

APPENDIX III EMERGENCY ARBITRATOR RULES

1. GENERAL PROVISIONS

1.1 As provided in Article 36.5 of the Rules, a party in need of urgent interim measures of protection that cannot await the constitution of an arbitral tribunal (the "Applicant") may apply for the appointment of an Emergency Arbitrator in accordance with the provisions of this Appendix.

1.2 The Emergency Arbitrator shall have the same power to grant any interim measures of protection as the arbitral tribunal under Article 36.1 of the Rules. However, the Emergency Arbitrator may exercise such power only if he or she is satisfied that the Applicant's need for interim relief is so urgent that it is necessary to grant interim measures of protection prior to the constitution of the arbitral tribunal. Where the urgency requirement is not fulfilled, the Emergency Arbitrator shall dismiss the Applicant's request for interim measures of protection.

1.3 The provisions of this Appendix are not intended to prevent any party from seeking urgent interim measures of protection from a competent judicial authority at any time prior to making an application for the appointment of an Emergency Arbitrator pursuant to Article 36.5 of the Rules and this Appendix, and in appropriate circumstances even thereafter. Any application for such measures from a judicial authority shall not be considered an infringement or a waiver of the arbitration agreement.

2. APPLICATION FOR THE APPOINTMENT OF AN EMERGENCY ARBITRATOR

2.1 An application for the appointment of an Emergency Arbitrator (the "Application") shall be submitted to the Institute in the number of copies required to provide one copy for each party, one for the Emergency Arbitrator and one for the Institute.

2.2 The Application shall contain the following information:

- (a) the name and contact details of the parties and of their counsel or other representatives;

- (b) identification of and, where possible, a copy of the arbitration agreement under which the dispute is to be settled;
- (c) identification of any contract, other legal instrument or relationship out of or in relation to which the dispute arises;
- (d) a brief description of the circumstances giving rise to the Application and of the underlying dispute referred or to be referred to arbitration;
- (e) a statement of the relief sought from the Emergency Arbitrator;
- (f) the reasons why the Applicant needs urgent interim measures of protection that cannot await the constitution of an arbitral tribunal;
- (g) any agreement as to the seat of arbitration, the law or rules of law applicable to the substance of the dispute, or the language of the arbitration; and
- (h) proof of payment of the Application Deposit referred to in Article 4 below.

2.3 The Application may contain such other information or documents as the Applicant considers appropriate to contribute to the efficient examination of the Application.

2.4 The Application shall be submitted in the language of the arbitration as agreed by the parties. Failing such agreement, the Application shall be submitted in the language of the arbitration agreement.

2.5 The Application may be made either before or after the commencement of the arbitration. However, the Application shall be submitted to the Institute prior to the transmission of the case file to the arbitral tribunal pursuant to Article 24 of the Rules. Failure to comply with this time limit shall result in the dismissal of the Application by the Institute.

2.6 Where the Application is submitted to the Institute before the Request for Arbitration, the Institute shall terminate the Emergency Arbitrator proceedings if the Request for Arbitration is not submitted within 10 days from the date of receipt of the Application by the Institute. In exceptional circumstances, the Institute may extend this time limit upon a reasoned request of a party or the Emergency Arbitrator.

3. APPOINTMENT OF AN EMERGENCY ARBITRATOR

3.1 If it is manifest that no agreement to arbitrate under the Rules exists, the Institute shall dismiss the Application.

3.2 If the Institute determines that it should accept the Application, it shall transmit a copy of the Application and the attached documents to the respondent once the Applicant has supplied sufficient copies and paid the Application Deposit referred to in Article 4 below.

3.3 The Institute shall seek to appoint an Emergency Arbitrator within two days after receipt of both the Application and the Application Deposit.

3.4 Once the Emergency Arbitrator has been appointed, the Institute shall notify the parties of the appointment and transmit the Application, together with any other documents that the Institute may have received from the parties (the "File"), to the Emergency Arbitrator. After that, all written communications from the parties shall be submitted directly to the Emergency Arbitrator, with a simultaneous copy to the other party.

4. APPLICATION DEPOSIT FOR THE COSTS OF THE EMERGENCY ARBITRATOR PROCEEDINGS

4.1 The Application Deposit is EUR 25,000, consisting of EUR 5,000 for the administrative fee and expenses of the Institute and EUR 20,000 for the fee and expenses of an Emergency Arbitrator.

4.2 In exceptional circumstances, the Institute may decide that the fee and expenses of the Emergency Arbitrator shall be more than EUR 20,000, or that the administrative fee and expenses of the Institute shall be more than EUR 5,000, taking into account the nature of the case, the amount of work done by the Emergency Arbitrator and the Institute, and other relevant circumstances. In that event, the Institute may increase the Application Deposit at any time during the Emergency Arbitrator proceedings.

4.3 If the Applicant fails to pay the increased Application Deposit within the time limit set by the Institute, the Emergency Arbitrator proceedings will be terminated.

4.4 If the Emergency Arbitrator proceedings are terminated prior to the rendering of the Emergency Arbitrator's decision (the "Emergency Arbitrator Decision"), the Institute shall determine the fees and expenses due to the Emergency Arbitrator and the Institute, taking into account the amount of work done by the Emergency Arbitrator and the Institute, the reason for the termination of the proceedings, and other relevant circumstances. Any amount paid by the Applicant which exceeds the fees and expenses as determined by the Institute shall be reimbursed to the Applicant.

5. SEAT OF EMERGENCY ARBITRATOR PROCEEDINGS

5.1 The seat of Emergency Arbitrator proceedings shall be the seat of arbitration as agreed by the parties.

5.2 If the parties have not agreed on the seat of arbitration, or if the designation of the seat is unclear, the Institute shall determine the seat of Emergency Arbitrator proceedings.

6. PROCEEDINGS BEFORE AN EMERGENCY ARBITRATOR

6.1 The Emergency Arbitrator shall establish a procedural timetable for the Emergency Arbitrator proceedings as soon as possible, and normally not later than within two days, after having received the File from the Institute. The Emergency Arbitrator shall communicate the procedural timetable to the parties and the Institute without delay.

6.2 The Emergency Arbitrator shall conduct the Emergency Arbitrator proceedings in such manner as he or she considers appropriate, taking into account the nature of the case and urgency inherent in the proceedings. In all cases, the Emergency Arbitrator shall ensure that the parties are treated with equality and that each party is given a reasonable opportunity to present its case.

6.3 The Emergency Arbitrator shall have the power to rule on his or her jurisdiction, including any objections concerning the existence, validity or applicability of the arbitration agreement. The Emergency Arbitrator shall resolve any disputes over the applicability of this Appendix.

6.4 The Emergency Arbitrator shall decide the Application within 15 days from the date of receipt of the File from the Institute. The Institute may extend this time limit upon a reasoned request of the Emergency Arbitrator or, if deemed necessary, on its own motion.

6.5 The Emergency Arbitrator Decision may be made even if in the meantime the Institute has transmitted the case file to the arbitral tribunal.

6.6 The Emergency Arbitrator may make the granting of any interim measure of protection subject to appropriate security being furnished by the Applicant for any costs or damage that such measure may cause to the party against which it is directed. The Emergency Arbitrator shall establish the terms of any security arrangement.

7. CHALLENGE OF AN EMERGENCY ARBITRATOR

7.1 An Emergency Arbitrator shall be impartial and independent of the parties.

7.2 Before accepting the appointment, a prospective Emergency Arbitrator shall disclose to the Institute in writing any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. The Emergency Arbitrator shall also immediately disclose to the Institute and the parties in writing similar circumstances which may arise during the course of the Emergency Arbitrator proceedings.

7.3 A party intending to challenge an Emergency Arbitrator shall submit a written notice of challenge (the "Notice of Challenge") to the Institute. The Notice of Challenge shall state the reasons for the challenge and specify the date on which the party became aware of the circumstances on which the challenge is based.

7.4 The Notice of Challenge shall be submitted to the Institute within two days from the date when the circumstances giving rise to the challenge became known to the challenging party. Failure by a party to comply with this time limit shall constitute a waiver of the right to make the challenge.

7.5 The Institute shall decide the challenge as soon as possible after having afforded an opportunity for the Emergency Arbitrator and the other party to submit comments on the Notice of Challenge within

the time limit set by the Institute. The Institute has no obligation to give reasons for its decision.

8. EMERGENCY ARBITRATOR DECISION

8.1 The Emergency Arbitrator Decision shall be made in writing and shall state the reasons upon which it is based. It shall be dated and signed by the Emergency Arbitrator.

8.2 The Emergency Arbitrator shall communicate a copy of the Emergency Arbitrator Decision to each of the parties and the Institute without delay.

8.3 The Emergency Arbitrator Decision shall be binding on the parties when rendered. By agreeing to arbitration under the Rules, the parties undertake to comply with any Emergency Arbitrator Decision without delay.

8.4 The Emergency Arbitrator may amend or revoke the Emergency Arbitrator Decision at the request of a party or, in exceptional circumstances and upon prior notice to the parties, on the Emergency Arbitrator's own initiative.

8.5 An arbitral tribunal shall not be bound by the Emergency Arbitrator Decision or the reasoning of such Decision.

8.6 The Emergency Arbitrator Decision shall cease to be binding on the parties:

- (a) if the Institute terminates the Emergency Arbitrator proceedings for failure to commence the arbitration within the time limit prescribed in Article 2.6 above;
- (b) upon the acceptance by the Institute of a challenge against the Emergency Arbitrator pursuant to Article 7 above;
- (c) if the case file is not transmitted to the arbitral tribunal within 90 days from the date of the Emergency Arbitrator Decision;
- (d) if the Emergency Arbitrator or an arbitral tribunal so decides;
- (e) upon the arbitral tribunal rendering a final award, unless the arbitral tribunal expressly decides otherwise; or

- (f) upon the termination of the arbitration before the rendering of a final award.

8.7 Subject to the provisions of Article 6.5 above, the Emergency Arbitrator shall have no further powers to act once the case file has been transmitted to the arbitral tribunal.

9. ALLOCATION OF THE COSTS OF THE EMERGENCY ARBITRATOR PROCEEDINGS

9.1 The Emergency Arbitrator Decision shall fix the costs of the Emergency Arbitrator proceedings and state which of the parties shall bear those costs or in what proportion the costs shall be borne by the parties.

9.2 The costs of the Emergency Arbitrator proceedings include:

- (a) the fee and expenses of the Emergency Arbitrator;
- (b) the administrative fee and expenses of the Institute; and
- (c) the legal and other costs incurred by the parties in relation to the Emergency Arbitrator proceedings, if such costs have been claimed and to the extent that the Emergency Arbitrator considers that the amount of such costs is reasonable.

10. OTHER PROVISIONS

10.1 Unless otherwise agreed by the parties:

- (a) the Institute and the Emergency Arbitrator shall maintain the confidentiality of the Emergency Arbitrator proceedings and the Emergency Arbitrator Decision;
- (b) each party undertakes to keep confidential the Emergency Arbitrator Decision and all other orders and decisions made by the Emergency Arbitrator, correspondence from the Emergency Arbitrator to the parties, as well as documents and other materials submitted by another party in connection with the Emergency Arbitrator proceedings, subject to the exceptions set forth in Article 49.2(a)-(c) of the Rules;

- (c) the Institute may publish excerpts or summaries of selected Emergency Arbitrator Decisions and other orders and decisions issued by an Emergency Arbitrator, provided that all references to the parties' names and other identifying details are deleted.

10.2 At the request of a party, the arbitral tribunal shall finally decide any party's claims related to the Emergency Arbitrator proceedings, including the reallocation of the costs of such proceedings and any claims arising out of or in connection with the compliance or non-compliance with the Emergency Arbitrator Decision.

10.3 Unless otherwise agreed by the parties, an Emergency Arbitrator may not serve as arbitrator in any arbitration relating to the dispute in respect of which the Emergency Arbitrator has acted.

10.4 Unless otherwise agreed by the parties, the provisions of this Appendix apply to Emergency Arbitrator proceedings initiated under arbitration agreements concluded on or after 1 June 2013.