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Uniform Rules of Procedure in the Arbitration Courts At the Chambers of Commerce of the CMEA Countries Dated February 28, 1974†

I. GENERAL PROVISIONS

1. THE JURISDICTION OF THE ARBITRATION COURT

§ 1.

1. The Arbitration Court at the Chamber of Commerce shall settle disputes resulting from contractual or other civil law relations arising between legal persons of various countries in the course of foreign trade and other international economic, scientific and technological relations.

2. The Arbitration Court shall entertain disputes mentioned in subparagraph 1 where the parties have agreed in writing to submit to its consideration a dispute which has arisen or may arise in the future. Agreement to refer such a dispute to the Arbitration Court may also be expressed, on the part of the plaintiff, by bringing an action and, on the part of the defendant, by conduct evidencing his voluntary submission to the jurisdiction of the Arbitration Court, in particular by communicating to the Arbitration Court, in reply to the enquiry of the latter, his consent to submit to its jurisdiction.

The Arbitration Court shall also entertain all disputes which the parties are bound to refer to it by virtue of international agreements.

2. ORGANIZATION AND WORK OF THE ARBITRATION COURT

§ 2. The structure of the arbitration court

The Arbitration Court shall be composed of:

- the Presidium and/or the President and his deputy (deputies);
- the Arbitrators;
- the Secretary and his deputy.

† Council for Mutual Economic Assistance (CMEA). The CMEA membership includes Bulgaria, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Mongolia, Poland, Romania, Union of Soviet Socialist Republics, and Vietnam. This English version is reprinted with permission of Kluwer Publishers from 1 Y.B. COMM. ARB. 147 (1976).

§ 3. The presidium and/or the president

1. The Presidium and/or the President of the Arbitration Court shall represent the Arbitration Court in its relations within the country and abroad.

2. In organizing the work of the Arbitration Court the Presidium and/or the President shall perform the functions set forth in these Rules.

§ 4. Arbitrators

1. The capacity to act as Arbitrator shall belong only to a person included in the List of Arbitrators, containing not less than 15 persons, who possess the necessary knowledge and capabilities to solve the disputes mentioned in sub-paragraph 1 of § 1. The Arbitrators shall be included in the List for a definite period of time. The List of Arbitrators shall specify the name of the Arbitrator, his position, scientific degree (title), place of residence, and specialty.

2. The Arbitrators are impartial and unbiased in discharging their duties. They are not representatives of the parties.

3. Each case shall be considered by a tribunal composed of three arbitrators or by a single arbitrator. The formation of a tribunal or the appointment of a single arbitrator shall be effected in accordance with these Rules. The functions of a tribunal, as specified in these Rules, shall equally relate to a single arbitrator.

§ 5. The secretary

The Secretary shall organize clerical work connected with the activities of the Arbitration Court and shall also perform other functions mentioned in these Rules.

§ 6. The seat of the arbitration court and the place of its meetings

1. The seat of the Arbitration Court and the place of its meetings shall be (the capital of the respective state).

2. In case of necessity, a tribunal may hold a meeting in another place.

§ 7. Presentation of documents

1. All documents pertaining to the institution and the carrying out of the arbitration proceedings shall be presented in a number of copies sufficient for each party to be provided with one copy and the Arbitration Court with not less than one copy.

2. The documents mentioned in sub-paragraph 1 of this paragraph, excluding written evidence (sub-paragraph 2 of § 27), shall be presented in the language of the contract, or in the language of the correspondence conducted by the parties between themselves, or in the language of the country of the

Arbitration Court. The Arbitration Court can, at its own discretion or at a party's request, direct the other party to translate into the language of the country of the Arbitration Court the documents presented by it or to secure such translation at its own expense.

§ 8. The language of the case examination

The examination of a case at the hearing shall be conducted in the language of the country of the Arbitration Court. With the consent of the parties concerned the Arbitration Court may conduct the examination in another language. If a party does not know the language in which the examination is conducted, the Arbitration Court shall, at the party's request and expense, provide it with the services of an interpreter.

§ 9. Time limits for arbitration proceedings

The Arbitration Court shall take measures to secure as far as possible, completion of the proceedings in a case within not more than 6 months from the date of the formation of the tribunal.

§ 10. Forwarding and delivery of documents

1. The Secretary shall cause all documents in a case to be forwarded to the parties. They shall be sent to the address indicated by the party.

2. Statements of claim, explanations of defendants, notices of summons, arbitration awards and rulings shall be forwarded by registered letters with advice of receipt.

3. Other documents may be forwarded by registered or ordinary letters, and notices and notifications may be sent by telegraph or telex.

4. Any of the documents mentioned above may equally be delivered personally to a party against receipt.

§ 11. Arbitration fees and costs

Computation and distribution of arbitration fees and compensation of the costs of the Arbitration Court shall be effected in accordance with the Rules on Arbitration Fees, Costs, and Expenses of the Parties forming an integral part of these Rules.

3. LAW APPLICABLE

§ 12.

The Arbitration Court shall settle disputes on the basis of the applicable rules of substantive law, guided by the provisions of the contract and having regard to trade customs.

II. PROCEEDINGS IN THE ARBITRATION COURT

1. INSTITUTION OF ARBITRATION PROCEEDINGS

§ 13. Bringing of an action

1. The arbitration proceedings shall be instituted by filing a statement of claim with the Arbitration Court.

2. The date of the filing of the statement of claim shall be the date of its delivery to the Arbitration Court, and if the statement of claim is sent by post, the date of the post stamp of the place of sending.

§ 14. The contents of the statement of claim

1. The statement of claim shall include:
 - a. the names of the parties;
 - b. the plaintiff's demands;
 - c. the plaintiff's signature;
 - d. the address of the parties.
2. The statement of claim shall also include:
 - a. substantiation of the jurisdiction of the Arbitration Court, unless such jurisdiction results from an international agreement binding upon the parties;
 - b. circumstances of fact and law on which the plaintiff bases his claim, and indication of evidence corroborating these circumstances;
 - c. the amount of the claim;
 - d. proof of payment of arbitration fee;
 - e. the name of the arbitrator chosen by the plaintiff, or the request for appointment of an arbitrator by the President of the Arbitration Court; the plaintiff can also choose a reserve arbitrator;
 - f. list of documents attached to the statement of claim.

§ 15. The amount of the claim

1. The plaintiff shall also indicate the claim amount in the statement of claim, where his claim or a part thereof has a non-pecuniary nature.

2. The amount of the claim shall be determined, in particular:
 - a. if the claim is for recovery of money, by the sum sought to be recovered;
 - b. if the claim is for vindication of property, by the value of the property sought to be vindicated;
 - c. if the claim is for recognition or transformation of a legal relationship, by the value of the subject-matter of the relationship at the moment of bringing the action;
 - d. if the claim is for an act to be done or forbore from, on the basis of the available information as to the property interests of the plaintiff.

3. If the claim consists of several demands, the amount of each demand shall be indicated separately; the amount of the claim shall then be the total amount of all the demands.

4. If the plaintiff has failed to determine, or has incorrectly determined, the amount of the claim, the Arbitration Court shall, on its own initiative or at the request of the defendant, determine the amount of the claim on the basis of the available information.

§ 16. Rectification of the statement of claim

1. On finding that the statement of claim has been filed without the requirements provided for in § 14 of the present Rules, the Secretary shall invite the plaintiff to rectify the defects so found, the time limits for such rectification, as regards the requirements of sub-paragraph 1 of § 14, not to exceed two months from the date of the receipt of such invitation. If these defects are rectified within the above-mentioned time limit, then the date of the filing of the statement of claim shall be the date mentioned in sub-paragraph 2 of § 13. Pending rectification of the above-mentioned defects the case shall remain without progress.

2. Where, despite the invitation to rectify the statement of claim, the plaintiff insists on the case being examined, the Arbitration Court shall either make an award or rule to terminate the proceedings.

2. PREPARATION OF THE CASE FOR EXAMINATION

§ 17. Explanations of the defendant

1. Upon receipt of the statement of claim the Secretary shall notify the defendant thereof and shall send him copies of the statement of claim and of the documents attached thereto, as well as a copy of the List of Arbitrators.

2. At the same time the Secretary shall notify the defendant that within 30 days after receiving the statement of claim he is entitled to file his written explanations supported by relevant evidence. At the defendant's request the above-mentioned period can be prolonged.

3. Within the same period the defendant shall indicate the name of the arbitrator chosen by him or apply for nomination of an arbitrator on his behalf by the President of the Arbitration Court; the defendant can also choose a reserve arbitrator.

§ 18. Formation of a tribunal

1. The arbitrators chosen by the parties in accordance with §§ 14 and 17 or appointed by the President of the Arbitration Court shall elect the chairman of the tribunal.

2. If the defendant fails to choose an arbitrator, or if the arbitrators fail to elect the chairman of the tribunal within ten days from the date of the

election of the second arbitrator, the arbitrator or the chairman of the tribunal shall be nominated by the President of the Arbitration Court.

3. Where there are two or more plaintiffs or defendants, the plaintiffs and the defendants shall choose one arbitrator on each side. Failing agreement among the plaintiffs or the defendants the arbitrator shall be appointed by the President of the Arbitration Court.

§ 19. Election or appointment of a single arbitrator

If the parties so agree, the case shall be examined by a single arbitrator. The single arbitrator shall be chosen from the List of Arbitrators by mutual agreement of the parties, or, failing such agreement, shall be appointed from the same list by the President of the Arbitration Court.

§ 20. Challenge to arbitrator, expert, or interpreter

1. Each party shall be entitled to challenge any arbitrator, chairman of the tribunal, or single arbitrator, if there are doubts about their impartiality, particularly if it can be supposed that they are personally, directly or indirectly, interested in the outcome of the proceedings. Also, any arbitrator, chairman of the tribunal, or single arbitrator can reject this nomination on the above-mentioned grounds. The petition of challenge must be submitted before the commencement of the proceedings. A petition submitted subsequently shall be considered only if the Arbitration Court finds the delay justifiable.

2. The question of challenge shall be decided by the other members of the tribunal. If they fail to come to an agreement, or if two arbitrators or the single arbitrator are challenged, the question of challenge shall be decided by the Presidium or the President of the Arbitration Court.

3. If the petition of challenge is granted, a new arbitrator, chairman of the tribunal, or single arbitrator shall be elected or appointed in accordance with these Rules.

4. Experts and interpreters can be challenged on the grounds mentioned in sub-paragraph 1. In this case the question of challenge shall be decided by the tribunal.

§ 21. Preparation of the case for examination by arbitrators

1. The tribunal shall check the condition of the preparation of the case for examination and, if necessary, shall take further measures to prepare the case, particularly by obtaining written explanations, evidence, or other additional documents from the parties.

2. The chairman of the tribunal can give instructions to the Secretary of the Arbitration Court in connection with the preparation and the conduct of the examination. He shall also direct the Secretary to summon the parties to the meeting.

§ 22. Summons

The time and place of the meeting of the Arbitration Court shall be communicated to the parties by notices of summons which shall be forwarded to them so as to enable each party to have at least 30 days at its disposal to prepare for the examination of the case and to appear at the meeting.

3. THE EXAMINATION OF THE CASE

§ 23. Presence at the meeting

The examination of the case shall be conducted at a public meeting. At the request of even one of the parties, or on its own initiative, the Arbitration Court shall examine the case at a private meeting.

§ 24. Participation of the parties

1. The parties can participate in the examination of the case at the meeting of the Arbitration Court directly or through their duly authorized representatives appointed by the parties at their discretion, including those appointed from among foreigners.

2. Failure to appear by a party which has been duly notified of the time and place of the arbitration meeting shall not prevent the case from being examined, unless before the completion of the examination of the case the defaulting party requests to postpone it for good reasons.

3. Each party can declare that oral examination may be conducted in its absence.

§ 25. Proceedings on the basis of written materials

The parties can agree that the tribunal should settle the dispute on the basis of written materials only, without oral examination being conducted. The Arbitration Court may, however, order an oral examination if the materials presented prove insufficient.

§ 26. Counterclaim

1. Before the oral examination of the principal claim is completed the defendant can submit a counterclaim. If owing to an unjustified delay on the part of the defendant in submitting a counterclaim the arbitration proceedings are protracted, the Arbitration Court can charge the defendant any additional expenses resulting therefrom for the Arbitration Court or the other party.

2. The counterclaim shall meet the same requirements as the principal claim.

§ 27. Evidence

1. The parties must prove the circumstances referred to them in support of their demands or objections. The tribunal can require the parties to present other evidence. It also can, at its own discretion, direct that expert examination be conducted and obtain evidence from third parties.

2. A party can present written evidence in the original or in the form of copies certified by it. The Arbitration Court can require translation of such evidence into another language where it is necessary in the interests of the examination of the case.

3. Verification of evidence shall be effected as directed by the tribunal. The tribunal can decide to entrust one of the arbitrators with conducting such verification.

4. The arbitrators shall evaluate the evidence according to their inner convictions.

§ 28. Postponement of hearing and stay of proceedings

Where necessary, on the application of the parties or on the initiative of the tribunal, examination of the case can be postponed or stayed for a definite period. Postponement of hearing or stay of proceedings shall be directed by a ruling.

§ 29. Record of arbitration meetings

1. The examination of the case at the meeting shall be recorded, the record to include the following data:

- the name of the Arbitration Court;
- the name of the case;
- the place and date of the meeting;
- the name of the parties in dispute and of their representatives;
- information as to the parties' participation;
- the names of the arbitrators, witnesses, experts, interpreters, and other participants in the meeting;
- a short description of the course of the meeting;
- the parties' demands and an account of other important statements of the parties;
- the indication of reasons for postponement of the meeting or for completion of proceedings;
- the signatures of the arbitrators.

2. The parties can acquaint themselves with the contents of the record. The tribunal can, at the request of a party, decide to amend or add to the record.

3. A copy of the record shall be given to a party at its request.

4. TERMINATION OF PROCEEDINGS

§ 30. *Completion of proceedings*

1. The arbitration proceedings shall be completed by the making of an award or of a ruling.

2. An award shall be made where the dispute is solved [sic] on its merits, including whether it is made on the basis of the plaintiff's withdrawal of the claim or on the basis of the parties' request for an award in accordance with the amicable settlement reached by them.

§ 31. *The making of the arbitration award*

1. On finding that all the facts connected with the dispute have been sufficiently clarified the tribunal shall declare the oral examination of the case completed and shall proceed to make the award.

2. The award shall be made in camera by majority of votes.

§ 32. *The contents of the arbitration award*

The arbitration award shall include, in particular:

- the name of the Arbitration Court;
- the place and date of the award;
- the names of the arbitrators (single arbitrator);
- the name of the parties and other persons participating in the case;
- the subject-matter of the dispute and a summary of the circumstances of the case;
- the decision concerning the claim, as well as concerning the fees and expenses in the case;
- the reasons for the decision;
- the signatures of the arbitrators (single arbitrator).

§ 33. *The announcement of the award*

1. Directly after the completion of the oral examination the operative part of the award shall be formulated and then orally announced to the parties or, if the parties are absent, communicated to them in writing.

2. A motivated arbitration award shall be communicated to the parties in writing within a period, not exceeding 30 days, established by the tribunal.

3. By way of exception to sub-paragraph 1 the tribunal can decide that the arbitration award shall be communicated to the parties in writing, without being announced orally, within a definite period not exceeding 30 days.

4. The President of the Arbitration Court can, in individual cases for good reasons, prolong the periods mentioned in sub-paragraphs 2 and 3.

§ 34. Additions to or rectification of the arbitration award

1. On a party's application filed not later than 30 days from the date of the receipt by it of the arbitration award the tribunal can make a supplementary award, if it appears that the arbitration award does not contain answers to all the demands of the parties. The supplementary award shall be made by the Arbitration Court on the basis of a new examination of the case with the summoning of the parties.

2. Obvious misprints or errors in the text, not bearing on the substance of the case, and arithmetical mistakes in the text of the arbitration award can be corrected by a ruling of the tribunal at a party's request or on the initiative of the tribunal.

3. The decision to supplement, or the ruling to rectify, the arbitration award shall be an integral part of the supplemented or rectified award. The parties shall not be obliged to make good any expenses connected with supplementing or rectifying the arbitration award.

§ 35. Execution of the arbitration award

The awards of the Arbitration Courts shall be final and without appeal. They shall be executed by the parties voluntarily. Awards not executed voluntarily shall be enforced according to the rules in force in the country of execution.

§ 36. Termination of proceedings without making award

1. If no arbitration award is made in the case, the proceedings shall be terminated by a ruling.

2. A ruling to terminate the proceedings shall be given, in particular:

a. where the plaintiff withdraws his statement of claim;

b. where the parties reach an amicable settlement confirmed by the tribunal without making an award, as per § 30 of these Rules;

c. in the absence of prerequisites necessary for the case to be examined and solved [sic] on its merits, including where owing to the plaintiff's inaction the case stays without progress for more than six months or where the plaintiff fails to apply for a reopening of the proceedings within one month after the expiration of the period for which the proceedings were stayed as per § 28 of these Rules.

3. Paragraphs 30 to 35 shall respectively apply to the tribunal's giving of a ruling. Prior to the formation of a tribunal the ruling to terminate the proceedings shall be given by the Presidium or the President.

APPENDIX TO THE UNIFORM RULES

RULES ON ARBITRATION FEES, COSTS, AND EXPENSES OF THE PARTIES

§ 1. *Definitions*

1. 'Arbitration fee' shall mean compensation to cover general expenses of the arbitration work (arbitrators' fees, remuneration of legal and clerical staff, clerical service, etc.) charged in respect of each case entertained.

2. 'Costs of the Arbitration Court' shall mean special expenses of the Arbitration Court incurred in the course of the examination of a case (expenses of conducting expert examination and preparing translations, remuneration of interpreters, experts and witnesses, arbitrators' travelling expenses).

3. 'Expenses of the parties' shall mean expenses incurred by the parties in defending their interests through representatives before the Arbitration Court (travelling expenses of the parties' representatives, lawyers' fees, etc.).

§ 2. *Arbitration fee*

1. The Arbitration Courts shall charge an arbitration fee calculated depending on the amount of the claim.

2. The amount of the fee shall be calculated depending on the amount of the claim according to the following scale:

<i>Claim amount</i>	<i>Arbitration fee</i>
<i>Up to 10,000 transferable roubles</i>	3%, but not less than 75 transferable roubles
<i>Upwards of 10,001 up to 100,000 transferable roubles</i>	3% of 10,000 transferable roubles (300 transferable roubles), plus 2% of the amount in excess of 10,000 transferable roubles
<i>Upwards of 100,001 up to 200,000 transferable roubles</i>	3% of 10,000 transferable roubles (300 transferable roubles) plus 2% of from 10,001 to 100,000 transferable roubles (1,800 transferable roubles), plus 1% of the amount in excess of 100,000 transferable roubles
<i>Upwards of 200,001 transferable roubles</i>	3% of 10,000 transferable roubles (300 transferable roubles) plus 2% of from 10,000 to 100,000 transferable roubles (1,800 transferable roubles), plus 1% of from 100,000 to 200,000 transferable roubles (1,000 transferable roubles), plus 0.5% of the amount in excess of 200,000 transferable roubles.

3. The arbitration fee shall be calculated and charged in the following currencies:

- in transferable roubles, where the claim amount is expressed in transferable roubles;¹
- in the national currencies of the CMEA countries, where the claim amount is expressed in one of these currencies;²
- in third countries' currencies, where the claim amount is expressed in such currency.³

4. Where the claim is brought in various currencies the Arbitration Court shall determine a single currency of the fee to be paid, but, in principle, in transferable roubles.

5. The arbitration fee shall be considered as paid the moment the plaintiff gives binding directions to the bank of his country to transfer the sum.

§ 3. Diminution of the amount and partial return of the arbitration fee

1. The arbitration fee shall be diminished by 30%, where the case is examined by a single arbitrator.

2. Where the plaintiff withdraws his claim before the communication of the hearing date is sent to him, the Arbitration Court shall return 75% of the amount of the arbitration fee to him.

3. Where the plaintiff withdraws his claim before the date of the first hearing of the case, particularly owing to the parties' having settled the dispute amicably, as well as in other instances of the Arbitration Court receiving, before the above-mentioned date, notification of the parties' refusal to have their dispute considered by the Arbitration Court, 50% of the arbitration fee shall be returned to the plaintiff.

4. Where owing to the circumstances mentioned in sub-paragraph 3 the examination of the case is terminated at the first meeting of the Arbitration Court before an award is made, 25% of the arbitration fee shall be returned to the plaintiff.

5. The provisions of sub-paragraphs 1 to 4 of this paragraph shall also apply to the minimum arbitration fee (75 roubles). However, the amount of the arbitration fee cannot be less than 20 roubles.

6. In the cases covered by sub-paragraphs 1, 2 and 3 of this paragraph the decision concerning partial return of the arbitration fee shall be made by the tribunal together with the award (the ruling) terminating the proceedings.

1. At present, payments are made according to the method defined in the Agreement on Multilateral Settlement in Transferable Roubles and the Organization of the International Bank of Economic Cooperation, concluded on October 22, 1963.

2. At present, payments are made according to the method defined in the Agreement on Non-Commercial Payments, concluded on February 8, 1963, subject to the provisions of the Agreement on the Application of the List of Non-Commercial Payments and of the Coefficient of the Computation of the Sums of Non-Commercial Payments in Transferable Roubles, concluded on July 28, 1971.

3. Payments are made according to the method adopted by the state bank of the country of the Arbitration Court.

Where a tribunal has not been formed the decision to return the fee shall be made by the Secretary on the instruction of the Presidium or the President.

§ 4. Arbitration fee in respect of counterclaim

The rules as to the arbitration fee relating to the principal claim shall also apply to a counterclaim.

§ 5. Distribution of arbitration fee

1. The arbitration fee shall be borne by the losing party, unless the question is settled otherwise.

2. Where the claim is satisfied partially, the arbitration fee shall be borne by the parties in proportion to the satisfied and the dismissed parts of the claim.

3. The parties can agree on a distribution of the arbitration fee different from what is provided for in sub-paragraphs 1 and 2 of this paragraph.

§ 6. Costs of the arbitration court

1. The costs of the Arbitration Court shall be paid by the parties in accordance with the rules of § 5.

If in this course of the examination of the case, the parties' explanations, statements, etc., as well as the tribunal's questions, explanations, and directions are, at a party's request, translated into a language other than the language of the country of the Arbitration Court, the costs of translation shall be paid by that party.

The same rule shall apply to translation of the awards of the Arbitration Court and to cases covered by § 8 of the Uniform Rules and similar cases.

2. The Arbitration court can demand that the plaintiff should deposit an advance sum to secure performance of acts necessary in the conduct of the proceedings. An advance sum can also be demanded by the Arbitration Court from a party requesting that an act should be done in the court of the proceedings, if the Arbitration Court finds the request justified.

3. The costs of the Arbitration Court shall be computed in the currency in which they are incurred.

4. The rules of sub-paragraph 5 of § 2 shall similarly apply to payment of costs and advance costs.

§ 7. Expenses of the parties

Each party shall bear its own expenses.

§ 8. Exception

By way of exception to the rules laid down in §§ 5 to 7 the Arbitration Court can direct that a party should reimburse the other party's unnecessary

expenses caused by inexpedient or unconscientious acts of the former. Such acts shall mean acts causing superfluous expenses to the other party for taking measures in the conduct of the proceedings (the examination of the case), which are not necessary, particularly by way of unjustified protraction of the proceedings.