

**STATUTES AND RULES OF PROCEDURE OF THE
INTERNATIONAL COURT OF ARBITRATION AT THE POLISH
CHAMBER OF MARITIME COMMERCE IN GDYNIA**

Art. 1. GENERAL PROVISIONS

§ 1. STATUS OF THE INTERNATIONAL COURT OF ARBITRATION

1. The International Court of Arbitration at the Polish Chamber of Maritime Commerce in Gdynia, hereinafter called, depending on context, “The International Court of Arbitration”, “The Court of Arbitration”, “The Court”, or “MSA”, is a permanent arbitration court, a selfdependent and separate organizational entity, acting at the Polish Chamber of Maritime Commerce in Gdynia, hereinafter called “KIGM“.
2. Within the international relations the Court uses its name in English reading; “The International Court of Arbitration at the Polish Chamber of Maritime Commerce”, or the appropriate shortenings reading: “ICA/PCMC” or, depending on context, “The Arbitration Court”, or “The Court of Arbitration”.
3. The International Court of Arbitration uses a round seal with the inscription around: “Międzynarodowy Sąd Arbitrażowy przy Krajowej Izbie Gospodarki Morskiej w Gdyni”,

The International Court of Arbitration at the Polish Chamber of Maritime Commerce in Gdynia" and a mark (logo) in the middle, on the form of a stylized anchor,

4. The Arbitral Tribunal means the Arbitrators appointed to decide on the

dispute, also including a sole Arbitrator, following the dispositions of the submission to Arbitration and the present Statutes and Rules of Procedure.

§ 2. ORGANIZATION OF THE INTERNATIONAL COURT OF ARBITRATION

1. The Court's General Assembly

- 1) The International Court of Arbitration is created by all Arbitrators constituting the Court's General Assembly (hereinafter called "General Assembly", or "Assembly").
- 2) General Assembly Meetings take place as often as necessary, but at least once any calendar year.
- 3) General Assembly Meetings are convened by registered letters, to be mailed at least 21 days before the date of Meeting, by the Board of Arbitrators.
- 4) If the Assembly has not been convened by the Board of Arbitrators, the right to convene the Assembly is vested upon 10 Arbitrators acting jointly.
- 5) General Assembly shall be valid irrespective of the number of

Arbitrators present and its resolutions shall, pass by majority of votes.

2. BOARD OF ARBITRATORS

- 1) The General Assembly appoints out of its circle the Board of Arbitrators of the International Court of Arbitration (hereinafter called “Board of Arbitrators”, or “Board”), as the Court's managing and executive body.
- 2) The Board of Arbitrators is appointed by secret ballot and, as persons appointed to the said Board, shall be considered those of Arbitrators who, as a result of voting, have received successively the highest number of votes, whereas, before the appointment of Members to the Board, the Assembly shall have the duty to determine the number of the members of the Board, in a number indicated as per point 3 below.
- 3) The Board of Arbitrators is appointed in a number from 5 to 8 persons and is composed of:
 - a) President of the Board of Arbitrators, performing at the same time the function of Chairman of MSA.
 - b) from one to two Vice-Presidents of the Board of Arbitrators, performing at the same time functions of Vice-Chairmen of MSA.
 - c) Members of the Board of Arbitrators.
- 4) The Board of Arbitrators has the duty to set up itself within 7 days from the date of appointment, and to appoint its President and Vice-Presidents. Such appointment has to be made in secret ballot whereas the dispositions of point 2 shall be *mutatis mutandis* applicable.
- 5) The Board of Arbitrators is appointed for a term of office lasting four years, whereas such term begins upon the date of its appointment and terminates at the date of commencement of General Assembly during the

fourth year subsequent to the calendar year, when the Board was appointed.

- 6) Should the General Assembly appoint (co-opt) a Member of the Board during its term of office, such term would expire simultaneously with the term of office of the whole Board, irrespective of the time when it was appointed.
- 7) The Board of Arbitrators shall have the competency:
 - a) to take up resolutions regarding the enrollment of the Arbitrators in, or their deletion from the List of Arbitrators;
 - b) to submit motions to the General Assembly concerning a modification of the present Regulations and its annexes, which make their integral part;
 - c) to submit Reports to the General Assembly on the Court's activities;
 - d) to appoint the Court's Secretary, in understanding with the Board of the Polish Chamber of the Maritime Commerce;
 - e) to perform other functions foreseen under the present Statutes and Rules of Procedure.
- 8) Meetings of the Board of Arbitrators are convened by President and, in his absence, by Vice-president of the Board, whereas Resolutions of the Board pass by majority of votes, at the presence of at least three Members.
- 9) President of the of the Board of Arbitrators - Chairman of MSA, shall have competency to undertake any acts considered necessary for a correct organization and functioning of the Court, so far as they have not been reserved for the competency of other bodies and, in particular:
 - a) appointment of Arbitrator or Arbitrators, or Presiding Arbitrator,

effected on the principles specified in the further dispositions of the present Statutes and Rules of Procedure;

- b) coordination of work of the Court its bodies, the Secretary and servants;
- c) representation of the Court within the external relations;

10) In the event when President of MSA is appointed by any of the parties - participants to the arbitration proceedings, to be a Member of the Arbitral Tribunal, the competencies described under point 9), letter "a", are performed by Vice-President of the Board - Vice-Chairman of MSA.

3. SECRETARY OF THE COURT OF ARBITRATION

1) It is the duty of the Court's Secretary to undertake any acts tending to ensure a proper run of the arbitration proceedings, in conformity with the provisions of law and the present Statutes and Rules of Procedure.

2) The Secretary shall be bound in particular:

- a) to keep the List of Arbitrators and to make it available to the parties and other persons concerned, along with other materials of MSA;
- b) to receive letters and to dispatch correspondence;
- c) to conduct other administrative acts;
- d) to fix the amount of entry fees and eventual other fees;
- e) to perform orders issued by the Board of Arbitrators, Chairman of the Court and the Arbitral Tribunal.

3) The secretary shall be subordinated to the Board of Arbitrators and Chairman of MSA.

4) The Secretary is a person appointed by the Board of Arbitrators and employed under the contract of employment signed by the Board of the

Polish Chamber of Maritime Commerce.

- 5) The conditions of the contract of employment and the scope of the Secretary's duties shall be fixed by Chairman of MSA, in understanding with the Board of the Polish Chamber of Maritime Commerce.

§ 3. COMPETENCY

1. The International Court of Arbitration solves the civil-law disputes arising out of the activities connected with the foreign trade, maritime commerce and shipping.
2. Irrespective of the dispositions contained in point 1, the International Court of Arbitration is competent if in a valid submission to arbitration the parties have submitted to its decision the disputes which have arisen, or may arise between themselves in connection with a contractual, or non-contractual legal relationship, as also, if the parties did agree that their dispute would be solved within an "ad hoc" arbitration, administered in any manner whatsoever by the International Court of Arbitration.
3. In the proceedings carried out in an "ad hoc" arbitration, unless provided otherwise, by the parties, the dispositions contained in the present Statutes and Rules of Procedure and the Order of Costs and Remunerations for actions of the International Court of Arbitration at the Polish Chamber of Maritime Commerce in Gdynia, as well as for Acts Performed before this Court, shall be applicable.
4. Unless provided otherwise in the present Statutes and Rules of Procedure, during all the proceedings pending before the Court of Arbitration, the right body for a substitute appointment shall be the Chairman of this Court.

5. The Arbitral Tribunal is authorized to establish the Court's competency, as well as to ascertain the existence, validity, or scope of the submission to arbitration.
6. In the event of the Court's incompetency, the lawsuit shall be rejected by the Arbitral Tribunal, either during the trial, or at the session held in camera.
7. Objection against the Court's incompetency must be raised before entering into the dispute as to its merits.

§ 4. ARBITRATORS AND THEIR QUALIFICATIONS

1. There can only be Arbitrator a person having capacity to enter into the legal transactions.
2. Arbitrator shall be a person selfdependent, impartial and independent, as well as not susceptible to any instructions whatsoever.
3. Arbitrator shall perform the function entrusted to him in accordance with his best knowledge, ability and belief.
4. Arbitrator shall not accept his function, if in the given case justifiable doubtness may exist as to his impartiality, or independence.
5. Arbitrator shall be bound to keep in secrecy everything what he had learned in the course of the proceedings, or in connection with his participation in MSA.
6. There cannot be Arbitrator a person performing the profession of judge.

§ 5. THE ARBITRAL TRIBUNAL

1. Subject to the dispositions of points 4 and 5, unless provided otherwise by the parties, the Arbitral Tribunal shall act in a number of three Arbitrators, whereof one shall be the Presiding Arbitrator.
2. In the event of appropriate submission, as Arbitral Tribunal shall also be considered the Sole Arbitrator.
3. Subject to the dispositions of points 4 and 5, in the event when the parties to the dispute did not agree on the person of Sole Arbitrator, or did not submit to the Court their concurrent applications for the appointment of a Sole Arbitrator, the Court shall act in the composition as set forth in point 1.
4. If the value of the subject matter in dispute does not exceed 5,000,- zl. (five thousand zlotys) such dispute shall be solved by a Sole Arbitrator.
5. When the value of the subject matter in dispute does not exceed 5.000.- zl. (five thousand zlotys), the decision for directing the case to be examined by a Sole Arbitrator, shall be made by Chairman of MSA, and in his absence by Vice-Chairman of MSA, both acting jointly with Secretary of the Court of Arbitration, by appointing at the same time a consecutive Arbitrator out of the list of the enrolled Arbitrators.
6. Notice on passing the case for examination to a Sole Arbitrator and concerning the name of Arbitrator, shall be given to either of the parties.

§ 6. SEAT OF THE COURT AND PLACE OF THE ARBITRATION PROCEEDINGS

1. The seat of the International Court of Arbitration is the City of Gdynia, Republic of Poland.
2. Unless the parties have agreed otherwise, the place of the arbitration proceedings shall be the Court's seat indicated in point 1.
3. Sessions of the Arbitral Tribunal to be held in camera, as well as its other acts may take place outside the Court's seat, or place of the arbitration proceedings.

ART. 2. FUNDAMENTAL PRINCIPLES OF PROCEDURE

§ 1. PRINCIPLES OF PROCEDURE

1. While applying the dispositions of the present Statutes and Rules of Procedure, the Court of Arbitration and the Arbitral Tribunal shall take into account the provisions contained in the submission for arbitration, as also the principles of procedure agreed upon by the parties, if not contrary to the said Statutes and Rules of Procedure of this Court.
2. The Arbitral Tribunal shall have a duty to act in an impartial way, thus enabling the parties an appropriate presentation of the circumstances essential for defending their rights.
3. The parties shall have the right to present to the Arbitral Tribunal the circumstances considered by them essential for defending their rights.

§ 2. APPLICABLE SUBSTANTIVE LAW

1. The Arbitral Tribunal solves the dispute in accordance with the law chosen by

the parties and, if the parties have not chosen such law, in accordance with the law of the closest and most real connection with the legal relationship concerned.

2. While solving the dispute, the Arbitral Tribunal shall apply the principle of rightness (*ex aequo et bono*) and/or decide as “*amiable compositeur*” only if the parties have explicitly authorized it to do so.
3. Nevertheless, the Court shall in any case take into account the contractual provisions and business or maritime customs applicable to the respective legal relationship.

§ 3. SERVICE

1. A writing in the arbitration proceedings shall be considered served upon, if it has been handed over to the addressee, delivered to the seat of its enterprise, to the place of its usual stay, or to its postal address.
2. A writing in the arbitral proceedings shall also be considered served upon, if it was mailed to the last known place of seat of its enterprise indicated in the contract, the company's head-letter or correspondence exchanged between the parties, by a registered letter delivered against a return receipt, or confirming otherwise its service, or any attempt of service.
3. Notice, or writing shall be considered served upon on the day of its delivery in accordance with points 1 or 2.

§ 4. EXCLUSION OF POSSIBILITY TO RAISE OBJECTION

1. It shall be considered that the party who, although knowing that no dispositions, or decisions required under the present Statutes and Rules of

Procedure were observed, did take part in the arbitral proceedings, with out having raised immediately any appropriate objection thereto, has thus waived the right to raise such objection at a later stage.

2. The disposition of point 1 does not prejudice the obligatory regulations which remain in force at the place where the arbitration proceedings are taking place.
3. In the meaning of the present Statutes and Rules of Procedure, the term "immediately" ,applied in the contents of point 1 means the period of 14 (fourteen) days, counted as from the event which may constitute a basis to such objection.

§ 5. EXCLUSION OF LIABILITY

No Arbitrator, Court, or Polish Chamber of the Maritime Commerce, shall bear liability in respect of losses occurred in the consequence of acts, or omissions committed in connection with the pending arbitration proceedings.

§ 6. RULE OF DUE DILIGENCE

In all the matters not regulated in the present Statutes and Rules of Procedure, both the Court and the Arbitral Tribunal shall exercise due diligence to cause that the pronounced award be enforceable in the meaning of the respective regulations concerning the recognition and enforcement of the arbitration

courts' awards.

§ 7. INTERPRETATION OF THE STATUTES AND RULES OF PROCEDURE

The titles of chapters and of the particular paragraphs of the present Statutes and Rules of Procedure shall not have influence on their interpretation.

§ 8. PARTIES' RIGHTS TO FIX PRINCIPLES REGARDING THE APPOINTMENT OF ARBITRATORS

1. In the event when the proceedings before the Court are carried out in accordance with the present Statutes and Rules of Procedure, the parties may appoint as Arbitrator only a person enrolled in the List of Arbitrators of MSA.
2. In the case of an "Ad Hoc" Arbitration, the parties may appoint as Arbitrator a chosen physical person, however, the person of Sole Arbitrator, or Presiding Arbitrator, shall be appointed and designated out of persons enrolled in the List of Arbitrators kept by the Court.
3. The appointment of Arbitrators takes place in accordance with the dispositions of the present Statutes and Rules of Procedure.

§ 9. PRINCIPLES REGARDING THE APPOINTMENT OF ARBITRATORS

1. In the case when the Arbitral Tribunal is composed of three Arbitrators, the

Court's Secretary, after receipt of the lawsuit and payment of the Court's fees, summons the parties to appoint one Arbitrator by either of them.

2. In order to enable making a choice of the Arbitrator, the Court's Secretary has to forward to the parties the List of Arbitrators kept by the Court.
3. The parties have to appoint their Arbitrators by a date fixed by the Secretary, not later than during 14 days, counting as from the day of receiving the List of Arbitrators.
4. Should a party fail to appoint its Arbitrator by the date fixed by the Secretary, the Arbitrator shall be appointed by Chairman of the Court.
5. The Court's Secretary summons the Arbitrators appointed by the parties, or the Substitute Arbitrators appointed in lieu of the parties by Chairman of the Court, to appoint the Presiding Arbitrator by the date fixed by the Court's Secretary, not later than during 14 days, counting as from the day of receiving the notice for making the appointment.
6. The Presiding Arbitrator shall be designated from the List of Arbitrators kept by the Court.
7. Should the Presiding Arbitrator have not been appointed by Arbitrators, the Presiding Arbitrator shall be designated by Chairman of the Court.
8. In the case when the Arbitral Tribunal has to consist of one Arbitrator only, the Court's Secretary summons the parties to make the appointment. Such Arbitrator has to be appointed from the List of Arbitrators, which List is

forwarded by the Court's Secretary to the parties. The parties have to appoint the Arbitrator by the date fixed by the Court's Secretary.

Dispositions of point 3 are mutatis mutandis applicable.

9. Should the parties fail to appoint the Arbitrator, the latter shall be appointed by Chairman of the Court.

§ 10. MULTIPLE NUMBER OF PERSONS ON THE SIDE OF ONE PARTY

1. In the event of participation of more than one person on the claimant's or respondent's side, such persons should appoint concurrently one Arbitrator within the term fixed by the Court's Secretary.
2. Should the Arbitrator have not been appointed within the term indicated under point 1, the Arbitrator shall be designated by Chairman of the Court.
3. Dispositions of § 9 shall be mutatis mutandis applicable.
4. Summons, or other writings shall be addressed by the Court's Secretary and the party concerned to all the persons appearing on the side of either of them.

§ 11. ARBITRATOR'S DECLARATION

1. Every Arbitrator shall make a written declaration on his impartiality and independence, following the specimen constituting Annex No. 2 to the present Statutes and Rules of Procedure.
2. The Arbitrator should disclose all the circumstances which could evoke justifiable doubts with regard to his impartiality and independence.
3. Should the Arbitrator fail to submit his written statement within the term fixed by the Court's Secretary, another Arbitrator shall be designated by Chairman of the Court.

§ 12. CHALLENGE OF ARBITRATOR

1. A party may demand to challenge an Arbitrator in consideration of justifiable doubts as to his impartiality and independence. A party, acting through the Court's Secretary, may apply to the Board of Arbitrators with a written request to challenge the Arbitrator, by giving reasons for his challenge.
2. A party may demand to challenge the Arbitrator within the term of 14 days from getting learned the reasons for his challenge. After the lapse of such term, it shall be considered that the party has waived its rights to demand the Arbitrator's challenge on these reasons.
3. The Court's Secretary shall pass over the demand for challenge of the Arbitrator to the other party, as well as to the remaining Arbitrators, with a request to take an attitude with regard to its contents, within a term to be fixed by the Court's Secretary.
4. The solution concerning such request shall be made by the Board of Arbitrators in the form of decision which would not need any justification.

§ 13. CHANGE OF ARBITRATOR AND CONTINUATION OF THE PROCEEDINGS

1. A change of Arbitrator takes place in the event of his death, resignation, or challenge, as also when the Board of Arbitrators confirms by way of decision that the Arbitrator has not been duly performing his functions.

2. Request for issuing a decision on confirmation that the Arbitrator has not been duly performing his functions, may be submitted either by Arbitrator, or the party. The Board of Arbitrators may also issue such a decision ex officio.
3. The question regarding the repetition of a part, or the whole proceedings with participation of a new Arbitrator, shall be solved by Arbitral Tribunal in the form of decision.

§ 14. CONFIDENTIALITY OF PROCEEDINGS BEFORE THE COURT OF ARBITRATION

In the proceedings before the Court, all the parties to the proceedings shall be liable to observe the principle of confidentiality, within the extent under which such principle has been established in their submission to arbitration, or their concurrent statements filed with the Court, either in writing, or evidenced in the minutes of the trial.

§ 15. COURT'S FEES AND REMUNERATIONS

In connection with the proceedings before the Court, fees are collected with regard to acts performed by the Court, at the same remunerations are paid off in respect of acts performed before the Court, in accordance with: "Order of Costs and Remunerations", as per Annex No. 1 to the present Statues and Rules of Procedure.

Art. 3. EXAMINATORY PROCEEDINGS BEFORE MSA

§ 1. LANGUAGE OF PROCEEDINGS BEFORE THE COURT

1. If not otherwise provided in the submission to arbitration, the proceedings before the Court are conducted in Polish.
2. The parties may agree that the proceedings shall be conducted either in Polish, or in English, French, German, or Russian.
3. The parties' arrangement, or the decision of the Arbitral Tribunal in this respect, shall be applicable with regard to the trials, as also with regard to all the writings exchanged within the arbitration proceedings.
4. With regard to the proceedings conducted in other language than Polish, the Presiding Arbitrator of the Arbitral Tribunal shall appoint a sworn translator to assist for the entire trial.
5. Minutes from the trial shall be drawn up in Polish and translated into the language of the proceedings.
6. Writings submitted by the parties, or formulated by the Arbitral Tribunal in foreign language, must be translated into Polish by a translator, acceptable either by the Court, or the parties.
7. Costs of the translator's participation at the trial, as also costs of the translation of documents shall, be covered by the parties, according to principles determined by the Arbitral Tribunal.

§ 2. INSTITUTION OF THE PROCEEDINGS

1. The proceedings before MSA are in principle conducted in writing.
2. Institution of the proceedings before the Court takes place by filing a statement of claim.
3. A statement of claim is filed with the Court in original accompanied with sufficient number of copies destined to either of the defendants, plus one copy for either of the Arbitrators. Each copy has to be accompanied by annexes, corresponding to the annexes attached to original of the statement of claim.
4. A statement of claim should contain:
 - 1) Denomination of parties to the proceedings, with indication of their addresses.
 - 2) Exact specification of the demand, along with its reasons, as well as reference to the evidence in support of the alleged circumstances.
 - 3) Justification of the Courts competency.
 - 4) Should the submission to arbitration fail to provide otherwise, indication of the language and place of arbitration.
 - 5) Determination of value of the subject matter of dispute.
5. A statement of claim may also indicate the Arbitrator appointed by the party; it may also comprise an application for examining the case by a Sole Arbitrator, or an application for the appointment of Arbitrator by Chairman of the Court.

§ 3. SUPPLEMENT OF THE STATEMENT OF CLAIM DEFICIENCIES

1. After submission of the statement of claim, the Court's Secretary summons the claimant within a term fixed by the Court's Secretary, but not later than 14 days thereafter, counting as from the date of summons, to pay the Court's registration and arbitration fees, as well as to complement the statement of claim's deficiencies if its contents doesn't correspond to the dispositions of the preceding paragraph.
2. The amount of the registration and arbitration fee, in force on the day of submission of the statement of claim, is determined in the Order as referred to in § 15 of Art. 2 of the present Statutes and Rules of Procedure, hereinafter called: "Order of Costs and Remunerations".
3. Failing to complement the statement of claim, or failing to pay off the fees, either in the whole, or in part, the statement of claim, following decision of the Court's Secretary, shall be returned.
4. Should the Arbitrator have not been nominated in the statement of claim, the Court's Secretary, acting in conformity with his determined term, but not later than 14 days thereafter, shall summon the claimant to appoint the Arbitrator in conformity with the present Statutes and Rules of Procedure, by serving upon him a List of Arbitrators.
5. Failing to appoint an Arbitrator, the Courts Secretary shall pas over the statement of claim to Chairman of MSA, in order to appoint the Arbitrator in conformity with the dispositions of the present Statutes and Rules of Procedure.
6. Should the claimant withdraw the lawsuit by renouncing from his claim before the nomination of the Presiding Arbitrator, or a Sole Arbitrator, the

Board of Arbitrators shall issue a decision on discontinuation of the proceedings.

7. A withdrawal of the lawsuit without a renouncement of the claim, will be effective, subject to the other party's approval.
8. Arbitral Tribunal may establish the real value of the subject matter of dispute during the first session of the trial.
9. Should the Arbitral Tribunal establish that the value of the subject matter of dispute be higher than declared in the statement of claim, the Arbitral Tribunal, by way of an order, shall summon the claimant to compensate the fees up to the amount corresponding to the real value of the subject matter of dispute,
10. In the situations described in points 7 and 8, the dispositions of points 1, 2 and 3 shall be *mutatis mutandis* applicable.

§ 4. STATEMENT OF DEFENCE

1. After commencement of the proceedings and payment of the registration and arbitration fees, the Court's Secretary serves upon the respondent the statement of claim, accompanied by Statues and Rules of Procedure and List of Arbitrators, and does summon it to submit, within a time frame specified by the Court's Secretary, its statement of defence.
2. The time limit for submission of statement of defence shall be specified by the Secretary; it cannot, however, be shorter than 14 days, counting as from the date of forwarding the summons.

3. The Court's Secretary informs about the appointment of Arbitrator by the claimant and summons the respondent to appoint its Arbitrator in conformity with the dispositions of the present Statutes and Rules of Procedure.

§ 5. PASSING OF FILES OF THE CASE TO THE ARBITRAL TRIBUNAL

1. After submission of the statement of defence and appointment of Arbitrator by the respondent, or after expiration of the time limit fixed for the submission of such answer and, failing to appoint an Arbitrator, the Court's Secretary shall pass over the files of the case to Chairman, of MSA in order to appoint an Arbitrator for the respondent, or shall pass them over to the appointed Arbitrators, in order to appoint the Presiding Arbitrator.
2. In the event described under point 1, Chairman of MSA, acting in conformity with the dispositions of the present Statutes and Rules of Procedure, shall appoint the Arbitrator within 14 days, counting as from the day when he receives the files of the case.
3. The Arbitrators nominated in accordance with the dispositions of the preceding paragraphs, shall appoint the Presiding Arbitrator, thus creating jointly the Arbitral Tribunal.

§ 6. COUNTERCLAIM AND OBJECTION OF COMPENSATION

1. Until commencement of the first session of the trial, the respondent may submit its counterclaim, if such counterclaim is based on the same legal basis, or remains in connection with the plaintiffs claim, as well as is fit for getting compensated therewith, whereas its examination falls under the competency of the Court.

2. With regard to a counterclaim, the dispositions relating to the statement of claim shall be mutatis mutandis applicable.
3. The counterclaim shall be subject to examination by the Arbitral Tribunal established for examination of the main claim.
4. The respondent may, until closing of the trial, raise an objection of compensation, if such objection remains linked with the plaintiffs claim.

§ 7. WRITINGS DURING THE ARBITRATION PROCEEDINGS

1. The parties' letters exchanged during the arbitration proceedings are to be submitted to the Court in the same number of copies as the statement of claim.
2. After appointment of the Arbitral Tribunal, during the arbitration proceedings, each party shall be bound to serve upon the copies of writings, accompanied by their annexes, directly to the other party,

§ 8. ADMISSION OF THIRD PERSON TO PARTICIPATION IN THE PENDING PROCEEDINGS

1. Admission of a third person to participation in the pending proceedings may take place, subject to the parties' agreement, following decision of the Arbitral Tribunal.
2. The Court's Secretary summons the person indicated in the decision of Arbitral Tribunal, to pay, within a time limit determined by the Court's Secretary, the arbitration fee foreseen in: the Order of Costs and

Remunerations.

3. Failing to pay the arbitration fee by the person indicated in the decision of the Arbitral Tribunal, will cause that the third person concerned will not be admitted to take part in the proceedings.

4. A third person shall not be entitled to chose the Arbitrator.

§ 9. ATTORNEYS

1. Parties, as also their statutory bodies, or statutory representatives, may act before the Court, either personally, or through their attorneys.

2. As attorney may act any advocate, or legal adviser or patent adviser.

3. As the parties' attorneys may also act persons being advocates, or legal advisers in the meaning of laws in force outside the territory of the Republic of Poland, as also other persons allowed by such laws to act as attorneys.

4. As attorney may also act a co-participant to the proceedings, as well as parents, spouse, brothers and sisters, or the party's descendants, as also persons remaining with the party in the adoption relationship.

5. As attorney for a corporate body, or entrepreneur, also including that without the legal personality, may also act employees of such entity, or its superior authority.

6. In the matters connected with the protection of an industrial property, as

attorneys for the author of an inventor's design, may also act a representative of organization whose statutory tasks comprise the promotion of the industrial property matters and the assistance rendered to authors of the inventor's designs.

7. Power of attorney may include, either a processual, general power of attorney, or that for conducting particular cases, or for performing certain processual actions only.
8. Any attorney shall be bound, at his first processual action, to attach to the files of the case, his power of attorney, with signature of the principal, or a certified copy of the power of attorney. Any solicitor and legal adviser are entitled to certify by themselves the copy of their power of attorney.
9. Pending the proceedings, the power of attorney may be granted orally during the Court's session, following a statement made by the party and recorded in the minutes.
10. An attorney shall be entitled to remuneration for representation in the proceedings, in the amount determined in Order of Costs and Remunerations.

§ 10. SUSPENSION OF PROCEEDINGS

1. The Arbitral Tribunal may suspend the proceedings on application of the parties, or, in justifiable cases, *ex officio*.
2. At the party's request; or after ceasing of premises justifying the suspension of proceedings, the Arbitral Tribunal shall reopen the suspended proceedings.

3. The Arbitral Tribunal shall issue a judgement for discontinuation of the proceedings suspended on the parties' request if no application for resuming the proceedings is submitted within one year time as from the date of decision for their discontinuation.

§ 11. TRIAL

1. Trials before MSA are conducted with the exclusion of openness.
2. The date and place of trial are notified to the parties by the Court's Secretary.
3. The trial is conducted by Presiding Arbitrator .
4. In the event that the dispute is solved by Arbitral Tribunal consisting of one person only, the appointed Arbitrator becomes the Presiding Arbitrator.
5. Absence at the trial of the party, or its attorney, duly notified thereof, shall not constitute a bar to the proceedings.
6. Acting on the parties concurrent request, the Arbitral Tribunal, may solve the case without appointing a date for the trial.

§ 12. EVIDENCE

1. Arbitral Tribunal decides at its own discretion upon the parties' motions concerning evidence.

2. Arbitral Tribunal may in particular admit evidence from the supplied documents, to carry out inspections, as well as to interrogate the parties, witnesses and experts.
3. Arbitral Tribunal shall estimate at its own discretion the reliability and quality of evidence, basing on a comprehensive examination of the collected material evidence.

Arbitral Tribunal shall consider, what importance would have to be ascribed to the party's refusal of bringing forward its evidence, or to obstacles raised on its part to carry out such evidence.

4. Should it be a need of conducting the evidence outside the place of trial, the Arbitral Tribunal may assign the performance of such action to one of the Arbitrators, or to apply in this respect to a competent common court of law, or to carry out evidence in another appropriate way.
5. Arbitral Tribunal shall be entitled to establish the amount and to order the payment of an advance for covering the costs connected with the actions conducted by such court, following the Order of Costs and Remunerations in force on the day of bringing in the suit.

§ 13. MINUTES

1. Minutes are to be drawn up with regard to the trial, and every action of the Court and they are to be signed by Presiding Arbitrator and the recording clerk.
2. As recording clerk may act the Court's Secretary, or other person assigned by the Secretary.

3. The course of the recorded actions may be registered by means of a sound recording facilities, but a warning thereof has to be given before starting it up to all persons participating in the action.
4. The Court shall enable the parties and their attorneys a possibility to look through the files of the case, including their minutes, during office hours, the Court, however, doesn't deliver any duplicates, or copies of the minutes.

§ 14. CLOSING OF THE TRIAL

1. Presiding Arbitrator shall close the trial when the Arbitral Tribunal considers the case sufficiently explained, or, if it considers that the parties could have sufficiently presented the circumstances which they think essential for defending their rights.
2. Presiding Arbitrator may reopen the trial already closed, if before issuing the award the Arbitral Tribunal considers it necessary,

§ 15. DELIBERATIONS AND VOTING

1. Deliberations and voting of the Arbitral Tribunal take place without participation of the parties.
2. The award of the Arbitral Tribunal shall be passed by majority of votes.
3. Should an Arbitrator refuse taking part in the voting, the remaining Arbitrators may resolve the dispute without his participation.

4. The Arbitrator who did not agree during the voting with majority, may declare his *votum separatum* by making an appropriate mention on the award and by attaching to the files of the case a written justification of his dissenting opinion.

ART.4. AWARDS OF THE INTERNATIONAL COURT OF ARBITRATION

§ 1. KINDS OF AWARDS

1. The International Court of Arbitration shall close the proceedings by issuing the Award.
2. In the routine matters the Arbitral Tribunal, depending on necessity, shall pronounce orders, or decisions.
3. In principle, the award is not published in oral form.
4. Notwithstanding the dispositions of point 3, the Arbitral Tribunal may announce the award orally, by quoting its most essential elements, i.e. by making reference to the claim being the subject of examinations, the contents or the amount of the awarded, or dismissed claim, as also the winning and losing party. The award announced orally, shall not be substantiated orally.

§ 2. TIME LIMITATION

1. The award should be issued by the Arbitral Tribunal after deliberations, not later than 7 days, as from the day of the trial's closing.

2. The Board of Arbitrators, acting either *ex officio*, or at the request of the Arbitral Tribunal, may extend the above term by a determined period of time, if considered necessary on account of complexity of the case being the subject of solution.

4. In the event when the Arbitral Tribunal has not issued the award within the period of time indicated under point 1, or determined by virtue of the dispositions of point 2, the Board of Arbitrators may, by way of resolution, deprive the Presiding Arbitrator and the remaining Arbitrators, either in part, or in the whole, of their right to claim remunerations due to them in respect of their participation in the proceedings before the Court.

§ 3. FORM AND CONTENTS OF THE AWARD

1. The award shall be issued in writing.

2. An award should contain:
 - 1) solution of all the matters of litigation, comprised in demands of the statement of claim, accompanied by reasons thereof, unless decided otherwise by the parties.

 - 2) place and date of issuance, basis of the Court's competency and denomination of parties and Arbitrators; in the absence of indications in the award regarding the place of its issuance, it shall be considered that it was the place of the arbitration proceedings.

 - 3) solution concerning the duty to reimburse the costs of proceedings and those relating to representation in the proceedings of the processual

attorney, corresponding to his labour input, up to a maximum amount of half-price of the arbitration fee due in respect of the respective case, but no more than 80,000.00 zlotys, or its equivalent in other currency, established according to the average rate of exchange of Polish currency to other currencies, as published by the National Bank of Poland, valid for the day preceding the award.

3. The award shall also contain a decision concerning the costs of fares and hotels of Arbitrator, or other participants to the proceedings, which costs encumber the party who had assigned the respective Arbitrator and shall serve for settlement of accounts concerning the advance collected by the Court from that party for covering the arbitration costs.
4. Original award, as well as all its copies, must be provided with signatures of all members of the Court, but not less than by signatures of 2 Arbitrators, with a mention quoting the reason of the lack of signature of whichever of them, as also with signatures of President and Secretary of the Court, and the Court's stamp.

§ 4. SIGNING OF THE AWARD BY CHAIRMAN AND SECRETARY OF THE COURT

1. Before signing the award, Chairman of the Court, without interfering in its contents as to merits, may pass over the award to Presiding Arbitrator of the Arbitral Tribunal for making eventual formal amendments, or for introducing supplements.
2. By signing the award, Chairman and Secretary of the Court confirm that the Arbitral Tribunal was appointed in accordance with the Statutes and Rules of Procedure, as well as that the signatures of Members of the Arbitral

Tribunal were genuine.

§ 5. AWARD IN THE EVENT OF COMPROMISE

If after commencement of the arbitration proceedings, the parties have concluded a compromise, the Arbitral Tribunal may, on the parties request, grant to it the form of award.

§ 6. PARTIAL OR PRELIMINARY AWARD

In justifiable cases the Arbitral Tribunal may pass a partial, or preliminary award.

§ 7. SERVING UPON AN AWARD

1. After all the proceedings costs are paid off, the Court's Secretary serves the award upon the parties, either against a receipt, or confirmation of delivery, by leaving its copy in the files of the case.
2. The award of the International Court of Arbitration shall be final and binding upon the parties.

§ 8. ADJUSTMENT AND SUPPLEMENT OF AN AWARD

1. The Arbitral Tribunal may rectify in the award, ex officio, its inaccuracies, errors of the pen, account errors, or any other evident clerical errors.
2. Within two weeks from receiving the award, the party may apply for rectifying in the award its inaccuracies, errors of the pen, account errors, or other evident clerical errors.
3. A mention concerning the adjustment of the award, has to be made on the original award, as also on the delivered copies. Any subsequent

copies should take into account the wording of decision relating to the respective adjustment.

4. Within 14 days from receiving the award, a party may apply for its adjustment, or supplement, if the Arbitral Tribunal has not decided about the entirety of claim.
5. In the event that such application is justified, the Arbitral Tribunal shall, within a time frame not longer than 60 days, counting as from the date of such application, pass a supplementary award.
6. The Board of Arbitrators, acting upon motion of the Arbitral Tribunal, may extend the time frame referred to in point 4. for a determined time, if it finds this necessary, in view of the complexity of problems being the subject of solution.
7. Decision concerning a supplement of the award, shall be passed in the form of award.

§ 9. DECISIONS

Decisions passed by the Board of Arbitrators and the Arbitral Tribunal, shall not be subject of appeal.

§ 10. PUBLICATION OF AWARDS

The Board of Arbitrators may give consent to publication of the awards either in the whole, or in part, by ensuring anonymity in respect of the parties to the

proceedings.

ART. 5. MEDIATION

§ 1. PETITION FOR COMMENCING THE MEDIATORY PROCEEDINGS

1. Before commencing the proceedings before the International Court of Arbitration, another arbitration court, or common court of law, a party to the proceedings may apply to MSA with motion for carrying out a procedure tending to arrange amicable settlement of the dispute referred to in the motion.
2. Motion for commencing the mediatory proceedings should comply with the rules foreseen for the Statement of Claim specified in the present Statutes and Rules of Procedure.

§ 2. PAYMENT OF MEDIATION FEE AND SUMMONS TO THE OTHER PARTY

1. The Courts Secretary summons the applicant to pay, within a time frame fixed by the Court's Secretary, the registration fee and a half-part of the mediation fee. The amount of mediation fee is specified in the Order of Costs and Remunerations, valid for the day of submission of the motion,
2. Should the dispute have not been sufficiently clarified, the

Court's Secretary may summon the applicant to supplement the motion.

3. After payment of the registration fee and a half-part of the mediation fee, the Court's Secretary shall serve the motion upon the other party and summon it to make statement, whether it agrees to take part in the mediation proceedings, by requesting it to pay the second half-part of the mediation fee with a time limit fixed by the Court's Secretary.
4. Should the other party not agree to carrying out the mediation proceedings, the Court's Secretary shall return to applicant the mediation fee already paid off.

§ 3. APPOINTMENT OF A MEDIATOR

1. After the other party to the dispute has agreed to the mediation proceedings and has paid off its half-part of the mediation fee, the parties shall jointly appoint the mediator.
2. Should the parties fail to appoint their mediator, the person of mediator shall be appointed by Chairman of the Court, bearing in mind the character of the case. Dispositions of the present Statutes and Rules of Procedure relating to the appointment of Arbitrators, shall be *mutatis mutandis* applicable.
3. The parties may only appoint the mediator out of the List of Arbitrators kept by the Court.

§ 4. MEDIATORY PROCEEDINGS

1. After receiving from parties the files of the case in dispute, the

mediator shall arrange for a conciliatory meeting, as a result whereof he would produce to parties the proposal of amicable settlement of the dispute.

2. Both before the conciliatory meeting, or during such meeting, the mediator may contact with the parties.
3. Unless the parties provide otherwise, the mediatory proceedings should terminate at their first meeting.

§ 5. TERMINATION OF THE MEDIATORY PROCEEDINGS

1. Should the parties get inclined to settle the matter amicably, the mediator shall draw up minutes specifying the conditions, as well as the wording of the compromise.
2. The minutes are to be signed by the parties and the mediator.
3. Failing to arrange for a compromise, the mediator shall produce to the Court's files his appropriate statement in writing.
4. In the event that a compromise has been reached, or, should the mediator declare that no compromise has been attained, the mediatory proceedings shall be terminated.

§ 6. COMPROMISE IN A FORM OF THE COURT'S AWARD

1. In the event that a compromise has been reached, Chairman of the Court shall nominate the mediator to be Arbitrator entitled to pass the award by virtue of the concluded compromise.
2. The Court's Secretary shall summon the parties to pay, within a time frame fixed by the Court's Secretary, the arbitration fee due for solution of the litigation by the Court.
3. Amount of the arbitration fee is determined in Order of Costs and Remunerations, valid for the day when the motion was filed.
4. With regard to the arbitration award issued as a result of the mediatory proceedings, the dispositions of art 4, § 1 point 1 and art 4 § 2 - § 5 of the present Statutes and Rules of Procedure shall be applicable.

§ 7. PROHIBITION TO JOIN FUNCTIONS BY A MEDIATOR

Unless otherwise provided by the parties, the mediator cannot take part in the arbitration proceedings which were the subject, of the mediatory proceedings, either as arbitrator, witness, attorney, or adviser to a party.

§ 8. PROHIBITION TO MAKE REFERENCE TO THE PARTIES STATEMENTS, EXPLANATIONS, OR PROPOSALS

Unless otherwise provided by the parties, any statements, explanations and proposals made during the mediatory proceedings in connection with the possibility of an amicable settlement of the dispute, cannot be put in reference and taken into consideration during the arbitration proceedings.

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