

Excerpt of the SCC Rules:

## APPENDIX II

### EMERGENCY ARBITRATOR

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#### **Article 1 Emergency Arbitrator**

- (1) A party may apply for the appointment of an Emergency Arbitrator until the case has been referred to the Arbitral Tribunal pursuant to Article 18 of the SCC Rules.
- (2) The powers of the Emergency Arbitrator shall be those set out in Article 32 (1)-(3) of the SCC Rules. Such powers terminate when the case has been referred to the Arbitral Tribunal pursuant to Article 18 of the SCC Rules or when an emergency decision ceases to be binding according to Article 9 (4) of this Appendix.

#### **Article 2 Application for the appointment of an Emergency Arbitrator**

An application for the appointment of an Emergency Arbitrator shall include:

- (i) a statement of the names and addresses, telephone and facsimile numbers and e-mail addresses of the parties and their counsel;
  - (ii) a summary of the dispute;
  - (iii) a statement of the interim relief sought and the reasons therefor;
  - (iv) a copy or description of the arbitration agreement or clause on the basis of which the dispute is to be settled;
  - (v) comments on the seat of the emergency proceedings, the applicable law(s) and the language(s) of the proceedings; and
- proof of payment of the costs for the emergency proceedings pursuant to Article 10 (1)-(2) of this Appendix.

#### **Article 3 Notice**

As soon as an application for the appointment of an Emergency Arbitrator has been received, the Secretariat shall send the application to the other party.

#### **Article 4 Appointment of the Emergency Arbitrator**

- (1) The Board shall seek to appoint an Emergency Arbitrator within 24 hours of receipt of the application for the appointment of an Emergency Arbitrator.
- (2) An Emergency Arbitrator shall not be appointed if the SCC manifestly lacks jurisdiction.
- (3) Article 15 of the SCC Rules applies except that a challenge must be made within 24 hours from when the circumstances giving rise to the challenge of an Emergency Arbitrator became known to the party.

An Emergency Arbitrator may not act as an arbitrator in any future arbitration relating to the dispute, unless otherwise agreed by the parties.

#### **Article 5 Seat of the emergency proceedings**

The seat of the emergency proceedings shall be that which has been agreed upon by the parties as the seat of the arbitration. If the seat of the arbitration has not been agreed by the parties, the Board shall determine the seat of the emergency proceedings.

#### **Article 6 Referral to the Emergency Arbitrator**

Once an Emergency Arbitrator has been appointed, the Secretariat shall promptly refer the application to the Emergency Arbitrator.

#### **Article 7 Conduct of the emergency proceedings**

Article 19 of the SCC Rules shall apply to the emergency proceedings, taking into account the urgency inherent in such proceedings.

#### **Article 8 Emergency decisions on interim measures**

- (1) Any emergency decision on interim measures shall be made not later than five days from the date on which the application was referred to the Emergency Arbitrator pursuant to Article 6 of this Appendix. The Board may extend this time limit upon a request from the Emergency Arbitrator, or if otherwise deemed necessary.

- (2) Any emergency decision on interim measures shall:
  - (i) be made in writing;
  - (ii) state the date when it was made, the seat of the emergency proceedings and the reasons upon which the decision is based; and
  - (iii) be signed by the Emergency Arbitrator.

The Emergency Arbitrator shall promptly deliver copies of the emergency decision to each of the parties and to the SCC.

#### **Article 9 Binding effect of emergency decisions**

- (1) An emergency decision shall be binding on the parties when rendered.
- (2) The emergency decision may be amended or revoked by the Emergency Arbitrator upon a request by a party.
- (3) By agreeing to arbitration under the SCC Rules, the parties undertake to comply with any emergency decision without delay.
- (4) The emergency decision ceases to be binding if:
  - (i) the Emergency Arbitrator or an Arbitral Tribunal so decides;
  - (ii) the Arbitral Tribunal makes a final award;
  - (iii) arbitration is not commenced within 30 days from the date of the emergency decision; or
  - (iv) the case is not referred to an Arbitral Tribunal within 90 days from the date of the emergency decision.

The Arbitral Tribunal is not bound by the decision(s) of the Emergency Arbitrator.

#### **Article 10 Costs of the emergency proceedings**

- (1) The party applying for the appointment of an Emergency Arbitrator shall pay the costs of the emergency proceedings upon filing the application.
- (2) The costs of the emergency proceedings include:
  - (i) the fee of the Emergency Arbitrator which amounts to EUR 12,000; and
  - (ii) the application fee which amounts to EUR 3,000.
- (3) Upon a request from the Emergency Arbitrator or if otherwise deemed appropriate, the Board may decide to increase or reduce the costs having regard to the nature of the case, the work performed by the Emergency Arbitrator and the SCC, and other relevant circumstances.
- (4) If payment of the costs of the emergency proceedings is not made in due time, the Secretariat shall dismiss the application.

At the request of a party, the costs of the emergency proceedings may be apportioned between the parties by the Arbitral Tribunal in the final award.

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