiet tiegħu, dan għandu jgawdi fit-territorji ta' kull Stat Kontraenti l-immunitajiet u privileġġi msemmija f'din it-Taqsima.

ARTIKLU 20

Iċ-Ċentru u kull proprjetà u attiv tiegħu għandhom igawdu immunità minn kull proċess legali, hliet meta ċ-Ċentru jirrinunzja għal din l-immunità.

ARTIKLU 21

Iċ-*Chairman*, il-membri tal-Kunsill Amministrattiv, persuni li jkunu qegħdin jagħmluha ta' konċiljaturi jew arbitri jew membri ta' Kumitat maħtura bis-saħħa tal-paragrafu (3) ta' l-Artiklu 52, u l-uffiċjali u l-impjegati tas-Segretarjat

(a) għandhom igawdu immunità minn kull proċess legali dwar kull att imwettaq minnhom fil-qadi tal-funzjonijiet tagħhom, hlief meta iċ-Ċentru jirrinunzja għal din l-immunità;

(b) meta dawn ma jkunux ċittadini lokali, għandhom igawdu l-istess immunitajiet minn restrizzjonijiet dwar l-immigrazzjoni, htigiet ta' registrazzjoni ta' nies barranin, u obbligi ta' servizz nazzjonali, l-istess faċilitajiet għar-rigward ta' restrizzjonijiet fil-kambju u l-istess trattament għar-rigward ta' faċilitajiet fl-ivvjagġar bhalma jingħataw mill-Istati Kontraenti lir-rappreżentanti, uffiċjali u impjegati ta' grad komparabbli ta' Stati Kontraenti oħra.

ARTIKLU 22

Id-dispożizzjonijiet ta' l-Artiklu 21 għandhom japplikaw għal persuni li jidhru waqt proċedimenti li jsiru bis-saħħa ta' din il-Konvenzjoni bħala partijiet, aġenti, konsulenti, avukati, xhieda jew esperti; iżda, madankollu, is-subparagrafu (b) ta' dak l-Artiklu għandu japplika biss f'dak li għandu x'jaqsam ma' l-ivvjagġar tagħhom lejn u minn, u l-qagħda tagħhom f'xi, post fejn ikunu qegħdin isiru l-proċedimenti.

ARTIKLU 23

(1) L-arkivji taċ-Ċentru għandhom ikunu invjolabbli, kull fejn jinsabu.

(2) Għar-rigward tal-komunikazzjonijiet uffiċjali tiegħu, iċ-Ċentru għandu jingħata minn kull Stat Kontraenti trattament li ma jkunx anqas favorevoli minn dak li jingħata lil organizzazzjonijiet internazzjonali oħra.

ARTIKLU 24

(1) Iċ-Ċentru, l-attiv, il-proprjetà u d-dhul tiegħu, u l-hdim u transazzjonijiet tiegħu awtorizzati b'din il-Konvenzjoni għandhom ikunu eżenti minn kull tassazzjoni u dazju tad-dwana. Iċ-Ċentru għandu jkun ukoll eżenti mir-responsabbiltà li jigbor jew iħallas xi taxa jew dazju ta' importazzjoni.

(2) Hlief fil-każ ta' ċittadini lokali, ma għandha tingabar ebda taxa fuq jew dwar xi avvanz ta' spejjeż li jithallsu miċ-Ċentru liċ-*Chairman* jew lill-membri tal-Kunsill Amministrattiv, jew fuq jew dwar salarji, avvanzi ta' spejjeż jew qliegh iehor li jithallsu miċ-Ċentru lill-uffiċjali jew impjegati tas-Segretarjat.

(3) Ma għandha tingabar ebda taxa fuq jew dwar drittijiet jew avvanzi ta' spejjeż li jirċievu persuni li jagħmluha ta' konċiljaturi jew arbitri, jew membri ta' xi Kumitat maħtur bis-saħħa tal-paragrafu (3) ta' l-Artiklu 52, fi proċedimenti li jsiru taħt din il-Konvenzjoni, jekk l-unika bażi ta' ġurisdizzjoni għal dik it-taxxa tkun il-post fejn ikun jinsab iċ-Ċentru jew il-post fejn ikunu qed jitmexxew dawk il-proċedimenti jew il-post fejn jithallsu dawk id-drittijiet jew avvanzi.

KAPITOLU II

ĠURISDIZZJONI TAĊ-ĊENTRU

ARTIKLU 25

(1) Il-ġurisdizzjoni taċ-Ċentru ghandha testendi ghal kull tilwima legali li b'mod dirett titnissel minn xi investment, bejn Stat Kontraenti (jew kull sottodivizjoni kostitwenti jew aġenzija ta' Stat Kontraenti mahtura fiċ-Ċentru minn dak l-Istat) u ċittadin ta' Stat Kontraenti ieħor, li l-partijiet fit-tilwima jaqblu bil-miktub li jiehdu quddiem iċ-Ċentru. Meta l-partijiet jagħtu l-kunsens tagħhom, ebda parti ma tista' tirtira l-kunsens tagħha unilateralment.

(2) "Ċittadin ta' Stat Kontraenti ieħor" tfisser:

(a) kull persuna naturali li kellha ċ-ċittadinanza ta' Stat Kontraenti barra mill-Istat li jkun parti fit-tilwima fid-data meta l-partijiet ikunu qablu li jiehdu dik it-tilwima għall-konċiljazzjoni jew arbitraġġ kif ukoll fid-data meta t-talba tkun giet registrata bis-saħħa tal-paragrafu (3) ta' l-Artiklu 28 jew il-paragrafu (3) ta' l-Artiklu 36, iżda ma tinkludix xi persuna li f'xi waħda minn dawk id-dati kellha wkoll iċ-ċittadinanza ta' l-Istat Kontraenti li jkun parti fit-tilwima; u

(b) kull persuna ġuridika li kellha ċ-ċittadinanza ta' Stat Kontraenti barra mill-Istat li jkun parti fit-tilwima fid-data meta l-partijiet ikunu qablu li jiehdu dik it-tilwima għall-konċiljazzjoni jew arbitraġġ u kull persuna ġuridika li kellha ċ-ċittadinanza ta' l-Istat Kontraenti li jkun parti fit-tilwima f'dik id-data u li, minhabba fil-kontroll barrani, il-partijiet ikunu qablu li għandu jiġi trattat bħala ċittadin ta' Stat Kontraenti ieħor għall-għanijiet ta' din il-Konvenzjoni.

(3) Il-kunsens ta' sottodivizjoni kostitwenti jew aġenzija ta' Stat Kontraenti għandu jeħtieġ l-approvazzjoni ta' dak l-Istat kemm-il darba dak l-Istat ma javżax liċ-Ċentru li ebda approvazzjoni bħal dik ma tkun meħtieġa.

(4) Kull Stat Kontraenti jista', fil-waqt tar-ratifika, aċċettazzjoni jew approvazzjoni ta' din il-Konvenzjoni jew f'kull żmien li jiġi wara, javża liċ-Ċentru dwar il-klassi jew il-klassijiet ta' tilwim li huwa jkun ser jaċċetta jew ma jaċċetta li jingiebu taħt il-ġurisdizzjoni taċ-Ċentru. Is-Segretarju-Generali għandu minnufih jibgħat dak l-avviż lill-Istati Kontraenti kollha. Dak l-avviż ma jkunx jikkostitwixxi l-kunsens meħtieġ fil-paragrafu (1).

ARTIKLU 26

Il-kunsens tal-partijiet għall-arbitraġġ taħt din il-Konvenzjoni għandu jitqies, kemm-il darba ma jiġix dikjarat mod ieħor, bħala kunsens għal dak l-arbitraġġ b'esklużjoni ta' kull rimedju ieħor. Stat Kontraenti jista' jeħtieġ li qabel għandu jiġi eżawrit kull rimedju lokali amministrattiv jew ġudizzjarju bħala kondizzjoni tal-kunsens tiegħu għal arbitraġġ taħt din il-Konvenzjoni.

ARTIKLU 27

(1) Ebda Stat Kontraenti ma għandu jagħti protezzjoni diplomatika, jew iressaq pretensjoni internazzjonali, dwar tilwima li wiehed miċ-ċittadini tiegħu u Stat Kontraenti ieħor ikunu qablu li jiehdu jew li jkunu hađu għall-arbitraġġ taħt din il-Konvenzjoni, kemm-il darba dak l-Istat Kontraenti l-ieħor ikun naqas milli jimxi skond u jħares id-deċiżjoni mogħtija f'dik it-tilwima.

(2) Protezzjoni diplomatika, għall-għanijiet tal-paragrafu (1), ma għandhiex tinkludi skambji diplomatiċi informali li jsiru bil-għan biss li jiffaċilitaw arrangament tat-tilwima.

KAPITOLU III

KONĊILJAZZJONI

TAQSIMA I

Talba għal Konċiljazzjoni

ARTIKLU 28

(1) Kull Stat Kontraenti jew kull ċittadin ta' Stat Kontraenti li jkun jixtieq jibda proċedimenti ta' konċiljazzjoni għandu jindirizza talba li tkun tgħid dan bil-miktub lis-Segretarju-Ġenerali li għandu jibgħat kopja tat-talba lill-parti l-oħra.

(2) It-talba għandu jkun filia tagħrif dwar dak kollu li jkun qed jagħti lok għat-tilwima, l-identità tal-partijiet u l-kunsens tagħhom għall-konċiljazzjoni skond ir-regoli tal-proċedura dwar kif jinbdew proċedimenti ta' konċiljazzjoni u ta' arbitraġġ.

(3) Is-Segretarju-Ġenerali għandu jirreġistra dik it-talba kemm-il darba ma jirriżultalux, fuq il-bażi tat-tagħrif mogħti fit-talba, li t-tilwima toħroġ 'l hinn mill-ġurisdizzjoni taċ-Ċentru. Huwa għandu minnufih javża lill-partijiet bir-registrazzjoni jew bir-rifjut tiegħu li jirreġistra.

TAQSIMA 2

Kostituzzjoni tal-Kummissjoni għal Konċiljazzjoni

ARTIKLU 29

(1) Il-Kummissjoni għal Konċiljazzjoni (hawnhekk iżjed 'il quddiem imsejha l-Kummissjoni) għandha titwaqqaf kemm jista' jkun malajr wara li tiġi registrata talba bis-saħħa ta' l-Artiklu 28.

(2) (a) Il-Kummissjoni għandha tintgħamel minn konċiljatur wiehed jew għadd ta' konċiljaturi bil-fard li jinhatru skond kif jiftehmu l-partijiet.

(b) Meta l-partijiet ma jaqblux fuq l-għadd ta' konċiljaturi u l-metodu tal-hatra tagħhom, il-Kummissjoni għandha tintgħamel minn tliet konċiljaturi, wiehed li jiġi maħtur minn kull parti u t-tielet wiehed, li jkun il-president tal-Kummissjoni, li jinhatar bil-ftehim tal-partijiet.

ARTIKLU 30

Jekk il-Kummissjoni ma tkunx twaqqfet fi żmien 90 jum wara li l-avviż tar-registrazzjoni tat-talba jkun intbagħat mis-Segretarju-Ġenerali skond il-paragrafu (3) ta' l-Artiklu 28, jew kull perijodu iehor li l-partijiet jistgħu jaqblu bejniethom, iċ-*Chairman* għandu jahtar, fuq talba ta' xi parti u wara li jikkonsulta liż-żewġ partijiet kemm jista' jkun possibbli, il-konċiljatur jew konċiljaturi li jkunu għadhom mhux maħtura.

ARTIKLU 31

(1) Jistgħu jinhatru konċiljaturi li ma jkunux elenkati fil-Grupp ta' Konċiljaturi, hliet fil-każ ta' hatriet miċ-*Chairman* bis-sahha ta' l-Artiklu 30.

(2) Dawk il-konċiljaturi li jinhatru minn barra l-Grupp ta' Konċiljaturi għandu jkollhom il-kwalitajiet imsemmija fil-paragrafu (1) ta' l-Artiklu 14.

TAQSIMA 3

Proċedimenti ta' Konċiljazzjoni

ARTIKLU 32

(1) Il-Kummissjoni għandha tiddeċiedi hi nnifisha dwar il-kompetenza tagħha.

(2) Kull oġġezzjoni minn xi parti f'tilwima li dik it-tilwima ma tkunx taqa' taht il-kompetenza taċ-Centru, jew għal raġunijiet oħra ma tkunx taqa' taht il-kompetenza tal-Kummissjoni, għandha titqies mill-Kummissjoni li għandha tiddeċiedi jekk għandhiex tittrattaha bħala kwistjoni preliminari jew inkella għandhiex tismagħha mal-merti tat-tilwima.

ARTIKLU 33

Kull proċediment ta' konċiljazzjoni għandu jitmexxa skond id-dispożizzjonijiet ta' din it-Taqsima u, hliet meta l-partijiet jiftehmu mod ieħor, skond ir-Regoli ta' Konċiljazzjoni li jkunu fis-sehħ fid-data meta l-partijiet ikunu taw il-kunsens tagħhom għall-konċiljazzjoni. Jekk tqum xi kwistjoni ta' proċedura li ma tissemmiex f'din it-Taqsima jew fir-Regoli ta' Konċiljazzjoni jew f'kull regola li jkun hemm qbil dwarha bejn il-partijiet, tkun il-Kummissjoni li għandha tiddeċiedi l-kwistjoni.

ARTIKLU 34

(1) Ikun id-dmir tal-Kummissjoni li toħroġ ċar il-punti fit-tilwima bejn il-partijiet u li tipprova ġġib ftehim bejniethom skond patti li jiġu aċċettati minnhom it-tnejn. Għal dak il-għan, il-Kummissjoni tista' f'kull stadju tal-proċedimenti u minn żmien għal żmien tirrakkomanda patti għal transazzjoni lill-partijiet. Il-partijiet għandhom jaħdmu flimkien mal-Kummissjoni *in bona fide* sabiex il-Kummissjoni tkun tista' twettaq il-funzjonijiet tagħha, u għandhom jagħtu l-iktar konsiderazzjoni serja tagħhom għar-rakkomandazzjonijiet li tagħmel.

(2) Jekk il-partijiet jaslu fi ftehim, il-Kummissjoni għandha tagħmel rapport li fih tinnota l-punti fit-tilwima u tirreġistra l-fatt li l-partijiet ikunu waslu fi ftehim. Jekk, f'xi stadju tal-proċedimenti, il-Kummissjoni jkun jidhrilha li ma jkunx hemm possibiltà ta' ftehim bejn il-partijiet, hija għandha tagħlaq il-proċedimenti u tagħmel rapport li fih tinnota li t-tilwima tkun ser tittiehed għall-konċiljazzjoni filwaqt li tirreġistra n-nuqqas tal-partijiet li jaslu fi ftehim. Jekk xi parti tonqos milli tidher jew tiehu sehem fil-proċedimenti l-Kummissjoni għandha tagħlaq il-proċedimenti u tagħmel rapport li fih tinnota n-nuqqas ta' dik il-parti li tidher jew li tiehu sehem.

ARTIKLU 35

Hlief hekk kif il-partijiet fit-tilwima jistghu jiftehmu mod iehor, ebda parti f'proċedimenti ta' konċiljazzjoni ma ghandu jkollha jedd f'xi proċediment iehor, sev quddiem arbitri jew f'qorti tal-gustizzja jew mod iehor, tirriferi ghal jew isserrah fuq x opinjonijiet moghtija jew dikjarazzjonijiet jew offerti ta' arrangament li jsiru mill-part l-oħra fil-proċedimenti ta' konċiljazzjoni, jew ir-rapport jew kull rakkomandazzjon maghmula mill-Kummissjoni.

KAPITOLU IV

ARBITRAĠĠ

TAQSIMA 1

Talba ghal Arbitraġġ

ARTIKLU 36

(1) Kull Stat Kontraenti jew ċittadin ta' Stat Kontraenti li jkun jixtieq jibda proċedimenti ta' arbitraġġ ghandu jindirizza talba dwar dan bil-miktub lis-Segretarju-Ġenerali li mbagħad jibgħat kopja tagħha lill-parti l-oħra.

(2) It-talba ghandu jkun fiha tagħrif dwar il-kwistjonijiet fit-tilwima, l-identità tal-partijiet u l-kunsens tagħhom għall-arbitraġġ skond ir-regoli ta' proċedura dwar kif jinbdew proċedimenti ta' konċiljazzjoni u arbitraġġ.

(3) Is-Segretarju-Ġenerali ghandu jirreġistra t-talba kemm-il darba ma jsibx, bis-saħħa tat-tagħrif li jkun hemm fit-talba, li t-tilwima tkun toħroġ 'l hemm mill-kompetenza taċ-Ċentru. Huwa ghandu minnufih jgħarraf lill-partijiet li jkun irreġistra l-każ jew ċaħad li jirreġistrah.

TAQSIMA 2

Twaqqif tat-Tribunal

ARTIKLU 37

(1) It-Tribunal ta' Arbitraġġ (hawnhekk iżjed 'il quddiem imsejjah it-Tribunal) ghandu jitwaqqaf kemm jista' jkun malajr wara r-registrazzjoni ta' talba taħt l-Artiklu 36.

(2) (a) It-Tribunal jiġi magħmul minn arbitru wiehed jew kull għadd bil-fard ta' arbitri li jinhatru hekk kif jaqblu bejniethom il-partijiet.

(b) Meta l-partijiet ma jkunux jaqblu dwar l-għadd ta' arbitri u l-mod li bih għandhom jinhatru, it-Tribunal jiġi magħmul minn tliet arbitri, li jinhatru arbitru minn kull parti u t-tielet wiehed, li joqghod bhala president, li jinhatar bi ftehim taż-żewġ partijiet.

ARTIKLU 38

Jekk it-Tribunal ma jgħix kostitwit fi żmien 90 jum wara l-avviż ta' registrazzjoni tat-talba jkun intbagħat mis-Segretarju-Generali skond il-paragrafu (3) ta' l-Artiklu 36, jew kull żmien ieħor li l-partijiet jistgħu jaqblu dwaru, iċ-*Chairman* għandu jahtar, fuq talba ta' kull parti u wara li kemm jista' jkun jikkonsulta liż-żewġ partijiet, lill-arbitru jew arbitri li għadhom ma ġewx mahtura. Dawk l-arbitri li jinhatru miċ-*Chairman* bis-saħħa ta' dan l-Artiklu ma għandhomx ikunu ċittadini ta' Stat Kontraenti fit-tilwima jew ta' Stat Kontraenti li ċittadin tiegħu ikun parti fit-tilwima.

ARTIKLU 39

Il-maġġoranza ta' l-arbitri għandhom ikunu ċittadini ta' Stati li ma jkunux l-Istat Kontraenti fit-tilwima u l-Istat Kontraenti li ċ-ċittadin tiegħu jkun parti fit-tilwima; iżda, madankollu, id-dispożizzjonijiet ta' qabel ta' dan l-Artiklu ma għandhomx japplikaw jekk l-uniku arbitru jew kull membru individwali tat-Tribunal ikunu nhatru bi ftehim bejn il-partijiet.

ARTIKLU 40

(1) L-arbitri jistgħu jinhatru minn fost persuni li ma jkunux fil-Grupp ta' Arbitri, hliet fil-każ ta' hatriet li jsiru miċ-*Chairman* bis-saħħa ta' l-Artiklu 38.

(2) Dawk l-arbitri li jinhatru minn fost persuni li ma jkunux fil-Grupp ta' Arbitri għandu jkollhom il-kwalitajiet imsemmija fil-paragrafu (1) ta' l-Artiklu 14.

TAQSIMA 3

Setgħat u funzjonijiet tat-Tribunal

ARTIKLU 41

(1) It-Tribunal għandu s-setgħa jiddeċiedi dwar il-kompetenza tiegħu innifsu.

(2) Kull oġġezzjoni minn parti f'tilwima li ma tkunx taqa' taht il-ġurisdizzjoni taċ-Ċentru, jew għal raġunijiet oħra ma tkunx fil-kompetenza tat-Tribunal, għandha titqies mit-Tribunal li għandu jaqta' dwar jekk jittrattahex bħala kwistjoni preliminari jew jismagħha flimkien mal-merti tat-tilwima.

ARTIKLU 42

(1) It-Tribunal għandu jaqta' dwar tilwima skond dawk ir-regoli tal-ligi li l-partijiet jistgħu jaqblu dwarhom. Fin-nuqqas ta' ftehim bħal dak, it-Tribunal għandu japplika l-ligi ta' l-Istat Kontraenti li jkun parti fit-tilwima (inkluzi r-regoli tiegħu fuq il-konflitt tal-ligijiet) u dawk il-ligijiet ta' dritt internazzjonali li jistgħu jkunu japplikaw.

(2) It-Tribunal ma jistax jasal għal riżultanza ta' *non liquet* minhabba filli l-ligi ma tkun tgħid xejn jew ma tkun ċara xejn fuq xi haġa partikolari.

(3) Id-dispożizzjonijiet tal-paragrafi (1) u (2) ma għandhomx ikunu ta' preġudizzju għas-setgħa tat-Tribunal li jiddeċiedi tilwima *ex aequo et bono* jekk il-partijiet ikunu qablu li jsir hekk.

ARTIKLU 43

Hlief b'dak il-mod li l-partijiet jistgħu jaqblu dwaru xort'ohra, it-Tribunal jista', jekk jidhirlu li jkun hekk mehtieg f'xi stat tal-proċedimenti,

- (a) jordna lill-partijiet biex igibu dokumenti jew provi ohra, u
- (b) iżur il-lok li jkollu x'jaqsam mat-tilwima, u jagħmel kull investigazzjoni f'dak il-lok hekk kif jista' jqis li jkun xieraq.

ARTIKLU 44

Kull proċediment ta' arbitraġġ għandu jitmexxa skond id-dispożizzjonijiet ta' din it-Taqsima u, hlief b'dak il-mod li l-partijiet jistgħu jiftehmu xort'ohra, skond ir-Regoli ta' l-Arbitraġġ fis-seħħ fid-data meta l-partijiet ikunu qablu li jmorru fl-arbitraġġ. Jekk tkun xi kwistjoni ta' proċedura li ma jingħad xejn fuqha f'din it-Taqsima jew fir-Regoli ta' l-Arbitraġġ jew f'kull regola miftehma bejn il-partijiet, ikun it-Tribunal li jaqta' dwar il-kwistjoni.

ARTIKLU 45

(1) In-nuqqas ta' parti li tidher jew li tippreżenta l-każ tagħha ma għandux jitqies li jkun ammissjoni ta' dak li tkun qegħda tghid il-parti l-ohra.

(2) Jekk xi parti tonqos milli tidher jew tippreżenta l-każ tagħha f'xi stadju tal-proċedimenti, il-parti l-ohra tista' titlob lit-Tribunal li jittratta l-kwistjonijiet miġjuba quddiemu u li jagħti deċiżjoni. Qabel ma jagħti deċiżjoni, it-Tribunal għandu javża, u jagħti żmien ta' grazzja, lil dik il-parti li tkun naqset milli tidher jew tippreżenta l-każ tagħha, kemm-il darba ma tkunx sodisfatta li dik il-parti ma jkunx bi hsiebha li tagħmel dan.

ARTIKLU 46

Hlief b'dak il-mod ieħor li l-partijiet jistgħu jaqblu dwaru, it-Tribunal għandu jaqta', jekk xi parti hekk titolbu jagħmel, kull talba jew kontro-talba incidental i jew addizzjonali li jitnisslu b'mod dirett mill-kwistjoni tat-tilwima sakemm dawn ikunu jaqgħu fil-ghan tal-kunsens tal-partijiet u jkunu xort'ohra jaqgħu taht il-gurisdizzjoni taċ-Centru.

ARTIKLU 47

Hlief b'dak il-mod ieħor li l-partijiet jistgħu jaqblu dwaru, it-Tribunal jista' jirrakkomanda, jekk dan iqis li ċ-ċirkostanzi jkunu hekk jehtieġu, kull miżura provviżorja li jkollha tittiehed sabiex id-drittijiet rispettivi ta' kull parti jinżammu mhux mittiefsa.

TAQSIMA 4

Id-Deċiżjoni

ARTIKLU 48

(1) It-Tribunal għandu jiddeċiedi kull haġa quddiem u permezz tal-maġġoranza tal-voti tal-membri kollha tiegħu.

(2) Id-deċiżjoni tat-Tribunal għandha tkun bil-miktub u għandha tiġi ffirmata mill-membri tat-Tribunal li jkunu ivvotaw għaliha.

(3) Id-deċiżjoni għandha tkun tittratta dwar kull kwistjoni li tingieb quddiem it-Tribunal, u għandu jkun fiha r-raġunijiet li tkun imsejsa fuqhom.

(4) Membru tat-Tribunal jista' jehmeż l-opinjoni individwali tiegħu mad-deċiżjoni, jekk jaqbilx jew ma jaqbilx mal-maġġoranza, jew dikjarazzjoni dwar in-nuqqas ta' qbil tiegħu.

(5) Iċ-Ċentru ma għandux jippubblika d-deċiżjoni tiegħu jekk mhux bil-kunsens tal-partijiet.

ARTIKLU 49

(1) Is-Segretarju-Ġenerali għandu jibgħat malajr kopji ċertifikati tad-deċiżjoni lill-partijiet. Id-deċiżjoni għandha titqies bħala li tkun ingħatat fid-data meta jkunu ntbagħtu l-kopji ċertifikati.

(2) Meta t-Tribunal issirli talba minn parti fi żmien 45 jum wara d-data meta tkun ingħatat id-deċiżjoni, dan jista' jiddeċiedi, wara li javża lill-parti l-oħra, kull haġa li jkun naqas milli jiddeċiedi fl-arbitraġġ, u jsewwi kull żball klerikali, aritmetiku jew żball ieħor simili li jista' jkun hemm fid-deċiżjoni. Dak li t-Tribunal jaqta' jsir parti mid-deċiżjoni u għandu jiġi notifikat lill-partijiet bl-istess mod bħalma jsir fil-każ tad-deċiżjoni. Kull żmien provdut taħt il-paragrafu (2) ta' l-Artiklu 51 u l-paragrafu (2) ta' l-Artiklu 52 għandu jibda għaddej mid-data meta tkun ingħatat id-deċiżjoni.

TAQSIMA 5

Interpretazzjoni, Reviżjoni u Annullament tad-Deciżjoni

ARTIKLU 50

(1) Jekk tqum xi kwistjoni bejn il-partijiet dwar it-tifsir jew l-għan ta' deċiżjoni, kull waħda mill-partijiet tista' titlob li tingħata interpretazzjoni tad-deċiżjoni permezz ta' rikors bil-miktub li jiġi indirizzat lis-Segretarju-Ġenerali.

(2) Din it-talba għandha tingieb, jekk ikun possibbli, quddiem it-Tribunal li jkun ta d-deċiżjoni. Jekk dan ma jkunx possibbli, għandu jiġi kostitwit Tribunal ġdid skond it-Taqsima 2 ta' dan il-Kapitolu. It-Tribunal jista' jżomm, jekk iquis li jkunu hekk jehtieġu ċ-ċirkostanzi, l-esekuzzjoni tad-deċiżjoni sakemm jaqta' dwar it-talba.

ARTIKLU 51

(1) Kull parti tista' titlob li d-deċiżjoni tiġi riveduta bil-mezz ta' rikors bil-miktub li jiġi indirizzat lis-Segretarju-Ġenerali għar-raġuni li jkun instab xi fatt ta' xorta li żgur jolqot b'mod deċiżiv dak li jkun ingħad fid-deċiżjoni, sakemm meta tkun ingħatat dik id-deċiżjoni dak il-fatt ma kienx magħruf mit-Tribunal u minn min jagħmel ir-rikors u li dak in-nuqqas ta' għarfien mir-rikorrent ma kienx dovut għal xi negligenza.

(2) Ir-rikors għandu jsir fi żmien 90 jum wara li jinstab dak il-fatt u f'kull każ fi żmien tliet snin wara d-data meta tkun ingħatat id-deċiżjoni.

(3) It-talba ghandha tingieb, jekk ikun possibbli, quddiem it-Tribunal li jkun ta d-deċiżjoni. Jekk dan ma jkunx possibbli, ghandu jinhatar Tribunal gdid skond it-Taqsima 2 ta' dan il-Kapitolu.

(4) It-Tribunal jista' jzomm, jekk jidhirlu li ċ-ċirkostanzi jkunu hekk jehtieġu, l-esekuzzjoni tad-deċiżjoni sakemm dan jaqta' dwar it-talba. Jekk ir-rikorrent jitlob fir-rikors tiegħu li tinzamm l-esekuzzjoni tad-deċiżjoni, dik l-esekuzzjoni ghandha hekk tinzamm sakemm it-Tribunal jaqta' dwar dik it-talba.

ARTIKLU 52

(1) Kull parti tista' titlob li d-deċiżjoni tiġi annullata bil-mezz ta' rikors bil-miktub lis-Segretarju-Ġenerali għal xi raġuni waħda jew iktar minn dawn li ġejjin:

- (a) li t-Tribunal ma kienx magħmul sew;
- (b) li t-Tribunal kien b'mod ċar mar 'l hinn mis-setgħat li kellu;
- (ċ) li kien hemm il-korruzzjoni ta' xi membru tat-Tribunal;
- (d) li d-deċiżjoni tkun naqset milli ssemmi fuq liema raġunijiet kienet imsejsa.

(2) Ir-rikors ghandu jsir fi żmien 120 jum wara d-data meta tkun inghatat id-deċiżjoni, hliel li meta jkun mitlub l-annullament minhabba f'korruzzjoni dak ir-rikors ghandu jsir fi żmien 120 jum wara li tinkixef dik il-korruzzjoni u f'kull każ fi żmien tliet snin wara d-data meta tkun inghatat id-deċiżjoni.

(3) Meta ċ-*Chairman* jirċievi t-talba huwa ghandu minnufih jahtar mill-Grupp ta' Arbitri Kumitat *ad hoc* ta' tliet persuni. Ebda wiehed mill-membri tal-Kumitat ma ghandu jkun xi wiehed mill-membri tat-Tribunal li jkun ta d-deċiżjoni, ma ghandu jkun ġej mill-istess nazzjon bhal ta' dak l-aħhar membru, ma ghandu jkun ċittadin ta' l-Istat li jkun parti fit-tilwima jew ta' l-Istat li ċ-ċittadin tiegħu jkun parti fit-tilwima, ma ghandu jkun inhatar fil-Grupp ta' Arbitri minn xi wiehed minn daww l-Istati, jew ma ghandu jkun għamilha ta' konċiljatur fl-istess tilwima. Il-Kumitat ikollu l-awtorità li jannulla d-deċiżjoni jew xi parti minnha għal xi waħda mir-raġunijiet stabbiliti fil-paragrafu (1).

(4) Id-dispożizzjonijiet ta' l-Artikli 41 - 45, 48, 49, 53 u 54 u tal-Kapitoli VI u VII ghandhom japplikaw *mutatis mutandis* għal proċedimenti quddiem il-Kumitat.

(5) Il-Kumitat jista' jzomm, jekk ikun jidhirlu li ċ-ċirkostanzi jkunu hekk jehtieġu, l-esekuzzjoni tad-deċiżjoni sakemm jaqta' dwar it-talba. Jekk ir-rikorrent jitlob fir-rikors tiegħu li tinzamm l-esekuzzjoni tad-deċiżjoni, dik l-esekuzzjoni ghandha tinzamm sakemm il-Kumitat jaqta' dwar dik it-talba.

(6) Jekk id-deċiżjoni tiġi annullata t-tilwima ghandha tingieb, fuq talba tal-parti l-oħra, quddiem Tribunal gdid magħmul skond it-Taqsima 2 ta' dan il-Kapitolu.

TAQSIMA 6

Gharfien u Esekuzzjoni tad-Deciżjoni

ARTIKLU 53

(1) Id-deciżjoni tkun torbot liż-żewġ partijiet u ma tkunx tista' tiġi appellata jew tkun sugġetta għal xi rimedju iehor hlief hekk kif hemm provdut f'din il-Konvenzjoni. Kull parti għandha thares u twettaq il-kondizzjonijiet tad-deciżjoni hlief sal-limitu li l-esekuzzjoni tkun inżammet bis-saħħa tad-dispożizzjonijiet rilevanti ta' din il-Konvenzjoni.

(2) Għall-ghanijiet ta' din it-Taqsima, "deciżjoni" tinkludi kull deciżjoni li tintrepreta, tirrevedi jew tannulla dik id-deciżjoni bis-saħħa ta' l-Artikli 50, 51 jew 52.

ARTIKLU 54

(1) Kull Stat Kontraenti għandu jagħti gharfien lil kull deciżjoni li tingħata bis-saħħa ta' din il-Konvenzjoni bhala deciżjoni li torbot u jeseqwixxi l-obbligi ta' hlas li jiġu imposti b'dik id-deciżjoni fit-territorji tiegħu bhallikieku kienet sentenza finali ta' xi qorti f'dak l-Istat. Stat Kontraenti b'kostituzzjoni federali jista' jeseqwixxi deciżjoni bħal dik fi jew permezz tal-qrati federali tiegħu u jista' jipprovdi li daww il-qrati għandhom jittrattaw id-deciżjoni bhallikieku kienet sentenza finali tal-qrati ta' stat kostitwenti.

(2) Parti li tkun qiegħda titlob l-gharfien ta' deciżjoni jew li l-istess tiġi esegwita fit-territorji ta' Stat Kontraenti għandha tagħti li qorti kompetenti jew awtorità oħra li dak l-Istat ikun hatar għal dan il-ghan kopja tad-deciżjoni ċertifikata mis-Segretarju-Ġenerali. Kull Stat Kontraenti għandu javża lis-Segretarju-Ġenerali bil-hatra tal-qorti kompetenti jew awtorità oħra għal dak l-ghan u b'kull bidla li ssir wara f'dik il-hatra.

(3) L-esekuzzjoni tad-deciżjoni għandha tkun regolata mil-liġijiet li jolqtu l-esekuzzjoni ta' sentenzi li jkunu jsehħu fl-Istat li fit-territorji tiegħu tkun qed issir riferenza għal dik l-esekuzzjoni.

ARTIKLU 55

Ebda haġa fl-Artiklu 54 ma għandha titqies bhala li tidderoga mil-liġi li tkun fis-seħħ fi Stat Kontraenti dwar dak li għandu x'jaqsam ma' l-immunità ta' dak l-Istat jew ta' xi Stat barrani minn esekuzzjoni ta' sentenza.

KAPITOLU V

Sostituzzjoni u skwalifika ta' Konċiljaturi u Arbitri

ARTIKLU 56

(1) Wara li jkunu kostitwiti Kummissjoni jew Tribunal u jkunu nbdew il-proċedimenti quddiemhom, l-ghamla tagħhom għandha tibqa' mhux mittiefa; iżda, madankollu, jekk imut, jiġi inabilitat, jew jirriżenja konċiljatur jew arbitru, il-vakanza li dan joħloq għandha timtela skond id-dispożizzjonijiet tat-Taqsima 2 tal-Kapitolu III jew tat-Taqsima 2 tal-Kapitolu IV.

(2) Membru tal-Kummissjoni jew tat-Tribunal għandu jibqa' jaqdi dmirijietu f'dik il-kariga minkejja li jkun temm milli jibqa' membru tal-Grupp.

(3) Meta konċiljatur jew arbitru li jkun inġenjar minn xi parti jirriżenja mingħajr il-kunsens tal-Kummissjoni jew tat-Tribunal li kienu membri tiegħu, iċ-*Chairman* għandu jahtar lil xi persuna mill-Grupp relattiv sabiex jimla l-vojt li jkun inġenjar.

ARTIKLU 57

Kull parti tista' tipproponi lill-Kummissjoni jew lit-Tribunal l-iskwalifika ta' xi wiehed mill-membri minhabba f'xi fatt li jindika xi nuqqas ċar tal-kwalitajiet mehtieġa bil-paragrafu (1) ta' l-Artiklu 14. Kull parti fi proċedimenti ta' l-arbitraġġ tista', iktar minn hekk, tipproponi l-iskwalifika ta' arbitru minhabba f'li kien ineligibbli li jinġenjar fuq it-Tribunal taħt it-Taqsima 2 tal-Kapitolu IV.

ARTIKLU 58

Id-deċiżjoni li tittiehed dwar proposta ta' skwalifika ta' konċiljatur jew arbitru għandha tittiehed mill-membri l-oħra tal-Kummissjoni jew tat-Tribunal skond il-każ, iżda meta dawk il-membri jkunu maqsumin indaqs, jew fil-każ ta' proposta ta' skwalifika ta' konċiljatur jew arbitru wahdu, jew ta' maġġoranza ta' konċiljaturi jew arbitri, ikun iċ-*Chairman* li jaqta' dik id-deċiżjoni. Jekk jiġi deċiż li l-proposta tkun fondata, dak il-konċiljatur jew arbitru li lilu tkun tolqot id-deċiżjoni għandu jiġi sostitwit skond id-dispożizzjonijiet tat-Taqsima 2 tal-Kapitolu III jew tat-Taqsima 2 tal-Kapitolu IV.

KAPITOLU VI

Spejjeż tal-Proċedimenti

ARTIKLU 59

Kull hlas li l-partijiet għandhom jagħmlu għall-użu tal-facilitajiet taċ-Ċentru għandhom jiġu stabbiliti mis-Segretarju-Generali skond ir-regolamenti adottati mill-Kunsill Amministrattiv.

ARTIKLU 60

(1) Kull Kummissjoni u Tribunal għandu jistabbilixxi l-ispejjeż u d-drittijiet tal-membri tiegħu fil-parametri li minn żmien għal żmien jiġu stabbiliti mill-Kunsill Amministrattiv wara konsultazzjoni mas-Segretarju-Generali.

(2) Ebda haġa li hemm fil-paragrafu (1) ta' dan l-Artiklu ma għandha tfixxkel lill-partijiet milli jaqblu bil-quddiem mal-Kummissjoni jew Tribunal relattivi dwar l-ispejjeż u d-drittijiet tal-membri tagħhom.

ARTIKLU 61

(1) Fil-każ ta' proċedimenti ta' konċiljazzjoni l-ispejjeż u d-drittijiet ta' membri tal-Kummissjoni kif ukoll kull hlas għall-użu tal-facilitajiet taċ-Ċentru, għandhom jiġu sopportati daqsinsew bejn il-partijiet. Kull parti għandha tissopporti hi kull spiza oħra li tagħmel u li jkollha x'taqsam mal-proċedimenti.

(2) Fil-każ ta' proċedimenti ta' arbitraġġ it-Tribunal għandu jistma, hlief meta l-partijiet jaqblu xort'oħra, l-ispejjeż imġarrba mill-partijiet li jkollhom x'jaqsmu mal-proċedimenti, u għandu jiddeċiedi dwar kif u minn min għandhom jithallsu dawk l-ispejjeż, drittijiet u spejjeż tal-membri tat-Tribunal u kull hlas għall-użu tal-facilitajiet taċ-Centru. Dik id-deċiżjoni għandha tagħmel parti mil-lode ta' l-arbitraġġ.

KAPITOLU VII

Lok tal-Proċedimenti

ARTIKLU 62

Il-proċedimenti ta' konċiljazzjoni u arbitraġġ għandhom jinżammu fis-sede taċ-Centru kemm-il darba ma jiġix hawn iktar 'il quddiem provdut mod ieħor.

ARTIKLU 63

Jekk il-partijiet jaqblu, il-proċedimenti ta' konċiljazzjoni u arbitraġġ jistgħu jsiru,

(a) fis-sede tal-Qorti Permanenti ta' l-Arbitraġġ jew fis-sede ta' kull istituzzjoni xierqa oħra, sew privata jew pubblika, li ċ-Centru jista' jagħmel arrangamenti magħhom għal dak l-għan; jew

(b) f'kull imkien ieħor li jiġi approvat mill-Kummissjoni jew Tribunal wara li jkun ġie konsultat is-Segretarju-Ġenerali.

KAPITOLU VIII

Tilwimiet bejn Stati Kontraenti

ARTIKLU 64

Kull tilwima li tqum bejn Stati Kontraenti dwar l-interpretazzjoni jew l-applikazzjoni ta' din il-Konvenzjoni li ma tiġix irrangata bi ftehim għandha tingieb quddiem il-Qorti Internazzjonali tal-Ġustizzja b'rikors li jsir minn parti f'dik it-tilwima, kemm-il darba l-Istati relattivi ma jaqblux dwar xi metodu ta' arrangament ieħor.

KAPITOLU IX

Emendar

ARTIKLU 65

Kull Stat Kontraenti jista' jipproponi emendi biex isiru f'din il-Konvenzjoni. It-test ta' emenda li tkun qed tiġi proposta għandu jitwassal lis-Segretarju-Ġenerali mhux anqas minn 90 jum qabel ma jitlaqqa' l-Kunsill Amministrattiv li fih tkun ser tiġi diskussa dik l-emenda u għandha minnufih tintbagħat minnu lill-membri kollha tal-Kunsill Amministrattiv.

ARTIKLU 66

(1) Jekk il-Kunsill Amministrattiv hekk jiddeċiedi b'maġġoranza ta' żewġ terzi tal-membri tiegħu, l-emenda li tkun qed tiġi proposta għandha tintbagħat lill-Istati Kontraenti kollha għar-ratifika, aċċettazzjoni jew approvazzjoni tagħha. Kull emenda għandha tibda ssehh 30 jum wara li d-depożitarju ta' din il-Konvenzjoni jkun bagħat avviż lil kull Stat Kontraenti li kull Stat Kontraenti jkun wettaq ir-ratifika, accettazzjoni jew approvazzjoni ta' l-emenda.

(2) Ebda emenda ma għandha tolqot il-jeddijiet u l-obbligi taht din il-Konvenzjoni ta' xi Stat Kontraenti jew ta' xi wiehed mis-sottodivizjonijiet jew aġenziji kostitwenti tiegħu, jew ta' xi ċittadin ta' dak l-Istat li jitnisslu mill-kunsens dwar il-ġurisdizzjoni taċ-Ċentru mogħti qabel id-data tad-dhul fis-sehh ta' l-emenda.

KAPITOLU X

Dispożizzjonijiet Finali

ARTIKLU 67

Din il-Konvenzjoni għandha tinfetaħ għall-firem f'isem l-Istati membri tal-Bank. Tkun miftuha għall-firem ukoll f'isem kull Stat ieħor li jkun parti fl-Istatut tal-Qorti Internazzjonali tal-Ġustizzja u li b'vot ta' żewġ-terzi tal-membri tiegħu, il-Kunsill Amministrattiv ikun stieden sabiex jiffirmaw il-Konvenzjoni.

ARTIKLU 68

(1) Din il-Konvenzjoni tkun sugġetta għar-ratifika, accettazzjoni jew approvazzjoni mill-Istati firmatarji skond il-proċeduri kostituzzjonali rispettivi tagħhom.

(2) Din il-Konvenzjoni għandha tibda ssehh 30 jum wara d-data ta' depożitu ta' ghoxrin strument ta' ratifika, aċċettazzjoni jew approvazzjoni. Għandha tibda ssehh għal kull Stat li wara dan jiddepożita l-istrument tiegħu ta' ratifika, aċċettazzjoni jew approvazzjoni, 30 jum wara d-data tad-depożitu.

ARTIKLU 69

Kull Stat Kontraenti għandu jiehu miżuri legiſlattivi jew oħrajn skond kif jista' jenhtieg biex id-dispożizzjonijiet ta' din il-Konvenzjoni jsiru effettivi f'kull territorju tiegħu.

ARTIKLU 70

Din il-Konvenzjoni għandha tapplika għal kull territorju li Stat Kontraenti jkun responsabbli għar-relazzjonijiet internazzjonali tiegħu, hliet dawk it-territorji li huma esklużi minn dak l-Istat permezz ta' avviż bil-miktub mogħti lid-depożitarju ta' din il-Konvenzjoni jew fiż-żmien meta ssir ir-ratifika, aċċettazzjoni jew approvazzjoni jew kull żmien wara.

ARTIKLU 71

Kull Stat Kontraenti jista' jiddenunċja lil din il-Konvenzjoni permezz ta' avviż bil-miktub lid-depożitarju tal-Konvenzjoni. Dik id-denunċja tibda ssehh sitt xhur wara li jasal dak l-avviż.

ARTIKLU 72

Avviż li jinghata minn Stat Kontraenti bis-saħħa ta' l-Artiklu 70 jew 71 ma għandux jolqot il-jeddijiet jew obbligi taht din il-Konvenzjoni ta' dak l-Istat jew ta' kull sottodivizjoni jew aġenzija kostitwenti jew ta' kull ċittadin ta' dak l-Istat li jitnissel mill-kunsens tal-ġurisdizzjoni ta' Ċentru mogħti minn wieħed minnhom qabel ma d-depożitarju jkun wasallu dak l-avviż.

ARTIKLU 73

L-istrumenti ta' ratifika, aċċettazzjoni jew approvazzjoni ta' din il-Konvenzjoni u ta' emendi li jsiru għaliha għandhom jiġu depożitati għand il-Bank li għandu jagħmilha ta' depożitarju ta' din il-Konvenzjoni. Id-depożitarju għandu jibgħat kopji ċertifikati ta' din il-Konvenzjoni lil dawk l-Istati li jkunu membri tal-Bank u lil kull Stat ieħor li jkun mistieden jiffirma l-Konvenzjoni.

ARTIKLU 74

Id-depożitarju għandu jirreġistra din il-Konvenzjoni mas-Segretarjat tan-Nazzjonijiet Uniti skond l-Artiklu 102 ta' *Charter* tan-Nazzjonijiet Uniti u kull Regolamenti magħmulin bis-saħħa ta' *Charter* u adottati mill-Assemblea Generali.

ARTIKLU 75

Id-depożitarju għandu javża lil kull Stat Firmatarju b'dan li ġej:

- (a) il-firem li jsiru skond l-Artiklu 67;
- (b) kull depożitu ta' strument ta' ratifika, aċċettazzjoni u approvazzjoni skond l-Artiklu 73;
- (ċ) id-data meta din il-Konvenzjoni tidhol fis-seħħ skond l-Artiklu 68;
- (d) kull esklużjoni minn applikazzjoni territorjali li ssir bis-saħħa ta' l-Artiklu 70;
- (e) id-data meta kull emenda ta' din il-Konvenzjoni tibda ssehh skond l-Artiklu 66; u
- (f) denunċja skond l-Artiklu 71.

MAGĦMULA f'Washington fl-ilsien Inġliż, Franċiż u Spanjol, it-tlett testi daqsinsew awtentiċi, f'kopja unika li tibqa' depożitata fl-arkivji tal-Bank Internazzjonali għar-Rikostruzzjoni u Żvilupp, li wera bil-firma tiegħu hawn aktar 'l isfel ir-rieda tiegħu li jwettaq il-funzjonijiet li qegħdin jinghatawlu permezz ta' din il-Konvenzjoni.

IR-RABA' SKEDA

*L-Ewwel Kolonna**It-Tieni Kolonna*

Kodiċi ta' Organizzazzjoni
u Proċedura Ċivili (Kap. 12).

1. Fl-artikolu 945 tal-Kodiċi l-kliem "jew minn deċiżjoni ta' arbitri magħmula u iddepożitata kif jingħad fit-Titolu XVI tat-Tielet Ktieb ta' dan il- Kodiċi," għandhom jithassru, u minflok il-kliem "tas-sentenza jew tad-deċiżjoni ta' l-arbitri," fl-istess artikolu għandhom jidhru l-kliem "tas-sentenza,".

2. Minflok l-artikolu 968 tal-Kodiċi għandu jidhol dan l-artikolu ġdid li ġej:

968. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, ka li jkun jirrigwarda kwistjoni li fuqha jkun hemm tilwima li tkun ingiebet quddiem qorti ta' kompetenza ċivili f'Malta tista' fuq talba tal-partijiet kollha titqiegħed għal deċiżjoni b'arbitraġġ, bis-saħħa tad-dispożizzjonijiet ta' l-Att ta' l-1996 dwar l-Arbitraġġ, u d-dispożizzjonijiet ta' dak l-Att għandhom ikunu japplikaw għal dak il-każ.

(2) Kull meta tilwima titqiegħed għall-arbitraġġ u din tkun toqot kwistjonijiet ta' stat personali inklużi dawk li għandhom x'jaqsmu mal-firda ta' raġel u mara miżżewġin jew l-annullament taż-żwieġ tagħhom, jew il-każ ikun dwar hwejjeġ jew jeddijiet li ma jkunux jistgħu jikkostitwixxu l-meritu ta' kuntratt, sew b'mod assolut jew fin-nuqqas ta' formalitajiet meħtieġa bil-liġi, dik is-sottomissjoni tkun nulla."

3. L-artikoli 970 sa 987 tal-Kodiċi għandhom jithassru.

Kodiċi Ċivili (Kap. 16).

Minnufih qabel is-Sub-titolu I tat-Titolu XXV tiegħu u wara l-artikolu 2117 tiegħu għandu jiżdied l-artikolu ġdid li ġej:

"Preskrizzjoni u proċedimenti ta' arbitraġġ.

2117A. Għal dak li għandu x'jaqsm mal-preskrizzjoni, ir-riferenza ta' kull haġa għal arbitraġġ skond id-dispożizzjonijiet ta' l-1996 dwar l-Arbitraġġ, għandu jkollha l-istess effett ta' azzjoni ġudizzjarja quddiem qorti kompetenti."

L-Ewwel Kolonna

Att dwar l-Esekuzzjoni
Reċiproka ta' Sentenzi ta'
Tribunali Ingliżi (Kap. 52).

It-Tieni Kolonna

Fit-tifsira ta' "sentenza" fl-artikolu 2 ta' l-Att, il-
kliem "u tfisser ukoll deċiżjoni fi proċedimenti ta'
arbitraġġ jekk id-deċiżjoni, skond il-liġi li tkun issehh fil-
lok fejn tkun giet mogħtija, tkun saret esegwibbli bħal
sentenza mogħtija minn qorti f'dak il-lok;" għandhom
jithassru.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 500 tas-17 ta' Jannar, 1996.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skriwan tal-Kamra tad-Deputati.

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

13th February, 1996

ACT No. II of 1996

AN ACT to encourage and facilitate the settlement of disputes through arbitration in Malta, to establish the Malta Arbitration Centre as a centre for domestic arbitration and international commercial arbitration, to make provisions regulating the conduct of arbitration proceedings and the recognition and enforcement of certain arbitral awards.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

Preliminary

Short title and commencement.

1. This Act may be cited as the Arbitration Act, 1996, and shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires:

“arbitration agreement” means an agreement as defined in Article 7 of the Model Law;

“arbitral tribunal” means a sole arbitrator or a number of arbitrators;

“Board” means the Board of Governors of the Centre;

“Centre” means the Malta Arbitration Centre established by section 3 of this Act;

“Chairman” means the Chairman of the Board;

“financial period” means a period of five years commencing on the first January of one year and ending on the thirty first day of December of the fifth year thereafter; provided that the first financial period of the Centre shall be the period commencing with the coming into force of Part III of this Act and ending on the 31st day of December of the year next following that on which the said Part III shall have come into force;

“Minister” means the Minister responsible for justice;

“Model Law” means the Model Law on International Commercial Arbitration adopted on June 21, 1985 by the United Nations Commission on International Trade Law reproduced in the First Schedule to this Act;

“Registrar” means the registrar of the Centre.

PART II

Establishment and Functions of the Centre

3. (1) A centre, to be known as the Malta Arbitration Centre, is hereby established for the purposes and with the functions set out by this Act. Establishment of the Arbitration Centre.

(2) The Centre shall be a body corporate having a distinct legal personality and, subject to the provisions of this Act, shall be capable of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and of being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

(3) Any document purporting to be an instrument made or issued by the Centre and signed by the Chairman or such other member of the Board, officer or employee of the Centre as may be set out in a notice issued by the Chairman and published in the Gazette, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Centre.

4. (1) There shall be a Board which shall be responsible for the policy and general administration of the affairs and business of the Centre. Establishment and composition of Board.

(2) The Board shall consist of not less than five and not more than nine members, appointed by the President of Malta acting on the advice of the Minister, one of whom shall be designated by the Minister as Chairman. The Minister shall also designate another member as Deputy Chairman and such member shall have all the powers and perform all the functions of the Chairman during his absence, or until a new Chairman has been appointed following the resignation, termination of appointment, or death of the Chairman.

(3) The Minister shall select the members of the Board from among persons who appear to him to be qualified by reason of having had experience of and shown capacity in matters relating to international or domestic arbitration, conciliation and the settlement of disputes, international trade, commerce, industry, investment and maritime affairs; the Attorney General shall be an *ex officio* member of the Board.

Qualifications of
Chairman and
Deputy.

5. A person shall not be qualified to be appointed Chairman or Deputy Chairman of the Board unless he has practised as an advocate in Malta for a period or periods amounting in the aggregate to not less than twelve years.

Duration of
appointment
of the Board.

6. Subject to the provisions of sections 4, 7 and 9 of this Act, the members of the Board shall hold office for a six year period and on such terms and conditions as the Minister may deem appropriate; and a member shall, on ceasing to be a member, be eligible for re-appointment:

Provided that the Minister may at any time, on the recommendation of the Commission for the Administration of Justice established under section 101A of the Constitution of Malta, terminate the appointment of a member of the Board if in his opinion, confirmed by the recommendation of the said Commission as aforesaid, such member is unfit to continue in office or has become incapable of properly performing his duties as member of the Board, and the said Commission is hereby vested with the function and power to make a recommendation to the Minister as aforesaid.

Disqualification
from or being a
member of the
Board.

7. A person shall be disqualified for appointment to, or from remaining, a member of the Board if he:

(a) is legally incapacitated; or

(b) has been adjudged bankrupt under the law of any country or has made a composition or arrangement with his creditors; or

(c) has been convicted of a crime affecting public trust, or theft or fraud; or

(d) save as provided in subsection (3) of section 4, is a public officer; or

(e) has any financial or other interest in any enterprise or activity which is likely to affect prejudicially the discharge of his functions as a member of the Board.

8. (1) Any member of the Board may resign his office by letter addressed to the Minister. Resignations.

(2) The appointment of any person as member of the Board, and the termination of office or resignation of any such person, shall be notified in the Gazette.

9. (1) The Centre shall have a Registrar, who shall also be the Secretary of the Board. Registrar and other employees of the Centre.

(2) Subject to the provisions of the Constitution and of any other enactment applicable thereto, the Registrar and the other employees of the Centre shall be appointed by the Board under such terms and conditions as the said Board shall deem appropriate.

(3) The legal representation of the Centre shall be vested in the Registrar, or any other person so authorised by the Board.

10. (1) The functions of the Centre shall be: Functions of the Centre.

(i) (a) to promote Malta as a centre for international commercial arbitration;

(b) to provide for the conduct of international arbitration in Malta;

(c) to encourage domestic arbitration as a means of settling disputes;

(d) to provide the necessary facilities for the conduct of arbitration;

(e) to advise the Government on any of the matters mentioned in the foregoing subparagraphs of this paragraph of this subsection;

(f) to perform such other functions assigned to it by this or any other law; and

(g) to perform any other function supplementary or ancillary to the above.

(ii) Subject to the other provisions of this Act, the Centre, with the concurrence of the Minister, shall have power, exercisable through its Board, to make rules to be published in the Gazette providing for:

(a) procedure for arbitrations;

(b) the manner and requirements for registration of any document under this Act;

(c) guidelines and optional models or specimens for the drawing up of arbitration clauses and agreements; and

(d) any other matter in connection with which rules may be made under any provision of this Act.

(2) The Centre may, from time to time, draw up panels of arbitrators for domestic arbitration and panels of arbitrators for international commercial arbitration:

Provided however that a person may be included in more than one panel.

(3) Domestic arbitration panels may be appointed on matters related to commerce, insurance, traffic collisions, building construction, the maritime sector and such other fields as the Centre may deem expedient from time to time. The panels shall be composed of persons who in the opinion of the Centre are qualified to carry out the duties and functions of arbitrators in a particular field of expertise.

(4) The Centre shall establish an International Arbitral Advisory Committee of not more than five persons, including the Chairman of the Centre, which shall have the functions to advise the Centre on any matter relating to international commercial arbitration and to recommend to the Centre persons, who in its opinion, are qualified to carry out the duties and functions of arbitrators in international commercial arbitrations.

(5) The Centre shall, acting on the recommendation of the International Arbitral Advisory Committee, appoint panels of arbitrators for international commercial arbitration on matters such as international trade, commerce, insurance, investment and the maritime sector.

(6) A person may be removed from any panel by the Centre at any time, and a person may at any time resign by letter addressed to the Registrar:

Provided that any such removal or resignation shall not be deemed to include the removal or resignation of that person from any arbitration proceedings in which he may have already been appointed before his removal or resignation.

(7) For the purpose of encouraging settlement of a dispute, the Centre may, with the agreement of the parties and in accordance with rules made by the Centre under this Act, employ mediation, conciliation or other procedures at any time before or during the arbitration proceedings.

PART III

Finances

Estimates of the Centre.

11. (1) The Centre shall cause to be prepared in every financial period, and shall not later than six months before the end of each financial period adopt, estimates of the income and expenditure of the Centre for the next following financial period.

(2) The estimates shall be made out in such form and shall contain such information and such comparisons with previous financial periods as the Minister may direct. The estimates shall take into account such government contribution, if any, to the revenues of the Centre as the Minister may indicate to the Centre that he will recommend to the House of Representatives for the financial period in consideration, in accordance with section 13 of this Act.

(3) A copy of the estimates of the Centre shall upon their adoption by the Centre, be sent forthwith by the Board to the Minister.

12. (1) The revenues of the Centre shall consist of the fees charged for the services provided by it under this Act and of any government contribution made in accordance with section 13 of this Act. Revenue of the Centre.

(2) The Minister, after consultation with the Centre, may establish by regulations the fees to be charged by the Centre for any services, facilities or any other matter provided by it in accordance with this Act or in pursuance of the exercise of its functions under this Act.

13. (1) The Minister may, after consultation with the Centre and with any other person or authority and with the concurrence of the Minister responsible for finance, indicate in writing to the Centre the amount of government contribution to be made to the Centre and to be included in its estimates for the next financial period. The indication made by the Minister as aforesaid shall be attached to the estimates of the Centre to be forwarded to the Minister. Government contribution.

(2) Upon the approval of the estimates with or without amendments as provided in this Act, the sum approved in the estimates as the government contribution shall be paid to the Centre out of the Consolidated Fund without any further authority other than this Act.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the government contribution for the first financial period of the Centre shall be of a sum of Lm200,000 and such sum shall be paid to the Centre out of the Consolidated Fund without any further authority other than this subsection.

PART IV

Domestic Arbitration

14. (1) A domestic arbitration agreement is an arbitration agreement which does not fall under Part V of this Act, and in particular under Article 1(3) of the Model Law. Domestic arbitration.

(2) Notwithstanding the provisions of subsection (1) of this section the parties may agree that such an agreement shall not be a domestic arbitration agreement, and shall be regulated by Part V of this Act; however in such cases the provisions of section 58 shall not apply.

Procedure in domestic arbitration.

15. (1) In the case of a domestic arbitration agreement, falling under subsection (1) of section 14, disputes shall be settled in accordance with the provisions of this Part, subject to such modification as (a) the parties may agree upon in writing, and (b) may be permitted by law.

(2) An arbitration agreement shall be valid if the subject matter of the dispute is capable of settlement by arbitration.

(3) Notwithstanding any provision of the Code of Organisation and Civil Procedure if any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the arbitration agreement or any person claiming through or under him, in respect of any matter agreed to be referred to arbitration, any party to such legal proceedings may at any time before delivering any pleadings or taking other steps in the proceedings, apply to that court to stay the proceedings, and that court or a judge thereof, unless satisfied that the arbitration agreement has become inoperative or cannot proceed, or that in fact there is no dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

(4) Where the proceedings as are referred to in subsection (3) have been brought before a court, arbitral proceedings may nevertheless be commenced or continued and an award may be made while the issue is pending before the court.

(5) Any matter being the subject of a dispute even after an action thereanent has been brought before a court, shall, unless such matter is one referred to in subsection (6) of this section, be capable of settlement by arbitration if all parties to the dispute agree.

(6) Disputes, concerning questions of personal civil status including those relating to personal separation and annulment of marriage, are not capable of settlement by arbitration.

(7) Any submission to domestic arbitration made by an administrator, or by any person who is not at liberty to dispose of the thing, is null.

Notice and calculation of periods of time.

16. (1) For the purposes of this Part, any notice, including a notification, communication or proposal, is deemed to have been received and duly notified if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable enquiry, at the addressee's last-known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

(2) For the purposes of calculating a period of time under this Part, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If

the last day of such period is a public holiday or a non-working day, the period is extended until the first working day which follows. Public holidays or non working days occurring during the running of the period of time are included in calculating the period.

17. (1) The party initiating recourse to arbitration (hereinafter called "the claimant") shall file with the Registrar, a notice of arbitration for registration by the Centre and for onward transmission to the other party (hereinafter called "the respondent").

Notice of
arbitration.

(2) Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the respondent.

(3) The notice of arbitration shall include the following:

- (a) a demand that the dispute be referred to arbitration;
- (b) the names and addresses of the parties;
- (c) a reference to the arbitration clause or the separate arbitration agreement that is invoked;
- (d) a reference to the contract out of which, or the defined legal relationship in respect to which, the dispute arises;
- (e) the general nature of the claim and an indication of the amount involved, if any;
- (f) the relief or remedy sought; and
- (g) a proposal as to the number of arbitrators if the parties have not previously agreed thereon.

(4) The notice of arbitration may also include:

- (a) the proposals for the appointment of a sole arbitrator;
- (b) the notification of the appointment of an arbitrator referred to in section 21; and
- (c) the statement of claim referred to in section 29.

18. (1) Subject to the provisions of subsection (2) of this section, the parties may be represented or assisted by persons of their choice. The names and addresses of such persons must be communicated in writing to the other party; such communication must specify whether the appointment is being made for purposes of representation or assistance.

Representation
and assistance.

(2) A legal practitioner or a person not qualified under the Laws of Malta may act on behalf of a party to an arbitral proceeding to which this Act applies, including appearing before the arbitral tribunal, and he shall not thereby be taken to have breached any law of Malta regulating the practice of the legal profession.

Number of arbitrators.

19. If the parties have not previously agreed on the number of arbitrators, and if within fifteen days after the receipt by the respondent of the notice of arbitration, the parties have not agreed that there shall be only one arbitrator, three arbitrators shall be appointed:

Provided however that if the dispute amount is under 5,000 Maltese liri, there shall be a sole arbitrator.

Appointment of arbitrators.

20. (1) If a sole arbitrator is to be appointed, either party may propose to the other the names of one or more persons, one of whom may serve as the sole arbitrator.

(2) If within thirty days after receipt by a party of a proposal made in accordance with subsection (1), the parties have not reached agreement on the choice of a sole arbitrator, the sole arbitrator shall be appointed by the Chairman.

(3) The Chairman shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible; his decision shall be final and binding.

(4) In making the appointment, the Chairman shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and to the members of the Domestic Arbitration Panels established under subsection (2) of section 10.

(5) An arbitrator shall not be liable in damages for negligence in anything done or omitted to be done by him as arbitrator:

Provided that an arbitrator shall be liable in respect of anything wilfully done or omitted to be done by him as arbitrator where his action or omission is attributable to malice or fraud on his part.

Presiding arbitrator.

21. (1) If three arbitrators are to be appointed, each party shall appoint one arbitrator. The two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal.

(2) If within thirty days after the receipt of a party's notification of the appointment of an arbitrator, the other party has not notified the first party of the arbitrator he has appointed, the first party may request the Chairman to appoint the second arbitrator.

(3) If within thirty days after the appointment of the second arbitrator, the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the Chairman.

(4) The Chairman shall apply the provisions of section 20, *mutatis mutandis*, in any appointment made under the provisions of subsections (2) or (3) of section 21.

22. (1) When the Chairman is requested to appoint an arbitrator pursuant to section 20 or 21, the party which makes the request shall file with the Registrar a notice for an appointment and refer therein to the notice of arbitration filed under section 17.

Request to the Chairman to appoint an arbitrator.

(2) The Centre may require from either party such information as may be deemed necessary to fulfil its function.

(3) Where persons are proposed for appointment as arbitrators, their full names, addresses and nationalities together with a description of their profession, qualifications and experience shall be indicated.

23. (1) A person who is approached as a prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.

Impartiality or independence.

(2) An arbitrator, once appointed or chosen, shall disclose to the parties the circumstances mentioned in the previous subsection unless the parties have already been informed by him of these circumstances.

24. (1) Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubt as to the arbitrator's impartiality or independence.

Challenge of arbitrator.

(2) A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.

25. (1) A party who intends to challenge an arbitrator, shall send notice of his challenge within fifteen days after the appointment of the challenged arbitrator has been notified to that party or within fifteen days after the circumstances mentioned in section 23 and 24 became known to that party.

Notification of challenge.

(2) The challenge shall be notified to the Registrar, to the other party, to the arbitrator who is challenged and to the other members of the arbitral tribunal. The notification shall be in writing and shall state the reasons for the challenge.

(3) When an arbitrator has been challenged by one party the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases the procedure provided in sections 20 and 21 shall be used in full for the appointment of the substitute arbitrator even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.

26. (1) If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the Chairman, and his decision shall be final and binding.

Non-withdrawal of challenged arbitrator.

(2) When the Chairman sustains the challenge, he shall appoint a substitute arbitrator.

Replacement
of an arbitrator.

27. (1) In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in sections 20 to 23 which was applicable to the appointment or choice of the arbitrator being replaced.

(2) In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding sections shall apply.

Language.

28. (1) Subject to an agreement by the parties, the arbitral tribunal shall, promptly after its appointment, determine the language or languages to be used in the proceedings; unless the parties agree otherwise, the language chosen shall be Maltese. This determination shall apply to the statement of claim, the statement of defence, and any further written statements and, if oral hearings take place, to the language or languages to be used in such hearings.

(2) The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, shall be delivered in their original language or languages agreed on by the parties or determined by the arbitral tribunal.

Statement
of claim.

29. (1) Unless the statement of claim was contained in the notice of arbitration, within a period of time to be determined by the arbitral tribunal, the claimant shall communicate his statement of claim in writing to the respondent and to each of the arbitrators. A copy of the contract, and of the arbitration agreement if not contained in the contract, shall be annexed thereto.

(2) The statement of claim shall include the following particulars:

- (a) the names and addresses of the parties;
- (b) a statement of the facts supporting the claim;
- (c) the points at issue; and
- (d) the relief or remedy sought.

(3) The claimant may annex to this statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

Statement
of defence.

30. (1) The respondent shall communicate his statement of defence in writing to the claimant and to each of the arbitrators within a period of time to be determined by the arbitral tribunal.

(2) The statement of defence shall contain a reply to the particulars (b), (c) and (d) of the statement of claim referred to in subsection (2) of section 29. The respondent may annex to his statement the documents on which he relies for his defence or may add a reference to the documents or other evidence he will submit.

(3) In his statement of defence, or at a later stage in the arbitral proceedings, if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off.

(4) The provisions of subsection (2) of section 29 shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

31. During the course of the arbitral proceedings either party may amend or supplement his claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other justifiable circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the clause or of the separate arbitration agreement.

Amendments
to the claim
or defence.

32. (1) The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.

Pleas as to the
jurisdiction of the
arbitral tribunal.

(2) The arbitral tribunal shall have the power to determine the existence or the validity of the contract of which an arbitration clause forms part. For the purposes of section 32, an arbitration clause which forms part of a contract and which provides for arbitration under this Part shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(3) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defence or, with respect to a counter-claim, in the reply to the counter-claim.

(4) In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as a preliminary question:

Provided that the arbitral tribunal may proceed with the arbitration and rule on such a plea in its final award.

33. The arbitral tribunal shall decide what further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Further written
statements.

Periods of time. **34. (1)** The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed forty-five days:

Provided that the arbitral tribunal may extend the time-limits if it considers that an extension is justified.

Burden of proof. **35. (1)** Each party shall have the burden of proving facts relied on to support his claim or defence.

(2) The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal may decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in his statement of claim or statement of defence.

(3) At any time during the arbitral proceedings the arbitral tribunal may require the parties to produce documents, exhibits or other evidence within such a period or time as the arbitral tribunal shall determine.

Evidence. **36. (1)** Subject to the provisions of section 37, the evidence of witnesses in an arbitration shall be produced either *viva voce* or by affidavit, and subject to the relevant sections of this Part, the rules of the Code of Organization and Civil Procedure and of any law from time to time in force in Malta shall apply to the production of evidence *viva voce* or by affidavit before the arbitral tribunal as they apply to the production of evidence before a court of civil jurisdiction.

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(2) The Centre may make rules setting down the terms within which the evidence is to be produced and the manner of its production, and the parties may, notwithstanding the foregoing and the provisions of subsection (1) of this section, agree that the evidence of witnesses is to be produced within such times and in such manner as may be determined by the parties:

Provided that such agreement may not be incompatible with any rule made by the Centre and declared by it to be inderogable.

(3) Subject to the provisions of subsection (2) of section 37, where the evidence of any person is required, the Registrar may issue writs of subpoena to compel the attendance of a witness to give evidence or produce documents before an arbitral tribunal. The application for the issue of the writ shall be countersigned by the sole arbitrator, or the presiding arbitrator, and shall be filed in the registry of the Civil Court First Hall by the Registrar.

(4) The provisions of subsection (3) of this section shall apply *mutatis mutandis* where for the purposes of proceedings before an arbitral tribunal, a rogatory commission or letters of request are required to be issued in respect of, or an affidavit is required by, a person who is not resident within the jurisdiction of the courts of Malta.

(5) Upon the filing of an application to which subsections (3) and (4) apply, the Registrar of the Courts shall notify the writ or otherwise act on the application in the same manner as if such application or such writ had been issued or approved by the Civil Court First Hall.

(6) Where any person who has been regularly subpoenaed to appear before an arbitral tribunal in accordance with this section fails to appear before the said tribunal without reasonable excuse, the tribunal may make a report thereon to the Registrar who shall by application bring the report to the attention of the Civil Court First Hall requesting it to deal with the matter in the same manner as if the person concerned had failed to appear before that Court when regularly subpoenaed and thereupon the Court shall deal with the matter in the said manner.

37. (1) In the event of an oral hearing of the parties or of witnesses, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof. Oral hearing.

(2) If the witnesses are to be heard, each party shall communicate to the arbitral tribunal and to the other party, at least fifteen days before the hearing, the names and addresses of the witnesses he intends to present, the subject upon which and the languages in which such witnesses will give their testimony.

(3) The arbitral tribunal shall make arrangements for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the arbitral tribunal in the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the arbitral tribunal at least fifteen days before the hearing.

(4) Hearings shall be held *in camera* unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. The arbitral tribunal is free to determine the manner in which witnesses are examined.

(5) The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

38. (1) Unless otherwise agreed by the parties, any party may request the Court to issue any of the precautionary acts listed in subsection (1) of section 830 of the Code of Organization and Civil Procedure subject to the provisions of the following subsections of this section. Interim measures and precautionary acts.
Cap. 12.

(2) Where in accordance with subsection (1) of this section a precautionary act has been issued, such act shall remain in force until such time as it shall expire or be revoked in accordance with the provisions of the Code of Organization and Civil Procedure or until such time as the arbitral tribunal by an award given for that purpose shall order the party issuing the precautionary act to withdraw the same and issue the relative counter-warrant.

(3) Notwithstanding anything contained in the Code of Organization and Civil Procedure the time established therein within which the action is to be instituted in respect of the right stated in the precautionary act issued shall be of fifteen days from the filing of the judicial act whereby the court is requested to issue the precautionary act. The provisions of the said Code for the extension of the said time shall also apply.

(4) Action as is referred to in subsection (3) of this section shall be deemed to have been taken when the arbitration proceedings are commenced. For the purpose of this subsection arbitration proceedings shall be deemed to have commenced on the date referred to in subsection (2) of section 17.

(5) The party at whose request a precautionary act has been issued in accordance with this section shall, within the time specified in subsection (3) of this section, file a note in the records of the proceedings for the issue of the said precautionary act together with a certificate by the Registrar showing that he has commenced arbitration proceedings in accordance with subsection (4) of this section.

(6) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measures of protection as the tribunal may consider necessary in respect of the subject matter in dispute. The arbitral tribunal may require any party to provide adequate security in connection with such measures.

Experts

39. (1) The arbitral tribunal may appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the expert's terms of reference, established by the arbitral tribunal, shall be communicated to the parties.

(2) The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the arbitral tribunal for decision.

(3) Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.

(4) At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of section 36 shall be applicable to such proceedings.

Default

40. (1) If within the period of time fixed by the arbitral tribunal the claimant has failed to communicate his claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings. If, within the period of

time fixed by the arbitral tribunal, the respondent has failed to communicate his statement of defence without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue.

(2) If one of the parties, duly notified under this Part, has to appear at a hearing, fails to do so without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.

(3) If one of the parties duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may make the award on the evidence before it.

41. (1) The arbitral tribunal may enquire of the parties if they have any further proof to offer or witnesses to produce or submissions to make and, if there are none, it shall declare the hearings closed. Closure of hearings.

(2) The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

42. A party who knows that any provision of, or requirement under, this Part has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance, shall be deemed to have waived its right to object. Waiver of rules

43. (1) When there are three arbitrators, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators. Decisions.

(2) In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorises, the presiding arbitrator may decide on his own, subject to revision, if any, by the arbitral tribunal.

44. (1) In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards. Form of the award, interim, interlocutory or partial award.

(2) The award shall be in writing and shall be made at the place of the arbitration. It shall be final and binding on the parties. The parties shall carry out the award without delay.

(3) The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.

(4) An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was deemed to have been made. Where there are three arbitrators and one of them fails to sign, the award shall state the reason for the absence of the signature.

(5) The award may be made public only with the consent of both parties.

(6) Copies of the award signed by the arbitrators shall be communicated to the parties by the arbitral tribunal.

(7) The arbitral tribunal shall, not later than ninety days from the date referred to in subsection (4) of this section, present the award to the Registrar for registration by the Centre and shall comply with the relevant provisions of this Act and the requirements of registration issued by the Centre.

Applicable law,
amiable
compositeur.

45. (1) The arbitral tribunal shall apply, subject to the provisions of this Act, the law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply Maltese law including the rules of Maltese law relative to the conflict of laws.

(2) The arbitral tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have expressly authorised the arbitral tribunal to do so.

(3) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall, if relevant, take into account the usages of the trade applicable to the transaction.

(4) Unless otherwise agreed to by the parties or otherwise provided for in or under this Act, the arbitral tribunal may conduct the arbitration in such manner it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

Settlement or
other grounds
for termination.

46. (1) If before the award is made, the parties agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

(2) If before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in subsection (1), the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order unless a party raises justifiable grounds for objection.

(3) Copies of the order for termination of the arbitral proceedings or of the award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the parties and to the Registrar. Where an arbitral award on agreed terms is made, the provisions of subsections (2) and (4) to (7) of section 44 shall apply.

47. (1) Within fifteen days from the receipt of the award, either party, with notice to the other party, may request that the arbitral tribunal give an interpretation of the award. Interpretation of the award.

(2) The interpretation shall be given in writing within forty-five days after the receipt of the request. The interpretation shall form part of the award, and the provisions of subsections (2) to (7) of section 44 shall apply.

48. (1) Within fifteen days from the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may within thirty days after the communication of the award, make such corrections on its own initiative. Correction of the award.

(2) Such corrections shall be in writing, and the provisions of subsections (2) to (7) of section 44 shall apply.

49. (1) Within fifteen days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. Additional award

(2) If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within forty-five days from the receipt of the request.

(3) When an additional award is made the provisions of subsections (2) to (7) of section 44 shall apply.

50. The arbitral tribunal shall fix the costs of arbitration in its award. The term "costs" includes only: Costs.

(a) the fees of the arbitral tribunal to be stated separately as to each arbitrator and to be fixed by the tribunal itself in accordance with section 51;

(b) the travel and other expenses incurred by the arbitrators;

(c) the costs of expert advice and of other assistance required by the arbitral tribunal;

(d) the travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;

(e) the costs for legal representation and assistance of the successful party if such costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of such costs is reasonable; and

(f) any fees and expenses payable to the Centre.

51. (1) The fees of the arbitral tribunal shall be reasonable, taking into account the amount in dispute, the complexity of the subject-matter, the time spent by the arbitrators and any other relevant circumstances of the case.

(2) The arbitral tribunal in fixing its fees shall take into account the schedule of fees for arbitration issued by the Centre to the extent that it considers appropriate in the circumstances of the case.

(3) The arbitral tribunal shall fix its fees only after consultation with the Centre which may make any comment it deems appropriate to the arbitral tribunal concerning the fees.

Costs in principle to be borne by unsuccessful party.

52. (1) Except as provided in subsection (2) thereof, the costs of arbitration shall in principle be borne by the unsuccessful party. However, the arbitral tribunal may apportion such costs between the parties if it determines that apportionment is reasonable, taking into account the particular circumstances of the case.

(2) With respect of the costs of legal representation and assistance referred to in paragraph (e) of section 50, the arbitral tribunal, taking into account the particular circumstances of the case, shall be free to determine which party shall bear such costs or may apportion such costs between the parties if it determines that apportionment is reasonable.

(3) When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall in the text of that order or award, fix the costs of arbitration referred to in section 50 and section 51.

(4) No additional fees may be charged by an arbitral tribunal for interpretation or correction or completion of its award under sections 47 to 49.

Deposit of costs.

53. (1) The arbitral tribunal, on its establishment, may request each party to deposit with the Centre an equal sum between them as an advance payment for the costs referred to in paragraphs (a), (b), (c) and (f) of section 50.

(2) During the course of the arbitral proceedings the arbitral tribunal may request from the parties supplementary deposits to cover further costs.

(3) The arbitral tribunal shall fix the amounts of any deposits or supplementary deposits only after consultation with the Centre which may make to the arbitral tribunal any comments which it deems appropriate concerning the amount of such deposits and supplementary deposits.

(4) If the required deposits are not paid in full within thirty days from the receipt of the request, the arbitral tribunal shall so inform the parties in order that any one of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.

(5) After the award has been made, the arbitral tribunal shall render an account to the parties of the deposits received and return to the parties any unexpended balance.

54. (1) Unless the parties agree otherwise, arbitral proceedings conducted under this Part of this Act shall be held at the premises provided by the Centre. Place of arbitral proceedings.

(2) The arbitral tribunal may meet at any place it deems appropriate for the inspection of goods, other property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.

PART V

International Commercial Arbitration

55. (1) Subject to this Part, the Model Law shall form part of the Laws of Malta and shall be enforceable as such. Model Law.

(2) In the Model Law;

“State” means Malta and any foreign country;

“this state” means Malta.

56. (1) For the purposes of interpreting the Model Law, reference may be made: Interpretation.

(a) to the works of the United Nations Commission on International Trade Law; and

(b) to the preparatory documents of the Model Law.

(2) Subsection (1) does not affect the application of the Interpretation Act for the purposes of interpreting this Act. Cap. 249.

57. The functions referred to in Article 6 of the Model Law shall be performed by: Article 6 of the Model Law.

(a) the Chairman in respect to Articles 11(3), 11(4), 13(3) and 14; and

(b) the Court of Appeal in respect to Articles 16(3), 34(2) and 35(1).

58. With reference to Articles 34(2)(b) (ii) and 36(1)(b) (ii) of the Model Law, for the purposes of the said Articles it is hereby declared that an award is in conflict with the public policy of Malta if: Articles 34 and 36 of the Model Law.

(a) the award was induced or affected by fraud or corruption; or

(b) a breach of the rules of natural justice occurred in connection with the making of the award.

Chapter VIII of Model Law not to apply in certain cases.

59. Where, but for the application of this section, both Chapter VIII of the Model Law and Part VII of this Act on the Recognition and Enforcement of Foreign Awards apply in relation to an award, Chapter VIII of the Model Law shall be considered not to apply in relation to the said award.

Settlement of dispute otherwise than in accordance with Model Law.

60. (1) If the parties to an arbitration agreement falling under this Part of this Act have (whether in the agreement or in any other document in writing) agreed that any dispute that has arisen or may arise between them is to be settled otherwise than in accordance with the Model Law, then the provisions governing domestic arbitration shall apply.

(2) In the case envisaged in the preceding subsection, the parties are obliged, prior to the appointment of the arbitral tribunal, to inform in writing the Registrar of the manner in which the dispute is to be settled.

Registration by the Centre.

61. (1) Before an award granted under the Model Law can be recognised and enforced by the Courts in Malta, it has to be registered by the Centre notwithstanding any provision of chapter VIII of the Model Law.

(2) With reference to subsection (1) hereof, any party may present the award to the Registrar for registration by the Centre, and shall comply with the relevant provisions of this Act and the requirements of registration according to rules made by the Centre.

Article 17 of the Model Law.

62. Subject to the provisions of section 61, Chapter VIII of the Model Law applies to orders by an arbitral tribunal made under Article 17 of the Model Law requiring a party:

- (a) to take an interim measure of protection; or
- (b) to provide security in connection with such a measure;

as if any reference in that Chapter to an arbitral award or an award were a reference to such an order.

Interest up to making of award.

63. (1) Unless the parties to an arbitration agreement falling under this Part of this Act have otherwise agreed, when 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 subsection (2), include in the sum for which the award is made interest at such a reasonable rate as the tribunal may determine on the whole or any part of the money, and 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) Subsection (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; and
- (c) affect the damages that may be recoverable as a result of a bill of exchange being dishonoured.

64. Unless the parties to an arbitration agreement falling under this Part of this Act have otherwise agreed, where an arbitral tribunal makes an award for the payment of money, the tribunal may direct that, interest at such reasonable rate as the tribunal may determine, is payable, from the date referred to in Article 31(3) of the Model Law or such later day as the tribunal specifies.

Interest on debt under award.

65. (1) Unless the parties to an arbitration agreement falling under this Part of this Act have otherwise agreed, the arbitral tribunal shall fix the costs and fees of arbitration in the award in accordance with section 50, 51, 52 and 53 *mutatis mutandis*.

Costs and fees.

(2) If no provision is made by an award with respect to the costs and fees of the arbitration, a party to the arbitration agreement may, within fourteen days after receiving the award, apply to the arbitral tribunal for directions as to the payment of the said costs and fees, and thereupon the tribunal shall, after hearing the Registrar and any party who wishes to be heard, amend the award in accordance with section 65(1).

66. Subsection (5) of section 20 hereof applies to any arbitrator involved in arbitrations held under this Part of this Act.

Liability of arbitrator.

67. With the agreement of the parties or at the request of a party, as the case may be, where the arbitral tribunal, in accordance with the Model Law, holds oral hearings or proceedings on the basis of documents or other materials, section 18 of this Act shall, without prejudice to the Model Law, apply.

Representation in proceedings.

68. This Part does not apply in relation to an international commercial arbitration between parties to an arbitration agreement that was concluded before the commencement of this Part of this Act unless the parties have otherwise agreed.

Application of this Part.

PART VI

Powers of the Court with respect to Arbitrations

69. Saving the provisions of the Constitution and of the European Convention Act, in matters governed by this Act, no court shall intervene or have jurisdiction in any matter except where so provided for in this Act.

Extent of Court intervention.

Cap. 319.

70. (1) An award given pursuant to an arbitration agreement in accordance with Part IV of this Act, shall upon its registration by the Centre, as provided in section 72 of this Act, constitute an executive title for the purposes of Title VII of Part I of Book Second of the Code of Organisation and Civil Procedure.

(2) Recourse against an arbitral award delivered under Part IV may be made only to the Court of Appeal by application praying that the award be set aside in accordance with the following subsections.

(3) Subject to the provisions of section 71, the Court of Appeal shall only decree that an award shall be set aside if:

(a) the applicant proves to the satisfaction of the Court of Appeal that:

(i) a party to the arbitration agreement was under some incapacity to enter the arbitration agreement; or that the said agreement was not valid under the law to which the parties have subjected it; or

(ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise impeded from presenting his case; or

(iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that if decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Act from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Act.

(b) the Court of Appeal finds that:

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the Laws of Malta; or

(ii) the award is in conflict with the public policy of Malta.

(4) The application referred to in subsection (2) of this section shall be made within thirty days from the notification to the applicant by judicial act of the registration of the award by the Centre in accordance with this Act.

71. The Court of Appeal, when asked to set aside an award, may, where appropriate, and when so required by a party, suspend the setting aside proceedings for a period of time determined by it, in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the tribunal's opinion will eliminate the grounds for setting aside.

Resumption of
arbitral
proceedings.

72. (1) Where the registration of any award or document under this Act is required to be made with the Centre, the award or document, or an authentic copy thereof, shall be deposited with the Registrar together with such fee as may from time to time be prescribed for such registration.

Registration
with and by the
Centre.

(2) The Registrar shall refuse to register an award or a document if the same does not comply with any of the provisions of this Act or of the rules made by the Centre relative to such Act.

(3) In the case of an arbitration conducted under Part IV of this Act, the provisions of subsections (2), (3), (4) and (5) of section 38, section 70 and section 71 shall only apply and the proceedings shall only be valid where prior to the commencement of the proceedings, the arbitration agreement is registered by the Centre in accordance with section 17 of this Act.

(4) In the case of an arbitration, conducted under Part IV of this Act, the award shall not be registered unless the arbitration agreement was registered by the Centre in accordance with section 17 of this Act.

(5) Where the Registrar refuses the registration of any award or document, the party requesting registration may, within thirty days from such refusal, request the Chairman to order the Registrar to accept such registration, and the decision of the said Chairman shall be final and binding.

(6) The fact that an award or document has been accepted for registration by the Centre shall not preclude the challenge of the validity of such award or document under any provision of this Act.

73. (1) The Chairman shall regularly report to the Board any decision given by him pursuant to any power in or under this Act.

Chairman
to report.

(2) Any such decision shall not be subject to review by the Board, but any member of the said Board may request that any objection he may have to such a decision shall be recorded in the minutes of the Board and such member may, moreover, make a report thereon to the Minister.

PART VII

Recognition and Enforcement of Foreign Awards

74. (1) Saving the relevant sections of this Act, foreign arbitration awards, to which the treaties set out in the Second Schedule are applicable, shall upon their registration by the Centre be enforced

Enforcement
of foreign
arbitration
awards.

by the Courts of Malta in the same manner as if such awards were delivered under Part IV of this Act.

(2) The Minister may by notice in the Gazette add to, delete from or substitute the list of treaties to which Malta is a Party and contained in the Second Schedule to this Act.

(3) A certificate signed by the Minister responsible for foreign affairs, or by any public officer designated by the said Minister for such purpose by notice in the Gazette, purporting that, at the time specified in the certificate, any state has signed and ratified or has denounced, or has taken any other action under the treaties listed in the Schedules to this Act in respect of the state specified in the certificate, shall be conclusive evidence before any court or other authority of the facts therein stated.

(4) Notwithstanding the provisions of subsection (1) of section 74, any award delivered under a multilateral or bilateral agreement to which Malta is a party shall, upon its registration by the Centre, be enforced by the Courts of Malta in the same manner as if such award was delivered under Part IV of this Act.

Arbitration
under other laws.

75. (1) For the purposes of this Act, any question required to be determined by arbitration under any other law, foreign or domestic, the provisions of such law shall, unless they provide for arbitration by a board, tribunal or other authority set up for the purpose, be read as if that other law were an arbitration agreement.

(2) Any award delivered in terms of subsection (1) of this section shall be recognised and enforced by the Courts of Malta upon its registration by the Centre, in the same manner as if such award were delivered under Part IV of this Act.

Settlement of
international
investment
disputes.

76. (1) Awards delivered pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, which convention was opened for signature in Washington on the 18th March, 1965, (which convention is hereafter in this section referred to as "the Convention" and is reproduced in the Third Schedule to this Act) shall be recognised and enforced by the Courts of Malta as if such awards were final judgements under the laws of Malta.

(2) The provisions of subsection (1) of this section shall apply only to such awards on disputes submitted to arbitration by the parties thereto in accordance with the Convention and not otherwise excluded in accordance with the same Convention.

(3) For the purposes of Article 54 of the Convention, the competent authority shall be the Centre.

(4) The Prime Minister may by order in the Gazette and notwithstanding any other law, make provision to give effect to any part of the Convention, and without prejudice to the generality of the foregoing may by such order grant such immunities and exemptions from any law as may be required by the Convention.

PART VIII

Miscellaneous

77. In case of any conflict between the Maltese and English text of any of the First, Second and Third Schedules to this Act, the English text shall prevail.

Language of schedules.

78. (1) The Arbitration Clauses (Protocol) Ordinance and the Arbitration (Foreign Awards) Ordinance, are hereby repealed.

Repeal and amendment of other enactments.

(2) The enactments in the First Column in the Fourth Schedule to this Act shall have effect subject to the amendments appearing relative thereto in the Second Column of the said Schedule.

Cap. 82.
Cap. 83.

79. Subject to section 68, this Act applies to every arbitration agreement, whether made before or after the commencement of this Act, and to every arbitration under such an agreement:

Transitory provision.

Provided that where arbitration proceedings had been commenced before the date of commencement of this Act and are still pending on that date then, notwithstanding any thing contained in this Act, those proceedings shall continue to be governed by the law applicable thereto before the commencement of this Act unless all the parties to those proceedings agree that this Act shall apply thereto with effect from the date of the agreement whereupon this Act shall apply accordingly.

FIRST SCHEDULE

**UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW:
MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION*
(ADOPTED, JUNE 21, 1985)**

UNCITRAL Model Law on International Commercial Arbitration

**(as adopted by the United Nations Commission on International
Trade Law on 21 June 1985)**

CHAPTER I. GENERAL PROVISIONS

Article 1. **Scope of application****

(1) This law applies to international commercial*** arbitration, subject to any agreement in force between this State and any other State or States.

(2) The provisions of this law, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in the territory of this State.

(3) An arbitration is international if:

(a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or

(b) one of the following places is situated outside the State in which the parties have their places of business:

(i) the place of arbitration if determined in, or pursuant to, the arbitration agreement;

(ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or

(c) the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.

(4) For the purposes of paragraph (3) of this article:

* Reproduced from the Report from the United Nations Commission on International Trade Law on the work of the eighteenth session (June 3-21, 1985), U.N. General Assembly Official Records Fortieth Session, Supplement No. 17 (A/40/17), Annex I, pp. 81-93.

** Article Headings are for the reference purposes only and are not to be used for purposes of interpretation.

*** The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions; any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investments; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business co-operation; carriage of goods or passengers by air, sea, rail or road.

(a) if a party has more than place of business, the place of business is that which has the closest relationship to the arbitration agreement;

(b) if a party does not have a place of business, reference is to be made to his habitual residence.

(5) This Law shall not effect any other law of this State by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Law.

Article 2. **Definition and Rules of Interpretation**

For the purposes of this Law:

(a) "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;

(b) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;

(c) "count" means a body or organ of the judicial system of a State;

(d) where a provision of this Law, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorise a third party, including an institution, to make that determination;

(e) where a provision of this Law refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;

(f) where a provision of this Law, other than in articles 25 (a) and 32 (2) (a), refers to a claim, it also applies to a counter-claim, and where it refers to a defence, it also applies to a defence to such counter-claim.

Article 3. **Receipt of written communications**

(1) Unless otherwise agreed by the parties:

(a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;

(b) the communication is deemed to have been received on the day it is so delivered.

(2) The provisions of this article do not apply to communications in court proceedings.

Article 4. Waiver of right to object

A party who knows that any provisions of this Law from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

Article 5. Extent of court intervention

In matters governed by this Law, no court shall intervene except where so provided in this Law.

Article 6. Court or other authority for certain functions of arbitration assistance and supervision

The functions referred to in articles 11 (3), 11 (4), 13 (3), 14, 16 (3) and 34 (2) shall be performed by [Each State enacting this model law specifies the court, courts or, where referred to therein, other authority competent to perform these functions.]

CHAPTER II. ARBITRATION AGREEMENT

Article 7. Definition and form of arbitration agreement

(1) "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

Article 8. Arbitration agreement and substantive claim before court

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

Article 9. Arbitration agreement and interim measures by court

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

Article 10. Number of arbitrators

- (1) The parties are free to determine the number of arbitrators.
- (2) Failing such determination, the number of arbitrators shall be three.

Article 11. Appointment of arbitrators

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

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.

(3) Failing such agreement,

(a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;

(b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.

(4) Where, under an appointment procedure agreed upon by the parties,

(a) a party fails to act as required under such procedure, or

(b) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure, or

(c) a third party, including an institution, fails to perform any function entrusted to it under such procedure,

any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

Article 12. Grounds for challenge

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

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

Article 13. Challenge procedure

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in article 12 (2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Article 14. Failure or impossibility to act

(1) If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13 (2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12 (2).

Article 15. Appointment of substitute arbitrator

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

Article 16. Competence of arbitral tribunal to rule on its jurisdiction

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

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any part may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

Article 17. Power of arbitral tribunal to order interim measures

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS

Article 18. Equal treatment of parties

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

Article 19. Determination of rules of procedure

(1) Subject to the provisions of this Law, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Law, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

Article 20. Place of arbitration

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Article 21. Commencement of arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Article 22. Language

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

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

Article 23. Statement of claim and defence

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting the claim, the points at issue and the relief of remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

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

Article 24. Hearing and written proceedings

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Article 25. Default of a party

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

(a) the claimant fails to communicate his statement of claim in accordance with article 23 (1), the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with article 23 (1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;

(c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Article 26. Expert appointed by arbitral tribunal

(1) Unless otherwise agreed by the parties, the arbitral tribunal

(a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;

(b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

Article 27. Court assistance in taking evidence

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of this State assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

**CHAPTER VI. MAKING OF AWARD AND TERMINATION
OF PROCEEDINGS**

Article 28. 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. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

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

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

(4) 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.

Article 29. Decision-making by panel of arbitrators

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorised by the parties or all members of the arbitral tribunal.

Article 30. 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 article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

Article 31. Form and contents of award

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

(2) The award shall state 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 article 30.

(3) The award shall state its date and the place of arbitration as determined in accordance with article 20 (1). The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

Article 32. Termination of proceedings

(1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this article.

(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;

(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 the provisions of articles 33 and 34 (4).

Article 33. Correction and interpretation of award, additional award

(1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:

(a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

(2) The arbitral tribunal may correct any error of the type referred to in paragraph (1) (a) of this article on its own initiative within thirty days of the date of the award.

(3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

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

(5) The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

CHAPTER VII. RECOURSE AGAINST AWARD

Article 34. **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 paragraphs (2) and (3) of this article.

(2) An arbitral award may be set aside by the court specified in article 6 only if:

(a) the party making the application furnishes proof that:

(i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this State; or

(ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

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

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Law; or

(b) the court finds that:

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State; or

(ii) the award is in conflict with the public policy of this State.

CHAPTER VIII. RECOGNITION AND ENFORCEMENT OF AWARDS

Article 35. **Recognition and Enforcement**

(1) An arbitral award, irrespective of the country in which it was made, shall be recognised as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

(2) The party relying on award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy hereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of this State, the party shall supply a duly certified translation thereof into such language.*

Article 36. **Grounds for refusing recognition or enforcement**

(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

(a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decision on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced; or

(iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

* The conditions set forth in this paragraph are intended to set maximum standards. It would, thus, not be contrary to the harmonization to be achieved by the model law if a State retained even less onerous conditions.

(b) if the court finds that:

(i) the subject matter of the dispute is not capable of settlement by arbitration under the law of this State; or

(ii) the recognition or enforcement of the award would be contrary to the public policy of this State.

(2) If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1) (a) (v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

SECOND SCHEDULE

**THE UNITED NATIONS CONVENTION ON THE RECOGNITION AND
ENFORCEMENT OF FOREIGN ARBITRAL AWARDS
(NEW YORK 1958)**

ARTICLE I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under Article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

ARTICLE II

1. Each Contracting State shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

ARTICLE III

Each Contracting State shall recognise arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which the Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

ARTICLE IV

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

- (a) The duly authenticated original award or a duly certified copy thereof;
- (b) The original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

ARTICLE V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

(a) The parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decision on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced; or

(d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

(a) The subject matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) The recognition or enforcement of the award would be contrary to the public policy of that country.

ARTICLE VI

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V(1)(e), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

ARTICLE VII

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol of Foreign Arbitral Awards of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound by this Convention.

ARTICLE VIII

1. This Convention shall be open until 31 December 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes a member of any specialised agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. This Convention shall be ratified and the instrument of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE IX

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE X

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

ARTICLE XI

In the case of a federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;

(c) A federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE XII

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit of such State of its instrument of ratification or accession.

ARTICLE XIII

1. Any Contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

ARTICLE XIV

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

ARTICLE XV

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following:

- (a) Signatures and ratifications in accordance with article VIII;
- (b) Accessions in accordance with article IX;
- (c) Declarations and notifications under articles I, X and XI;
- (d) The date upon which this Convention enters into force in accordance with article XII;
- (e) Denunciations and notifications in accordance with article XIII.

ARTICLE XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article VIII.

THIRD SCHEDULE

**CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES
BETWEEN STATES AND NATIONALS OF OTHER STATES
(WASHINGTON 1965)**

Preamble

The Contracting States

Considering the need for international co-operation for economic development, and the role of private international investment therein;

Bearing in mind the possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognising that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance to the availability of facilities for international conciliation or arbitration to which Contracting States may submit such disputes if they so desire;

Desiring to establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognising that mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation of conciliators, and that any arbitral award be complied with; and

Declaring that no Contracting State shall by the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration;

Have agreed as follows:

CHAPTER I

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

SECTION 1

Establishment and Organisation

ARTICLE 1

(1) There is hereby established the International Centre for Settlement of Investment Disputes (hereinafter called the Centre).

(2) The purpose of the Centre shall be to provide facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States in accordance with the provisions of this Convention.

ARTICLE 2

The seat of the Centre shall be at the principal office of the International Bank for Reconstruction and Development (hereinafter called the Bank). The seat may be moved to another place by decision of the Administrative Council adopted by a majority of two-thirds of its members.

ARTICLE 3

The Centre shall have an Administrative Council and a Secretariat and shall maintain a Panel of Conciliators and a Panel of Arbitrators.

SECTION 2

The Administrative Council

ARTICLE 4

(1) The Administrative Council shall be composed of one representative of each Contracting State. An alternate may act as representative in case of his principal's absence from a meeting or inability to act.

(2) In the absence of a contrary designation, each governor and alternate governor of the Bank appointed by a Contracting State shall be *ex officio* its representative and its alternate respectively.

ARTICLE 5

The President of the Bank shall be *ex officio* Chairman of the Administrative Council (hereinafter called the Chairman) but shall have no vote. During his absence or inability to act and during any vacancy in the office of President of the Bank, the person for the time being acting as President shall act as Chairman of the Administrative Council.

ARTICLE 6

(1) Without prejudice to the powers and functions vested in it by other provisions of this Convention, the Administrative Council shall

- (a) adopt the administrative and financial regulations of the Centre;
- (b) adopt the rules of procedure for the institution of conciliation and arbitration proceedings;
- (c) adopt the rules of procedure for conciliation and arbitration proceedings (hereinafter called the Conciliation Rules and the Arbitration Rules);
- (d) approve arrangements with the Bank for the use of the Bank's administrative facilities and services;
- (e) determine the conditions of service of the Secretary-General and of any Deputy Secretary-General;
- (f) adopt the annual budget of revenue and expenditures of the Centre;
- (g) approve the annual report on the operation of the Centre.

The decisions referred to in sub-paragraphs (a), (b), (c) and (f) above shall be adopted by a majority of two-thirds of the members of the Administrative Council.

(2) The Administrative Council may appoint such committees as it considers necessary.

(3) The Administrative Council shall also exercise such other powers and perform such other functions as it shall determine to be necessary for the implementation of the provisions of this Convention.

ARTICLE 7

(1) The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairman, or convened by the Secretary-General at the request of not less than five members of the Council.

(2) Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Council shall be decided by a majority of the votes cast.

(3) A quorum for any meeting of the Administrative Council shall be a majority of its members.

(4) The Administrative Council may establish, by a majority of two-thirds of its members, a procedure whereby the Chairman may seek a vote of the Council without convening a meeting of the Council. The vote shall be considered valid only if the majority of the members of the Council cast their votes within the time limit set by the said procedure.

ARTICLE 8

Members of the Administrative Council and the Chairman shall serve without remuneration from the Centre.

SECTION 3

The Secretariat

ARTICLE 9

The Secretariat shall consist of a Secretary-General, one or more Deputy Secretaries-General and staff.

ARTICLE 10

(1) The Secretary-General and any Deputy Secretary-General shall be elected by the Administrative Council by a majority of two-thirds of its members upon the nomination of the Chairman for a term of service not exceeding six years and shall be eligible for re-election. After consulting the members of the Administrative Council, the Chairman shall propose one or more candidates for each such office.

(2) The offices of Secretary-General and Deputy Secretary-General shall be incompatible with the exercise of any political function. Neither the Secretary-General nor any Deputy Secretary-General may hold any other employment or engage in any other occupation except with the approval of the Administrative Council.

(3) During the Secretary-General's absence or inability to act, and during any vacancy of the office of Secretary-General, the Deputy Secretary-General shall act as Secretary-General. If there shall be more than one Deputy Secretary-General, the Administrative Council shall determine in advance the order in which they shall act as Secretary-General.

ARTICLE 11

The Secretary-General shall be the legal representative and the principal officer of the Centre and shall be responsible for its administration, including the appointment of staff, in accordance with the provisions of this Convention and the rules adopted by the Administrative Council. He shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to this Convention, and to certify copies thereof.

SECTION 4

The Panels

ARTICLE 12

The Panel of Conciliators and the Panel of Arbitrators shall each consist of qualified persons, designated as hereinafter provided, who are willing to serve thereon.

ARTICLE 13

(1) Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

(2) The Chairman may designate ten persons to each Panel. The persons so designated to a Panel shall each have a different nationality.

ARTICLE 14

(1) Persons designated to serve on the Panels shall be persons of high moral character and recognised competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgement. Competence in the field of the law shall be of particular importance in the case of persons on the Panel of Arbitrators.

(2) The Chairman, in designating persons to serve on the Panels, shall in addition pay due regard to the importance of assuring representation on the Panels of the principal legal systems of the world and of the main forms of economic activity.

ARTICLE 15

(1) Panel members shall serve for renewable periods of six years.

(2) In case of death or resignation of a member of a Panel, the authority which designated the member shall have the right to designate another person to serve for the remainder of that member's term.

(3) Panel members shall continue in office until their successors have been designated.

ARTICLE 16

(1) A person may serve on both Panels.

(2) If a person shall have been designated to serve on the same Panel by more than one Contracting State, or by one or more Contracting States and the Chairman, he shall be deemed to have been designated by the authority which first designated him or, if one such authority is the State of which he is a national by that State.

(3) All designations shall be notified to the Secretary-General and shall take effect from the date on which the notification is received.

SECTION 5

Financing the Centre

ARTICLE 17

If the expenditure of the Centre cannot be met out of charges for the use of its facilities, or out of other receipts, the excess shall be borne by Contracting States which are members of the Bank in proportion to their respective subscriptions to the capital stock of the Bank, and by Contracting States which are not members of the Bank in accordance with rules adopted by the Administrative Council.

SECTION 6

Status, Immunities and Privileges

ARTICLE 18

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property;
- (c) to institute legal proceedings.

ARTICLE 19

To enable the Centre to fulfil its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this Section.

ARTICLE 20

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

ARTICLE 21

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of Article 52, and the officers and employees of the Secretariat

(a) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;

(b) not being local nationals, shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same

treatment in respect of travelling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.

ARTICLE 22

The provisions of Article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsel, advocates, witnesses or experts; provided, however, that sub-paragraph (b) thereof shall apply only in connection with their travel to and from, and their stay at, the place where the proceedings are held.

ARTICLE 23

(1) The archives of the Centre shall be inviolable wherever they may be.

(2) With regard to its official communications, the Centre shall be accorded by each Contracting State treatment not less favourable than that accorded to other international organisations.

ARTICLE 24

(1) The Centre, its assets, property and income, and its operations and transactions authorised by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection or payment of any taxes or customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or members of a Committee appointed pursuant to paragraph (3) of Article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

CHAPTER II

JURISDICTION OF THE CENTRE

ARTICLE 25

(1) The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

(2) "National of another Contracting State" means:

(a) any natural person who had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration as well as on the date on which the request was registered pursuant to paragraph (3) of Article 28 or paragraph (3) of Article 36, but does not include any person who on either date also had the nationality of the Contracting State party to the dispute; and

(b) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.

(3) Consent by a constituent subdivision or agency of a Contracting State shall require the approval of that State unless that State notifies the Centre that no such approval is required.

(4) Any Contracting State may, at the time of ratification, acceptance or approval of this Convention or at any time thereafter, notify the Centre of the class or classes of disputes which it would or would not consider submitting to the jurisdiction of the Centre. The Secretary-General shall forthwith transmit such notification to all Contracting States. Such notification shall not constitute the consent required by paragraph (1).

ARTICLE 26

Consent of the parties to arbitration under this Convention shall, unless otherwise stated, be deemed consent to such arbitration to the exclusion of any other remedy. A Contracting State may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under this Convention.

ARTICLE 27

(1) No Contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.

(2) Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

CHAPTER III
CONCILIATION

SECTION 1

Request for Conciliation

ARTICLE 28

(1) Any Contracting State or any national of a Contracting State wishing to institute conciliation proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to conciliation in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2

Constitution of the Conciliation Commission

ARTICLE 29

(1) The Conciliation Commission (hereinafter called the Commission) shall be constituted as soon as possible after registration of a request pursuant to Article 28.

(2) (a) The Commission shall consist of a sole conciliator or any uneven number of conciliators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of conciliators and the method of their appointment, the Commission shall consist of three conciliators, one conciliator appointed by each party and the third, who shall be the president of the Commission, appointed by agreement of the parties.

ARTICLE 30

If the Commission shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 28, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the conciliator or conciliators not yet appointed.

ARTICLE 31

(1) Conciliators may be appointed from outside the Panel of Conciliators, except in the case of appointments by the Chairman pursuant to Article 30.

(2) Conciliators appointed from outside the Panel of Conciliators shall possess the qualities stated in paragraph (1) of Article 14.

SECTION 3

Conciliation Proceedings

ARTICLE 32

(1) The Commission shall be the judge of its own competence.

(2) Any objection by a party to the dispute that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Commission, shall be considered by the Commission which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

ARTICLE 33

Any conciliation proceeding shall be conducted in accordance with the provisions of this Section and except as the parties otherwise agree, in accordance with the Conciliation Rules in effect on the date on which the parties consented to conciliation. If any question of procedure arises which is not covered by this Section or the Conciliation Rules or any rules agreed by the parties, the Commission shall decide the question.

ARTICLE 34

(1) It shall be the duty of the Commission to clarify the issues in dispute between the parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the Commission may at any stage of the proceedings and from time to time recommend terms of settlement to the parties. The parties shall cooperate in good faith with the Commission in order to enable the Commission to carry out its functions, and shall give their most serious consideration to its recommendations.

(2) If the parties reach agreement, the Commission shall draw up a report noting the issues in dispute and recording that the parties have reached agreement. If, at any stage of the proceedings, it appears to the Commission that there is no likelihood of agreement between the parties, it shall close the proceedings and shall draw up a report noting the submission of the dispute and recording the failure of the parties to reach agreement. If one party fails to appear or participate in the proceedings the Commission shall close the proceedings and shall draw up a report noting that party's failure to appear or participate.

ARTICLE 35

Except as the parties to the dispute shall otherwise agree, neither party to a conciliation proceedings shall be entitled in any other proceeding, whether before arbitrators or in a court of law or otherwise, to invoke or rely on any views expressed or statements or admissions or offers of settlement made by the other party in the conciliation proceedings, or the report or any recommendations made by the Commission.

CHAPTER IV**ARBITRATION****SECTION 1****Request for Arbitration****ARTICLE 36**

(1) Any Contracting State or any national of a Contracting State wishing to institute arbitration proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to arbitration in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

SECTION 2**Constitution of the Tribunal****ARTICLE 37**

(1) The Arbitral Tribunal (hereinafter called the Tribunal) shall be constituted as soon as possible after registration of a request pursuant to Article 36.

(2) (a) The Tribunal shall consist of a sole arbitrator or any uneven number of arbitrators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties.

ARTICLE 38

If the Tribunal shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 36, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the arbitrator or arbitrators not yet appointed. Arbitrators appointed by the Chairman pursuant to this Article shall not be nationals of the Contracting State party to the dispute or of the Contracting State whose national is a party to the dispute.

ARTICLE 39

The majority of the arbitrators shall be nationals of States other than the Contracting State party to the dispute and the Contracting State whose national is a party to the dispute; provided, however, that the foregoing provisions of this Article shall not apply if the sole arbitrator or each individual member of the Tribunal has been appointed by agreement of the parties.

ARTICLE 40

(1) Arbitrators may be appointed from outside the Panel of Arbitrators, except in the case of appointments by the Chairman pursuant to Article 38.

(2) Arbitrators appointed from outside the Panel of Arbitrators shall possess the qualities stated in paragraph (1) of Article 14.

SECTION 3

Powers and Functions of the Tribunal

ARTICLE 41

(1) The Tribunal shall be the judge of its own competence.

(2) Any objection by a party to the dispute that is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal, shall be considered by the Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

ARTICLE 42

(1) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the Tribunal shall apply the law of the Contracting State party to the dispute (including its rules on the conflict of laws) and such rules of international law as may be applicable.

(2) The Tribunal may not bring in a finding of *non liquet* on the ground of silence or obscurity of the law.

(3) The provisions of paragraphs (1) and (2) shall not prejudice the power of the Tribunal to decide a dispute *ex aequo et bono* if the parties so agree.

ARTICLE 43

Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any state of the proceedings.

(a) call upon the parties to produce documents or other evidence, and

(b) visit the scene connected with the dispute, and conduct such enquiries there as it may deem appropriate.

ARTICLE 44

Any arbitration proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Arbitration Rules in effect on the date on which the parties consented to arbitration. If any question of procedure arises which is not covered by this Section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question.

ARTICLE 45

(1) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(2) If a party fails to appear or to present his case at any stage of the proceedings the other party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that party does not intend to do so.

ARTICLE 46

Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counter-claims arising directly out of the subject-matter of the dispute provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Centre.

ARTICLE 47

Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party.

SECTION 4

The Award

ARTICLE 48

(1) The Tribunal shall decide questions by a majority of the votes of all its members.

(2) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(3) The award shall deal with every question submitted to the Tribunal, and shall state the reasons upon which it is based.

(4) Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent.

(5) The Centre shall not publish the award without the consent of the parties.

ARTICLE 49

(1) The Secretary-General shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(2) The Tribunal upon the request of a party made within 45 days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award and shall rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as the award. The periods of time provided for under paragraph (2) of Article 51 and paragraph (2) of Article 52 shall run from the date on which the decision was rendered.

SECTION 5

Interpretation, Revision and Annulment of the Award

ARTICLE 50

(1) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may request interpretation of the award by an application in writing addressed to the Secretary-General.

(2) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter. The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

ARTICLE 51

(1) Either party may request revision of the award by an application in writing addressed to the Secretary-General on the ground of discovery of some fact of such a nature as decisively to effect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(2) The application shall be made within 90 days after the discovery of such fact and in any event within three years after the date on which the award was rendered.

(3) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter.

(4) The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

ARTICLE 52

(1) Either party may request annulment of the award by an application in writing to the Secretary-General on one or more of the following grounds:

- (a) that the Tribunal was not properly constituted;
- (b) that the Tribunal had manifestly exceeded its powers;
- (c) that there was corruption on the part of a member of the Tribunal;
- (d) that the award has failed to state the reasons on which it is based.

(2) The application shall be made within 120 days after the date on which the award was rendered except that when annulment is requested on the ground of corruption such application shall be made within 120 days after discovery of the corruption and in any event within three years after the date on which the award was rendered.

(3) On receipt of the request the Chairman shall forthwith appoint from the Panel of Arbitrators an *ad hoc* Committee of three persons. None of the members of the Committee shall have been a member of the Tribunal which rendered the award, shall be of the same nationality as any such member, shall be a national of the State party to the dispute or of the State whose national is a party to the dispute, shall have been designated to the Panel of Arbitrators by either of those States, or shall have acted as a conciliator in the same dispute. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (1).

(4) The provisions of Articles 41-45, 48, 49, 53 and 54, and of Chapters VI and VII shall apply *mutatis mutandis* to proceedings before the Committee.

(5) The Committee may, if it considers that circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Committee rules on such request.

(6) If the award is annulled the dispute shall, at the request of either party, be submitted to a new Tribunal constituted in accordance with Section 2 of this Chapter.

SECTION 6

Recognition and Enforcement of the Award

ARTICLE 53

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this Section, "award" shall include any decision interpreting, revising or annulling such award pursuant to Articles 50, 51 or 52.

ARTICLE 54

(1) Each Contracting State shall recognise an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgement of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgement of the courts of a constituent state.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgements in force in the State in whose territories such execution is sought.

ARTICLE 55

Nothing in Article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

CHAPTER V

REPLACEMENT AND DISQUALIFICATION OF CONCILIATORS AND ARBITRATORS

ARTICLE 56

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

(2) A member of the Commission or Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(3) If a conciliator or an arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy.

ARTICLE 57

A party may propose to a Commission or Tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by paragraph (1) of Article 14. A party to arbitration proceedings may, in addition, propose the disqualification of an arbitrator on the ground that he was ineligible for appointment to the Tribunal under Section 2 of Chapter IV.

ARTICLE 58

The decision on any proposal to disqualify a conciliator or arbitrator shall be taken by the other members of the Commission or Tribunal as the case may be, provided that where those members are equally divided, or in the case of a proposal to disqualify a sole conciliator or arbitrator, or a majority of the conciliators or arbitrators, the Chairman shall, take that decision. If it is decided that the proposal is well-founded the conciliator or arbitrator to whom the decision relates shall be replaced in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

CHAPTER VI

COST OF PROCEEDINGS

ARTICLE 59

The charges payable by the parties for the use of the facilities of the Centre shall be determined by the Secretary-General in accordance with the regulations adopted by the Administrative Council.

ARTICLE 60

(1) Each Commission and each Tribunal shall determine the fees and expenses of its members within limits established from time to time by the Administrative Council and after consultation with the Secretary-General.

(2) Nothing in paragraph (1) of this Article shall preclude the parties from agreeing in advance with the Commission or Tribunal concerned upon the fees and expenses of its members.

ARTICLE 61

(1) In the case of conciliation proceedings the fees and expenses of members of the Commission as well as the charges for the use of the facilities of the Centre, shall be borne equally by the parties. Each party shall bear any other expenses it incurs in connection with the proceedings.

(2) In the case of arbitration proceedings the Tribunal shall, except as the parties otherwise agree, assess the expenses incurred by the parties in connection with the proceedings, and shall decide how and by whom those expenses, the fees and expenses of the members of the Tribunal and the charges for the use of the facilities of the Centre shall be paid. Such decision shall form part of the award.

CHAPTER VII
PLACE OF PROCEEDINGS

ARTICLE 62

Conciliation and arbitration proceedings shall be held at the seat of the Centre except as hereinafter provided.

ARTICLE 63

Conciliation and arbitration proceedings may be held, if the parties so agree,

(a) at the seat of the Permanent Court of Arbitration or of any other appropriate institution, whether private or public, with which the Centre may make arrangements for that purpose; or

(b) at any other place approved by the Commission or Tribunal after consultation with the Secretary-General.

CHAPTER VIII
DISPUTES BETWEEN CONTRACTING STATES

ARTICLE 64

Any dispute arising between Contracting States concerning the interpretation or application of this Convention which is not settled by negotiation shall be referred to the International Court of Justice by the application of any party to such dispute, unless the States concerned agree to another method of settlement.

CHAPTER IX
AMENDMENT

ARTICLE 65

Any Contracting State may propose amendment of this Convention. The text of a proposed amendment shall be communicated to the Secretary-General not less than 90 days prior to the meeting of the Administrative Council at which such amendment is to be considered and shall forthwith be transmitted by him to all the members of the Administrative Council.

ARTICLE 66

(1) If the Administrative Council shall so decide by a majority of two-thirds of its members, the proposed amendment shall be circulated to all Contracting States for ratification, acceptance or approval. Each amendment shall enter into force 30 days after dispatch by the depository of this Convention of a notification to Contracting States that all Contracting States have ratified, accepted or approved the amendment.

(2) No amendment shall affect the rights and obligations under this Convention of any Contracting State or of any of its constituent subdivisions or agencies, or of any national of such State arising out of consent to the jurisdiction of the Centre given before the date of entry into force of the amendment.

CHAPTER X

FINAL PROVISIONS

ARTICLE 67

This Convention shall be open for signature on behalf of States members of the Bank. It shall also be open for signature on behalf of any other State which is a party to the Statute of the International Court of Justice and which the Administrative Council, by a vote of two-thirds of its members, shall have invited to sign the Convention.

ARTICLE 68

(1) This Convention shall be subject to ratification, acceptance or approval by the signatory States in accordance with their respective constitutional procedures.

(2) This Convention shall enter into force 30 days after the date of deposit of the twentieth instrument of ratification, acceptance or approval. It shall enter into force for each State which subsequently deposits its instrument of ratification, acceptance or approval 30 days after the date of such deposit.

ARTICLE 69

Each Contracting State shall take legislative or other measures as may be necessary for making the provisions of this Convention effective in its territories.

ARTICLE 70

This Convention shall apply to all territories for whose international relations a Contracting State is responsible, except those which are excluded by such State by written notice to the depository of this Convention either at the time of ratification, acceptance or approval or subsequently.

ARTICLE 71

Any Contracting State may denounce this Convention by written notice to the depository of this Convention. The denunciation shall take effect six months after receipt of such notice.

ARTICLE 72

Notice by a Contracting State pursuant to Article 70 or 71 shall not affect the rights or obligations under this Convention of that State or of any of its constituent subdivisions or agencies or of any national of that State arising out of consent to the jurisdiction of the Centre given by one of them before such notice was received by the depository.

ARTICLE 73

Instruments of ratification, acceptance or approval of this Convention and of amendments thereto shall be deposited with the Bank which shall act as the depository of this Convention. The depository shall transmit certified copies of this Convention to States members of the Bank and to any other State invited to sign the Convention.

ARTICLE 74

The depository shall register this Convention with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

ARTICLE 75

The depository shall notify all signatory States of the following:

- (a) signatures in accordance with Article 67;
- (b) deposits of instruments of ratification, acceptance and approval in accordance with Article 73;
- (c) the date on which this Convention enters into force in accordance with Article 68;
- (d) exclusions from territorial application pursuant to Article 70;
- (e) the date on which any amendment of this Convention enters into force in accordance with Article 66; and
- (f) denunciation in accordance with Article 71.

DONE at Washington in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfil the functions with which it is charged under this Convention.

FOURTH SCHEDULE

*First Column**Second Column*

Code of
Organization and Civil
Procedure
(Cap. 12).

1. The words "or under an award made and deposited in accordance with the provisions contained in Title XVI of Book Third of this Code," in section 945 thereof shall be deleted, and the words "the judgment or award," in the said section shall be substituted by the words "the judgment,".

2. Section 968 thereof shall be substituted by the following new section:

*First Column**Second Column*

“Arbitration.” 968. (1) Subject to the provision of subsection (2) of this section, any cause concerning any matter in dispute which has been brought before a court of civil jurisdiction in Malta may be submitted at the request of all the parties for determination by arbitration, under the provisions of the Arbitration Act, 1996, and the provisions of the aforesaid Act shall apply thereto.

(2) Any submission to arbitration in regard to any dispute concerning questions of personal status including those relating to separation or annulment of a marriage between husband and wife, or in regard to things or rights which may not form the subject-matter of a contract, whether absolutely or without certain formalities required by law, is null.”

3. Sections 970 to 987 thereof shall be deleted.

Civil Code
(Cap. 16).

Immediately before Sub-title I of Title XXV thereof and after section 2117 thereof there shall be added the following new section:

“Prescription and arbitration proceedings.”

2117A. With regard to prescription, the referral of any matter to arbitration in accordance with the provisions of the Arbitration Act, 1996 shall have the same effect as a judicial action before a competent court.”

British Judgements
(Reciprocal
Enforcement) Act
(Cap. 52).

The words “and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place;” in the definition of the term “judgment” in section 2 thereof shall be deleted.

Passed by the House of Representatives at Sitting No. 500 of the 17th January, 1996.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.