TRIBUNAL D'ARBITRATGE
DEL PRINCIPAT D'ANDORRA

47/2014 Act of 18 December on Arbitration in the Principality of Andorra (unofficial translation)

At its session on 18 December 2014, the Andorran Parliament ("*Consell General*") passed the following 47/2014 Act of 18 December, on Arbitration in the Principality of Andorra

Preamble

Arbitration is deeply rooted in the Principality of Andorra as a mechanism for resolving disputes. The interest in arbitration is long-standing, as may be gathered from some maxims of the Andorran Manual Digest (Chapter VI): "*But it should be noted that the Battles* (judges) *must try to avoid the parties litigating and encourage them to settle, so that they do not go to court and allow their disputes to be decided by arbitrators. For the sake of public order and wellbeing, the Battles must not yield to the private interest of the parties and their consequences, which would be made manifest in their submissions."*

In that regard, historically, marriage contracts and wills contained clauses submitting to the discretion of a third party ("*home bo*") the resolution of any disputes which may arise in that context. It has also been customary for the by-laws of commercial companies or of community of co-owners to include provisions for the resolution of disputes by means of arbitration.

However, the absence of legal rules governing this institution has meant that, in practice, this option has often been ruled out by the parties, even when it had initially been envisaged. As a result, disputes have ended up being the subject of court proceedings.

Furthermore, the business world has been calling for a law regulating arbitration as a speedy mechanism for the resolution of disputes between companies, the dynamics of which are not compatible with the time frames involved before the courts.

Indeed, the extraordinary expansion of business and of national and international trade in the Principality of Andorra requires fast and simple means of resolving disputes which can arise in an activity as dynamic as that of trade.

Arbitration offers the aforesaid advantages and, therefore, the regulation of arbitration and its procedure in a modern act such as the present one is necessary. Moreover, given that a significant part of commercial activity involves relations with the neighboring countries of Spain and France, where arbitration is very well established and used by businessmen, it is even more appropriate for the Principality of Andorra to have an arbitration law.

This Act is enacted with the aim of facilitating arbitration, but also increasing it and, indirectly, promoting commercial activity together with national and international trade in the Principality of Andorra. A country cannot evolve economically if it does not have modern, dynamic and reliable mechanisms for resolving the disputes which economic progress inevitably entails.

The Act regulates the formal framework of arbitration, that is, arbitration complying to the arbitration Act, with an arbitration agreement and an award having full legal effect. As normative basis, the Act provides for arbitration in law, which is based on rules of positive law, and equity arbitration or *ex aequo et bono*, which is based on the best knowledge and understanding of the arbitrator to find a fair solution. It also makes it possible to choose between *ad hoc* arbitration (administered directly by the parties) and institutional arbitration (administered by an arbitral institution, in accordance with its rules), which is defined according to a mixed and comprehensive criterion. The Act is intended to be a general law governing commercial arbitrations having their seat in the Principality of Andorra, without prejudice to its suppletive application to specific rules relating to employment arbitration, consumer arbitration and other special type of arbitration.

The Act distinguishes between arbitration with its seat in the territory of the Principality of Andorra and arbitration involving awards made abroad and, concerning the former, between domestic and international arbitration.

The Act establishes a dual system and regulates domestic and international arbitration separately, dedicating a separate title to each of them, although most of its provisions apply to both. It is not so much a question of separate regulation, as one of emphasizing the conceptual difference between the two. This has been done with the aim of stressing the importance of international arbitration, considering the geopolitical and commercial situation of the Principality of Andorra, its multicultural nature and, despite being a small country, its significant international commercial recognition.

Arbitration is usually regulated by three levels of provisions. Firstly, by a national arbitration act; secondly, in the case of institutional arbitration, by the rules of the arbitral institution chosen by the parties; and, finally, by the rules which the parties establish in the arbitration agreement or subsequently. Consequently, the Act does not regulate all of the different aspects of arbitration, but rather the most important matters. Moreover, between the rules, must be distinguished those which are imperative or of public policy and, therefore, of mandatory application and those which apply only on a suppletive basis, according to the will of the parties.

The Act is structured into three titles, eighteen chapters, seventy-three articles, a transitional provision and a final provision. Most of its provisions are of a dispositive nature and applicable by default, that is, failing the parties to have provided otherwise.

Title I is dedicated to the general provisions, to what is meant by arbitration and its scope of application. Special forms of arbitration such as employment and consumer arbitration are excluded from the scope of the Act and will have to be dealt with under other regulations, without prejudice of this Act applying as a complement or in a suppletive manner. As regards arbitrable matters, no attempt has been made to draw a list and a general formula has been chosen which provides that can be submitted to arbitration any matters within the capacity of the parties to freely dispose of.

To complement the above, title I include also provisions relating to the Act interpretation rules, to the computation of time periods and to communications of special importance in the arbitration process. Finally, this title contains a provision regarding the tacit waiver of rights to challenge.

The Act regulates arbitration procedures having their seat in the Principality of Andorra, whether of domestic or international character, although chapter X of title II also regulates the recognition and enforcement of foreign awards. Title II deals with domestic arbitration, but most of its provisions are also applicable to international arbitration, as set forth in title III.

Title III is entirely devoted to international arbitration, which is becoming increasingly significant on account of the increase in trade and international economic relations. Given its specific features, this form of arbitration, where the freedom to choose is often possibly even more evident than in response to the demands of domestic arbitration, calls for particular procedural flexibility and, therefore, deserves a regulation of its own, even if many domestic arbitration provisions are applicable to it. International arbitration is defined on the basis of a mixed and comprehensive criterion, in the sense that it combines subjective elements, based on the domicile or place of residence of the parties and not on their nationality, and objective criteria relating to the legal relationship from which the dispute arises.

Title I. General provisions

Article 1

Purpose of the Act

The purpose of this Act is to regulate arbitration, meaning the process whereby parties voluntarily submit one or more disputes between them, before or after they arise, to be decided by a third party or third parties, who are independent and impartial and who are known as arbitrators. The arbitrator or arbitrators shall be appointed, directly or indirectly, by the parties and, following a procedure also agreed between the parties, shall resolve the relevant disputes based on the submissions made and the evidence submitted, by means of a decision (award) which the parties accept as final and enforceable and which is equivalent to a final judicial decision.

Article 2

Scope of application

1. This Act shall apply to any arbitration where the place of arbitration is in the territory of the Principality of Andorra, whether it is domestic or international in nature, subject to the provisions of the international treaties to which the Principality of Andorra is a party and any legislation containing specific provisions relating to arbitration.

2. The provisions contained in articles 9, 10, 11 and 12 and chapters IX and X of title II of the Act shall apply when the seat of the arbitration is outside the territory of Andorra.

3. Employment and consumer arbitration are excluded from the scope of this Act.

4. This Act shall be of supplementary application to arbitrations provided for in other laws.

5. This Act shall not apply in cases where the parties to an incomplete legal relationship entrust a third party “arbitrator” to decide regarding an element to form part of that relationship.

Article 3

Arbitrable matters

1. Can be subject to arbitration disputes relating tomatters within the free disposition of the parties under the applicable law.

2. The company’s by-laws may provide for internal disputes to be submitted to arbitration, including challenges to company resolutions on the part of partners or managers.

3. Can be submitted to arbitration pursuant to a provision found in a will, conflicts between heirs, other than mandatory heirs, or legatees in connection with the distribution or administration of the estate of the deceased.

4. Can also be submitted to arbitration the civil aspects of disputes relating to effective competition affecting the parties.

5. The by-laws of community of co-owners may provide that any disputes arising within the community, including challenges to the resolutions taken by the co-owners, to be submitted to arbitration.

Article 4

Definitions

For the purposes of this Act, the following terms shall have the meaning given here below:

1. Domestic arbitration means an arbitration in accordance with the terms set out in article 1, having its seat in the Principality of Andorra, provided that all of the parties have their domicile in the Principality of Andorra and that none of the circumstances which define international arbitration apply.

2. International arbitration means an arbitration which takes place in the Principality of Andorra, whenever any of the following circumstances exist:

   a) Where, at the time when the arbitration agreement is concluded, the parties have their domiciles in different states.

   b) Where the seat of the arbitration, determined in the arbitration clause or as provided by agreement, is located outside the State in which the parties have their domicile.

   c) Where the place of performance of a substantial part of the obligations deriving from the legal relationship from which the dispute arises is located outside the State in which the parties have their domicile.

   d) Where the dispute arises from a legal relationship affecting international commercial interests.

   e) Where the parties have expressly agreed that the matter covered by the arbitration agreement relates to more than one State.

   If a party has more than one domicile, the domicile shall be that having the closest relationship with the arbitration agreement and if a party has no domicile, it shall be its habitual residence.

3. Arbitral tribunal means the decision-making body of the arbitration, composed of one or more arbitrators, albeit always in uneven number, appointed directly or indirectly by the parties.

4. Electronic communication means any information, in digital form, which is generated, sent, received, processed or stored by electronic, telematic, magnetic, optical or other similar means.

5. Arbitration agreement means the agreement in which the parties express their wish to submit to arbitration all or any disputes arising, or which may arise, between them in relation to a specific legal relationship, whether contractual or otherwise.

6. Award means the decision of the arbitral tribunal.

7. Partial award means a decision of the arbitral tribunal which, during the course of the arbitral proceedings, settles specific substantive or procedural issues.

8. Definitive award means the final decision of the arbitral tribunal, which brings the arbitral proceedings to an end and settles the merits of the dispute.

9. Final award means an award against which there is no right of appeal or action for annulment of any kind, with the exception of a motion for review.

10. Foreign award means an award made outside the territory of the Principality of Andorra, regardless of the nationality or domicile of the parties, the subject matter of the dispute or the place in which the arbitration was conducted.

11. Arbitration in law means arbitration which bases the resolution of the dispute on legal reasoning.

12. Equity arbitration means arbitration which bases the resolution of the dispute on a natural sense of fairness, taking into consideration the specific features of the matter in dispute.

13. Dispute means the dispute which has been submitted to arbitration.

14. Preliminary order means an order made by the arbitral tribunal to prevent any party frustrating an interim measure.

15. Interim measure means any measure of a temporary nature ordered by the arbitral tribunal or a court of law, whether in the form of an award or in any other form, prior to the award which definitively resolves the dispute.

16. Seat of the arbitration means the place where the arbitral proceedings are held, and the award made.

Article 5

Rules of interpretation

1. Where a provision of this Act:

a) Grants the parties the power to decide freely on a particular issue, that power shall include that of authorising a third party, including an arbitral institution, to make that decision, except in the cases provided for in paragraphs 1 to 3 of article 49.

b) Refers to the arbitration agreement or to any other agreement between the parties, such agreement shall be understood to include the provisions of any arbitration rules by which the parties have agreed to abide. Those rules shall be regarded as an expression of the wishes of the parties and, therefore, shall prevail over any dispositive provisions of the Act.

c) Refers to a claim, it shall also apply to the counterclaim, and, where it refers to a response, it shall also apply to the response to a counterclaim, except in the cases provided under article 46.a) and article 53.3.a).

2. Questions concerning matters governed by this Act and which are not expressly resolved herein shall be determined in accordance with the general principles on which it is based, which include the following:

a) Principle of freedom, which consists in recognizing that the parties have the discretionary power to use alternative mechanisms, other than the judicial process, for the resolution of their disputes.

b) Principle of flexibility, which consists in establishing informal, adaptable and simple proceedings.

c) Principle of privacy, which consists in the mandatory requirement to maintain the necessary secrecy and confidentiality.

d) Principle of suitability, which consists in the capacity to act as an arbitrator or mediator.

e) Principle of speed, which consists in the continuity of the proceedings intended to resolve disputes.

f) Principle of equality, which consists in giving each party equal opportunity to assert their rights.

g) Principle of the right to be heard, which consists in the orality of the alternative proceedings.

h) Adversarial principle, which consists in the opportunity of confrontation between the parties.

Article 6

Communications and computation of time periods

1. Unless otherwise agreed by the parties, the following provisions shall apply:

a) Any notification, summons or communication shall be deemed to have been received on the day on which it is delivered to the addressee personally, or the day on which it is delivered to the domicile, habitual residence, place of business or postal address of the party. Are also valid those sent by fax, burofax or email, or any other means of telecommunication of an electronic, telematic or other similar nature which allows submissions and documents to be sent with verification of their sending or receipt and which has been referred to by the interested party. In the event that, after making reasonable enquiries, none of these places can be found, it shall be deemed to have been received on the day it is delivered, or its delivery is attempted, by registered letter or any other verifiable means, at the addressee's last known domicile, habitual residence, postal address or place of business.

b) The time periods specified in this Act shall run from the day following receipt of the relevant notification or communication. Where the last day of the period is a public holiday in the place of receipt of the notification or communication, the period shall be extended until the next working day. Where a submission has to be made within a specified period of time, that requirement shall be deemed to have been complied with if the submission is sent within that period, even if it is received later. Periods specified in days shall be computed in calendar days. Periods specified in months shall be computed from date to date.

2. The provisions of this article shall not apply to those notifications, communications, summons or calculations of time periods within the ambit of proceedings before a court performing a supporting or supervisory role during the arbitration, which shall be governed by the rules of that court.

Article 7

Tacit waiver of rights to challenge

Any party who, being aware of the breach of any provision or any requirement of the arbitration agreement, fails without good reason to report that fact within the period provided for or, in the absence thereof, as soon as possible, shall be deemed to have waived its rights to challenge provided for in this Act.

Title II. Domestic arbitration

Chapter I. Judicial intervention, assistance and supervision in arbitration

Article 8

Intervention by the state jurisdictional bodies

No state jurisdictional bodies shall intervene in matters governed by this Act, except where expressly provided.

Article 9

Competent jurisdictional bodies for supervision of and assistance with arbitration

1. The jurisdictional bodies having competence for supervision of and assistance with arbitration are as follows:

a) The Civil Section of the Court of First Instance (the"Batllia"*)* shall have jurisdiction for the appointment and removal of arbitrators.

b) The Civil Section of the Court of First Instance (the“Batllia”) shall have jurisdiction for judicial assistance with the taking of evidence.

c) The Civil Section of the Court of First Instance (the“Batllia”) shall also have jurisdiction for court orders relating to interim measures.

d) The Civil Section of the Court of First Instance (the”Batllia”) shall have jurisdiction for the enforcement of national awards and of recognised foreign awards.

e) The Civil Chamber of the High Court (the *“Sala Civil del Tribunal Superior de Justícia”*) shall have jurisdiction for the recognition of foreign awards or decisions, and annulment proceedings.

2. Any party and the arbitral tribunal may have recourse to the competent jurisdictional bodies referred to in paragraph 1.

3. The civil procedure rules shall be of supplementary application in relation to anything not provided for in this Act regarding judicial assistance or supervision of arbitration.

4. Except where it is decided not to appoint arbitrators for one of the reasons stated in article 17, there shall be no right of appeal against the decisions of the competent jurisdictional bodies referred to in paragraph 1.

5. The parties may renounce to the agreed arbitration and leave the way clear for court proceedings. In the absence of an express waiver in the terms set out above, waiver shall be deemed to exist when the claim having been brought before the jurisdictional bodies, the defendant or defendants, if there are more than one, carry out any procedural step other than thatof filing a motion declining jurisdiction.

Chapter II. The arbitration agreement

Article 10

Content, form and validity of the arbitration agreement

1. The arbitration agreement must express the will of the parties to submit to arbitration any disputes which have arisen, or which may arise, in relation to a specific legal relationship, whether contractual or otherwise.

2. The arbitration agreement must designate the arbitral tribunal or specify the procedure for its designation, either directly or by reference to arbitration rules. Any agreement which confers on one party privileges regarding the designation of the arbitral tribunal shall be invalid.

3. The arbitral agreement may take the form of an arbitration clause or an arbitration undertaking. The arbitration clause is the agreement under which the parties to one or more legal relationships agree to submit to arbitration any disputes which may arise in relation to those relationships. The arbitration undertaking is the agreement under which the parties to a dispute which has already arisen submit to arbitration. The parties may submit to arbitration at any time, even where court proceedings have already begun.

4. If a contract refers to a document that includes an arbitration clause, it shall be regarded as a written arbitration agreement, provided that the reference implies the clause to form part of the contract.

5. If the arbitration agreement is included in a standard-form contract, its validity and interpretation shall be governed by the rules applicable to such type of contract.

6. The arbitration agreement, in whatever form, must be made in writing, in one or more documents signed by the parties. The arbitration agreement shall be deemed to be made in writing where there is a record of its content in any form, whether it has been agreed verbally, by carrying out certain acts or by any other means. The requirement for the arbitration agreement to appear in writing shall also be satisfied with a communication in electronic form, if the information contained in that communication is accessible for subsequent consultation.

7. An arbitration agreement shall also be deemed to exist where, in an exchange of statements of claim and response, its existence is alleged by one party and not denied by the other.

8. The arbitration agreement is independent of the contract of which it forms part, or to which it refers, and a decision by the arbitral tribunal to declare the contract void shall not void *ipso jure* the arbitration agreement.

9. The arbitral tribunal shall have the power to rule on the existence and validity of the arbitration agreement, pursuant to article 27.

10. An agreement which appears in an exchange of letters, burofax or other means of telecommunication shall be deemed to exist and be valid, provided there is a record of its content in any form. This requirement shall be satisfied when the arbitration agreement appears and is accessible for subsequent consultation in an electronic, optical or other format.

11. In the case of a dispute with various parties, renunciation by one of the parties to the application of the arbitration agreement shall not affect the other parties.

Article 11

Arbitration agreement and merit claim before the Civil Section of the Batllia

1. When a dispute regarding a matter covered by an arbitration agreement is brought before the Civil Section of the Batllia, it must, at the request of any of the parties made no later than the first submission on the merits of the case, declare that it lacks jurisdiction and refer the matter to arbitration, unless the arbitration agreement is found to be void, without effect or unenforceable.

2. Where the action referred to in paragraph 1 has begun, arbitral proceedings may be started or continued, and an award made while the matter is still pending before the Civil Section of the Batllia.

Article 12

Arbitration agreement and orders for interim measures by the Civil Section of the Batllia

Where, prior to the arbitral proceedings or during their course, the parties apply to the Civil Section of the Batllia for an order for interim measures, that application or the granting of those measures shall not affect the existence or validity of the arbitration agreement.

Article 13

Arbitration agreement and declaration of insolvency

A declaration of insolvency shall not, in and of itself, affect an arbitration agreement signed by the insolvent party. Where the court dealing with the insolvency matter considers that the arbitration agreement could be detrimental to the creditors in the insolvency, it may decide to suspend the effects of the agreement, without prejudice to the provisions of international trade.

Chapter III. The arbitral tribunal

Article 14

Capacity to act as an arbitrator

1. Any natural persons in full possession of their civil rights may act as arbitrators, if they are not prevented from doing so by the legislation to which their profession is subjected.

2. If the arbitration agreement designates a legal person, that person shall only have the power to organise and administer the arbitration, pursuant to article 15.

3. Unless otherwise agreed by the parties, when the arbitration is to be decided by a single arbitrator, and if it is not an arbitration in equity (*ex aequo et bono*), the arbitrator in question must be a qualified jurist. In an arbitration with three or more arbitrators, at least one of them must be so qualified.

4. No person may be prevented from acting as an arbitrator on the grounds of its nationality, unless otherwise agreed by the parties.

Article 15

Institutional arbitration

1. The parties may entrust the organisation and administration of the arbitration and the appointment of the arbitrators to an arbitral institution, which may be the Andorra Chamber of Commerce, Industry and Services or any other public law corporation or public body which, according to their regulatory standard, are able to perform arbitral tasks, as well as those non-profit associations and bodies which, pursuant to their by-laws, have arbitration activities. Arbitral institutions shall discharge their functions in accordance with their own rules.

2. Arbitral institutions shall ensure that arbitrators satisfy the requirements relating to capacity, the transparency of their appointment, as well as their independence.

3. The parties may agree to abide by the rules of an arbitral institution without that institution administering the arbitration.

Article 16

Number of arbitrators

1. The parties are free to determine the number of arbitrators making up the arbitral tribunal, provided its composition is an odd number.

2. In the absence of agreement, the arbitral tribunal shall consist of a sole arbitrator, subject to the provisions of article 18.1.

Article 17

Appointment of arbitrators

1. The parties are free to designate, directly, the arbitrator or arbitrators who make up the arbitral tribunal, or to agree the procedure for their designation, subject to the provisions of paragraphs 4 and 5.

2. In the absence of such an agreement:

a) In an arbitration with a sole arbitrator, if the parties cannot agree on the arbitrator, he shall be appointed, at the request of any of the parties, by the arbitral institution designated by the parties or, where no institution has been named, by the Civil Section of the Batllia, within one month.

b) In an arbitration with three arbitrators, each party shall nominate one arbitrator and the two arbitrators thus appointed shall nominate the third, who shall act as president of the arbitral tribunal; if a party fails to appoint an arbitrator within thirty days of being duly notified by the other party of the requirement to do so, or if the two arbitrators cannot agree on the appointment of the third arbitrator within thirty days of accepting their appointment, the nomination shall, at the request of any of the parties, be made by the arbitral institution designated by the parties or, where none has been named, by the Civil Section of the Batllia, within one month.

3. Where, in the procedure for appointing arbitrators agreed by the parties:

a) a party does not act in accordance with the terms of that procedure, or

b) the parties or the two arbitrators do not reach an agreement in accordance with that procedure, or

c) a third party, including an institution, does not fulfil a duty conferred in that procedure,

any of the parties may apply to the Civil Section of the Batllia to grant the measures necessary to give effect to the appointment of the arbitrators, unless the appointment procedure provides for other means of achieving that end.

Such application may either seek only for the removal of whatever prevents the procedure for appointing the arbitrator or arbitrators agreed by parties from going forward or request the direct appointment of the arbitrator or arbitrators by the Batllia, taking into account the prior requirements agreed by the parties.

4. Where the Civil Section of the Batllia appoints the arbitrators, it shall draw up a list of three names for each arbitrator which has to be appointed and shall choose the names by drawing lots. The Batllia must necessarily take into account the requirements agreed by the parties for an arbitrator to be in an arbitral tribunal, or, where no such requirements have been established, those provided for in this Act, and it shall take steps to ensure the independence, impartiality and availability of the members found in the lists.

5. Requests brought before the Batllia in relation to the foregoing paragraphs shall be dealt with in accordance with the rules expressly laid down for that purpose, or, in the absence of such rules, by those governing incidental proceedings in accordance with the provisions of the civil procedure rules in force at the given time. The Batllia can only dismiss a request to appoint arbitrators where, based on the documentation provided, the arbitration agreement is obviously inexistent or invalid.

6. There is no right of appeal against the decisions of the Batllia on the appointment of arbitrators referred to in this article, except for the dismissal of a request made in accordance with the final point of paragraph 5.

Article 18

Appointment of arbitrators in proceedings with various parties and joinder of a third party to the arbitral proceedings

1. In the case of various claimants or defendants, where the dispute is submitted to arbitration, it must be decided by an arbitral tribunal consisting of three members. The claimants, by mutual agreement, shall name one arbitrator and the defendants, by mutual agreement, shall name another. Once the arbitrators have been appointed by each party, those arbitrators shall name a third arbitrator, who shall act as president of the arbitral tribunal. If a party fails to nominate

arbitrator within 20 days of being duly notified by the other party of the requirement to do so, the appointment of the arbitrator shall, at the request of any of the parties, be made by the arbitral institution designated or, where appropriate, by the Batllia. Likewise, if the appointed arbitrators cannot agree on the appointment of the third arbitrator within 30 days of the last of them accepting appointment and at the request of any of the parties, the appointment shall bemade by the arbitral institution designated or, where appropriate, by the Batllia.

2. Where the arbitrators are to be appointed by the designated arbitral institution or by the Civil Section of the Batllia, whichever is the competent body shall draw up a list of three names for each arbitrator to be appointed. In drawing up that list, the requirements established by the parties for choosing arbitrators must be taken into account and the necessary steps shall be taken to ensure their independence and impartiality. Once the list has been drawn up, the arbitrators shall be appointed by drawing lots.

3. While arbitration is pending resolution, any person who might have a direct and legitimate interest in the outcome of the proceedings may join the arbitration proceedings as a claimant or defendant. The third party who intends to submit to arbitration, or the party who intends to join a third party to the arbitration proceedings, must submit the application prior to the appointment of the arbitrators, except where all of the parties, including the third party wishing to join or be joined, accept the third party joining proceedings in which the arbitrators have already been appointed and the third party waives the right to appoint an arbitrator and accepts the appointment already made.

Article 19

Independence and impartiality

1. Every arbitrator must be and remain independent and impartial during the arbitral proceedings. In no event may he maintain personal, professional or commercial relations with the parties or their representatives.

2. When a person is informed of the possible appointment as an arbitrator, he should decline nomination if he does not consider himself to be independent and impartial. In case he considers himself to be independent and impartial, he must, prior to accepting his mission, disclose any facts or circumstances which may give rise to reasonable doubts as to his independence or impartiality. Equally, this person must, without delay, communicate any such facts or circumstances arising after his appointment as an arbitrator and during the entirety of the arbitral proceedings.

3. The arbitrator may not act, or have acted, as a mediator in the same dispute between the parties, unless otherwise agreed by the parties.

Article 20

Acceptance by the arbitrators

Unless the parties have agreed otherwise, each arbitrator, within fifteen days as from the day following the communication of his nomination, must notify his acceptance, in writing, to whoever nominated him as arbitrator. If the acceptance is not communicated within that period, the nomination shall be deemed not to have been accepted.

Article 21

Grounds and procedure for challenging arbitrators

1. An arbitrator may be challenged if there are circumstances that give rise to reasonable doubts as to his independence or impartiality, of if the arbitrator does not meet the conditions agreed by the parties or, where no such conditions have been agreed, those required by the applicable law. However, a party may challenge an arbitrator appointed by it only for reasons of which he becomes aware after the appointment has been made.

2. The parties are free to agree the procedure for challenging arbitrators, without prejudice to the provisions of paragraph 3.

3. In the absence of such agreement, a party who intends to challenge an arbitrator shall state the grounds for the challenge, in writing, within fifteen days of that on which it becomes aware of the arbitrator's acceptance or of any other fact referred to in article 19. Unless the challenged arbitrator withdraws from its duties or the other parties accept the challenge, the arbitral tribunal, excluding the challenged arbitrator, shall decide on the matter.

4. If a challenge under the procedure agreed by the parties, or under the procedure described in paragraph 3, does not succeed, the party raising the challenge may, where applicable, submit the challenge to the Civil Section of the Batllia, whose decision shall not be subject to appeal.

5. Until it has been decided, the challenge shall not impede the progress of the arbitral proceedings, nor prevent the challenged arbitrators from discharging their duties.

Article 22

Discharge of arbitral functions and removal of arbitrators

1. The arbitral tribunal must discharge its duties until the end of the arbitral proceedings, except where it justifies an impediment or legitimate grounds for abstention or withdrawal.

2. Where an arbitrator finds himself, whether *de facto* or *de jure*, prevented from discharging his duties, or where he discharges them with unjustified delays, his mission shall cease either pursuant to his resignation or if the parties, at any time, agree to remove him. Otherwise, if there is disagreement regarding any of the grounds for removal, any of the parties may apply to the Civil Section of the Batllia for a ruling on terminating the appointment, a decision against which there can be no appeal.

3. The application for removal may be made together with an application for the appointment of a new arbitrator, in accordance with the provisions of this article, should removal be decided.

4. The resignation of an arbitrator or the acceptance by one of the parties of the termination of an arbitrator's mission, in accordance with the provisions of this article or those of article 20.3, shall not be regarded as recognition of the existence of any of the grounds mentioned in this article or in article 21.

5. The arbitral institution or, failing it, the Civil Section of the Batllia may also decide to revoke the appointment of all or any of the arbitrators, at the request of one of the parties, after having heard the arbitrator concerned, in the event that there are justified doubt regarding the independence or impartiality of the arbitrators, or the conditions required from them in the arbitration agreement, or in the event of the physical or mental incapacity of the arbitrators or serious defects in the handling of the arbitral proceedings. The arbitrators may continue with the proceedings and deliver the award while the revocation proceedings are pending.

Article 23

Appointment of a substitute arbitrator

1. Where an arbitrator ceases to hold office on account of death, resignation, challenge, removal or because the parties agree to terminate the appointment, a substitute arbitrator shall be appointed according to the rules governing the procedure used to appoint the arbitrator to be replaced.

2. Once the substitute arbitrator has been appointed, the arbitral tribunal, after hearing the parties, shall decide whether it is necessary to repeat any of the proceedings already conducted.

Article 24

Secretary

With the agreement of the parties, the arbitral tribunal may appoint a secretary to the arbitral tribunal and establish the administrative functions and remuneration of the office.

Article 25

Liability of arbitrators and arbitral institutions

1. Acceptance of their appointment compels arbitrators and, where applicable, the arbitral institution to faithfully carry out the task entrusted to them, falling which, they will be liable for any damage they cause by reason of bad faith, recklessness or fraud.

2. Where the arbitration is entrusted to an arbitral institution, the injured party shall have a direct right of action against it, regardless of any actions for compensation the institution may have against the arbitrators.

3. Arbitrators, or the arbitral institutions on their behalf, shall be required to take out professional indemnity insurance or an equivalent guarantee, for the minimum amount established under a Government regulation.

Article 26

Provision of funds

Unless otherwise agreed by the parties, the arbitral tribunal as well as arbitral institutions may require from the parties the provision of any funds they consider necessary to cover the fees and expenses of the arbitral tribunal and those which may be incurred in the administration of the arbitration. Should the parties fail to provide the funds, the arbitral tribunal may suspend or terminate the arbitral proceedings. If any of the parties does not provide the relevant funds within the required time limit, the arbitrators, before deciding to terminate or suspend the proceedings, shall inform the remaining parties, so that they may make up the funds within a new time limit established by the arbitrators, should they wish to do so.

Chapter IV. Jurisdiction of the arbitrators

Article 27

Power of the arbitral tribunal to rule on its own jurisdiction

1. The arbitral tribunal shall have the power to rule on its own jurisdiction, in particular on objections relating to the existence or validity of the arbitration agreement, the appointment of the arbitrators, the arbitrability of the dispute and any other objections which, if accepted, would prevent dealing with the merits of the dispute.

2. An objection to the arbitral tribunal jurisdiction, and the other objections referred to in paragraph 1, must be raised by the parties no later than the submission of the response to the statement of claim. The fact that a party has appointed or participated in the appointment of the

arbitrators shall not preclude that party from raising such objections. Any objection that the arbitrators are exceeding the scope of their mission must be made as soon as the matter alleged to be beyond their mission occurs during the arbitral proceedings.

3. The arbitral tribunal may only admit objections raised late if the delay is justified. Any party who, being aware of a ground for objection, fails to raise it in due time, without good reasons, waives the right to invoke it.

4. The arbitral tribunal may rule on the objections referred to in paragraphs 1 and 2 as a preliminary issue, by means of a partial award, or in the final award, together with the other matters submitted for decision and relating to the merits of the dispute. The decision of the arbitral tribunal may only be challenged by means of an application for annulment of the award which has been rendered. If the arbitral tribunal dismisses the objections by means of a preliminary decision, any application for annulment of that decision shall not suspend the arbitral proceedings.

Chapter V. Interim measures and preliminary orders

Section one. Interim measures

Article 28

Power of the arbitral tribunal to order interim measures

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of any party, order such interim measures as it deems necessary. The arbitral tribunal may order one of the parties to:

1. Maintain or restore the *statu quo* until the dispute has been resolved.

2. Take measures to prevent any actual or imminent damage, or interference in the arbitral proceedings, or to avoid carrying out certain acts which are likely to cause damage or interference in the arbitral proceedings.

3. Provide any means of preserving assets to allow any subsequent award to be enforced.

4. Preserve any evidence which could be appropriate and relevant to resolving the dispute.

Article 29

Conditions for ordering interim measures

1. The applicant for any of the interim measures provided for in paragraphs 1, 2 and 3 of article 28 must demonstrate to the arbitral tribunal that:

   a) if the interim measure is not ordered, some damage is likely to occur which cannot be adequately remedied by means of compensation, and which is significantly more serious than that which the party affected by the measure may suffer, if it is ordered; and

   b) there is a reasonable possibility of the applicant's claim on the merits of the dispute being successful. The decision of the arbitral tribunal regarding that possibility in no event prejudges the subsequent decisions of the arbitral tribunal.

2. In the case of an interim measure applied for under the provisions of article 28.4, the requirements listed in paragraph 1 shall only apply to the extent which the arbitral tribunal considers appropriate.

3. The arbitral tribunal cannot impose interim measures on third parties who are not parties to the arbitral proceedings.

Section two. Preliminary orders

Article 30

Applications for preliminary orders and the conditions for their issuance

1. Unless otherwise agreed by the parties, any party, without the need to notify the others (*ex parte*), may apply for an interim measure to be granted and request that the arbitral tribunal issue a preliminary order to order a party not to frustrate the interim measures applied for.

2. The arbitral tribunal may issue a preliminary order where it considers that prior notification of the interim measure to the party against whom the measure in question is to be granted runs the risk of the interim measure being frustrated.

3. The conditions set out in article 29 apply to any preliminary order, when the damage to be assessed in accordance with article 29.1.a) is that which is likely to result, whether the preliminary order is made or not.

Article 31

Specific rules relating to preliminary orders

1. Once the application for a preliminary order has been submitted, the arbitral tribunal must declare whether it is justified or not.

2. As soon as it has declared whether an application for a preliminary order is justified, the arbitral tribunal must notify the parties both of the application and of the preliminary order itself, if it has been made, as well as the interim measure which the preliminary order is intended to preserve. Furthermore, the arbitral tribunal must notify all the communications relating to the preliminary order, including providing a record of the content of any verbal communication, between any of the parties and the arbitral tribunal regarding the matter.

3. At the same time, the arbitral tribunal shall give the party affected by the preliminary order the opportunity to assert its rights as soon as possible.

4. The arbitral tribunal shall, without delay, rule on any objection raised against the preliminary order.

5. Every preliminary order shall expire twenty days after the date on which it was made by the arbitral tribunal. However, the arbitral tribunal may grant an interim measure confirming or modifying the preliminary order, once the party against whom the order in question was made has been notified and has had the opportunity to asserts its rights.

6. Preliminary orders are binding on the parties but are not, per se, object of judicial execution. Preliminary orders do not constitute an award.

Section Three. Provisions applicable to interim measures and preliminary orders

Article 32

Modification, suspension and revocation

The arbitral tribunal may, at any time, modify, suspend or revoke interim measures it has granted or preliminary orders it has made, either at the request of one of the parties or, in exceptional circumstances and having first notified the parties, of its own motion.

Article 33

Requirement to provide security

1. The arbitral tribunal may require the applicant for an interim measure to provide adequate security in respect of the measure.

2. The arbitral tribunal must require the applicant for a preliminary order to provide security in respect of the order, except where it considers it inappropriate or unnecessary.

Article 34

Communication of information

1. The arbitral tribunal may require any of the parties to make known, immediately, any significant change in the circumstances which gave rise to the measure being applied for or granted.

2. The applicant for a preliminary order must disclose to the arbitral tribunal any fact which may be relevant to the decision which the arbitral tribunal has to take with regard to making or maintaining the order and remains obliged to do so until the party against whom the order has been applied for has had the opportunity to assert its rights to be heard regarding the order. Thereafter, the provisions of paragraph 1 shall apply.

Article 35

Costs and damages

The applicant for an interim measure or preliminary order shall be liable for any costs and damages which that measure or order causes to any party, where the arbitral tribunal subsequently determines that, based on the facts of the case, the interim measure should not have been granted or the preliminary order made. The arbitral tribunal may, at any time during the proceedings, order payment of such costs or compensation for such damage. Where the arbitral tribunal has ordered the provision of security, the amount of the costs and damages shall be deducted from the security provided.

Section four. Recognition and enforcement of interim measures

Article 36

Recognition and enforcement

1. Any interim measure granted by the arbitral tribunal is binding and must be enforced immediately. Unless the arbitral tribunal provides otherwise, it must be enforced when an application is made to the state jurisdictional body competent for its enforcement, regardless of the state at which the arbitral proceedings are and without prejudice to the provisions of article 37.

2. The party applying for, or which has obtained, the recognition and enforcement of an interim measure must, without delay, inform the state jurisdictional body if the revocation, suspension or modification of that measure is ordered.

3. The state jurisdictional body to which an application for the recognition or enforcement of an interim measure is made may, if it considers it appropriate, require the applicant to provide adequate security, where the arbitral tribunal has not ruled yet on such security, or where such security is necessary to protect the rights of third parties.

4. Where agreed between the parties in the arbitration agreement, the arbitral tribunal may impose sanctions if the interim measures are not complied with.

5. Arbitral decisions regarding interim measures, whatever form they take, shall be subject to the provisions of this Act relating to the annulment and enforcement of awards.

Article 37

Grounds for refusing recognition or enforcement

1. The recognition or enforcement of an interim measure may only be refused:

a) If the state jurisdictional body, acting at the request of the party affected by the measure, finds that:

i. the refusal is justified on any of the grounds listed in article 56.2.a); or

ii. the decision of the arbitral tribunal regarding the provision of security for the interim measure granted by the arbitral tribunal has not been complied with, or

iii. the interim measure has been revoked or suspended by the arbitral tribunal or, where it has jurisdiction to do so, by jurisdictional body of the state where the arbitration proceedings are being conducted or by application the law under which the measure was granted, or

b) If the state jurisdictional body rules that:

i. the interim measure is incompatible with its powers, except where the court does not grant the measure and makes it subject to its own powers and procedures, in order to be able to enforce it without modifying its content, or if

ii. any of the grounds for refusal listed in article 56.2.b) is applicable to the recognition or enforcement of the interim measure.

2. Any decision reached by the state jurisdictional body regarding any of the grounds listed in paragraph 1 is only applicable for the purposes of the application for recognition or enforcement of the interim measure. The state jurisdictional body before which the application for recognition or enforcement is made cannot, in the exercise of its powers, revise the content of the interim measure.

Section Five. Interim measures ordered by the Court of first instance (“Batllia)

Article 38

Interim measures ordered by the Civil Section of the Batllia

1. The arbitration agreement shall not prevent the parties, prior to the arbitral proceedings or during their course, from applying to the Civil Section of the Batllia to grant interim measures, nor shall it prevent the Civil Section of the Batllia from granting them. Neither the application for, nor the granting of, such measures shall affect the efficacy of the arbitration agreement.

2. The Civil Section of the Batllia shall also have competence to grant interim measures in support of the arbitral proceedings, regardless of whether they are taking place in its country of jurisdiction, in the same way as in court proceedings. The Civil Section of the Batllia shall exercise its jurisdiction in accordance with its own procedure.

Chapter VI. Conduct of the arbitral proceedings

Article 39

Fundamental principles of the arbitral proceedings

1. The fundamental principles of the arbitral proceedings, which all parties must respect, are the principle of equality, the right to be heard and the adversarial principle. All parties must be treated equally and each of them must be given sufficient opportunity to assert their rights.

2. The arbitral tribunal and the arbitral institution, where applicable, as well as the parties, experts and any other one involved in the arbitral proceedings, are required to keep confidential all information which they became aware of during the course of the arbitral proceedings, unless otherwise agreed by the parties.

Article 40

Determining the arbitral procedure

1. Subject to the mandatory provisions of this Act, the parties may freely agree the procedure to be followed by the arbitral tribunal, the parties and any other participants in the arbitral proceedings.

2. In the absence of agreement, the arbitral tribunal may, subject to the mandatory provisions of this Act, establish the rules and conduct the arbitral proceedings in whatever manner it considers appropriate, without being subject to the rules laid down for the ordinary courts. This power of the arbitral tribunal includes, inter alia, the power to decide on the admissibility, relevance and usefulness of evidence, on the taking of evidence, even ex officio, and on the evaluation thereof.

Article 41

Seat of the arbitration

1. The parties are free to determine the seat of the arbitration. In the absence of agreement, the arbitral tribunal shall determine the seat, having regard to the circumstances of the case and theconvenience of the parties.

2. Without prejudice to the provisions of paragraph 1, the arbitral tribunal may, after consulting the parties and unless otherwise agreed by the parties, meet at any place which it considers appropriate to examine witnesses, hear experts or the parties, or to investigate or inspect goods or other objects or documents.

3. The arbitral tribunalmay hold deliberations in anyform, at any time and in any place it considers appropriate.

4. Unless the parties agree otherwise, the seat of arbitration determine the law governing the arbitrability, the arbitration agreement, the arbitral procedure (lex arbitri), the state courts having competence to assist and supervise the arbitration, including the constitution of the arbitral tribunal, the granting of interim measures, and the nationality, form and annulment of the award.

Article 42

Commencement and conduct of the arbitral proceedings

1. Unless otherwise agreed by the parties, the commencement date of the arbitral proceedings relating to a specific dispute shall that on which the defendant receives notice of the request to submit the dispute to arbitration.

2. The parties and the arbitrators must act quickly and with loyalty in conducting the arbitral proceedings.

Article 43

Language of the arbitration

1. The parties are free to agree on the language or languages to be used in the arbitral proceedings. In the absence of such agreement, the arbitral tribunal shall determine the language or languages to be used. Unless provided otherwise, the chosen language or languages shall be used in the submissions of the parties, the hearings and any award, decision or other communication of the arbitral tribunal.

2. The arbitral tribunal may order that any evidence documented in a language or languages other than those agreed by the parties or determined by the arbitral tribunal be accompanied by a translation into the language or languages agreed by the parties or determined by the arbitral tribunal. However, submissions and documents written in Spanish, French or English may be submitted without the need for them to be translated, except where the parties or the arbitral tribunal decide otherwise.

Article 44

Statement of claim and response

1. Within the period of time agreed by the parties or determined by the arbitral tribunal and unless the parties have agreed otherwise as regards the elements which the statement of claim and the response must contain, the claimant must state the nature and purpose of the claim, as well as the facts supporting it, and the defendant can answer and challenge the facts stated and the claims made in the statement of claim and make also a counterclaim.

2. When making their submissions, the parties must provide all the documents which they consider relevant or make reference to any documents or other evidence which they plan to rely on.

3. Unless otherwise agreed by the parties, any party may modify or expand the statement of claim or the response during the course of the arbitral proceedings, provided that, in the opinion of the arbitral tribunal, any such changes respect the fundamental principles provided for in article 39, do not substantially alter the object of the proceedings and are not inadmissible on account of the delay in submitting them.

Article 45

Hearings and written proceedings

1. Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether hearings are to be held for presenting submissions, taking evidence and making oral conclusions, or whether the proceedings are to be conducted solely on the basis of documents and other written evidence.

However, unless the parties have agreed that no hearings are to be held, the arbitral tribunal can convene hearings, at the appropriate stage of the proceedings, if any of the parties requests it.

2. The arbitral tribunal shall give the parties enough prior notice of any hearings or meetings to examine goods, products or documents, in which the parties may participate directly or through their representatives.

3. Hearings by videoconference, with the necessary guarantees, shall require the consent of the parties and the approval of the arbitral tribunal.

4. A documentary record of all the hearings shall be kept.

5. Any submissions, documents, expert opinions and other information or evidence provided to the arbitral tribunal by one of the partiesmust be transmitted immediately by it to the other parties.

6. Where a party withholds a piece of evidence, the arbitral tribunal may require that party to submit it in the manner which it determines.

Article 46

Procedural default by the parties

Unless otherwise agreed by the parties, where, without showing sufficient ground in the opinion of the arbitral tribunal:

a) The claimant fails to submit the statement of claim in due time, the arbitral tribunal shall terminate the proceedings, unless, after hearing the defendant, the latter expresses the intention to make a claim.

b) The defendant fails to communicate the statement of defence in due time, the arbitral tribunal shall continue the proceedings, without treating such failure as an acceptance or admission of the facts alleged by the claimant.

c) One of the parties fails to appear at a hearing or to produce evidence, the arbitral tribunal can continue the proceedings and deliver the award based on the evidence before it.

Article 47

Appointment of experts by the arbitral tribunal

1. Unless otherwise agreed by the parties, the arbitral tribunal may, of its own motion or at the request of a party, appoint one or more experts to report on specific matters determined by the arbitral tribunal, and may require any of the parties to provide the expert with the relevant documentation or to produce, or provide access to the relevant documents, products or other goods for inspection.

2. Unless otherwise agreed by the parties, at a party's request or if the arbitral tribunal considers it necessary, the expert having submitted a written or oral report must participate in a hearing where the arbitral tribunal and the parties, on their own or assisted by experts, will have the opportunity to put questions to him regarding the points in dispute.

3. The provisions of the preceding paragraphs shall be understood to be without prejudice to the right of the parties, unless otherwise agreed, to submit expert reports by experts freely appointed by them.

Article 48

Assistance from the Civil Section of the Batllia for the taking of evidence

1. The arbitral tribunal, or any of the parties with the approval of the arbitral tribunal, may request assistance from the Civil Section of the Batllia with the taking of evidence. The Civil Section of

the Batllia may provide such assistance within the scope of its jurisdiction and in accordance with the rules governing the means of evidence.

2. The assistance provided by the Civil Section of the Batllia may consist in taking the evidence before the Batllia itself, at its sole direction, or in the Batllia taking the specific measures necessary for the evidence to be taken before the arbitral tribunal.

3. In both cases, the Civil Section of the Batllia shall provide the applicant with a written record of the proceedings carried out.

Chapter VII. Making of the award and termination of the proceedings

Article 49

Rules applicable to the merits of the dispute.

1. The arbitral tribunal shall decide the dispute in accordance with the rules of law chosen by the parties and applicable to the merits of the dispute (*lex causae*). Any reference to the law or legal system of a specific State shall be deemed to be made, unless otherwise specified, to the substantive law of that State and not to its conflict of laws rules.

2. If the parties do not determine the applicable legal rules, the arbitral tribunal shall apply those it deems appropriate.

3. The arbitral tribunal shall only decide on the basis of equity (*ex aequo et bono*) if the parties have expressly authorised it to do so.

4. In any event, the arbitral tribunal shall decide in accordance with the terms of the contract and shall consider the relevant trade usages.

5. Unless the parties stipulate otherwise, the arbitral tribunal may, at any time, make partial awards regarding part of the merits of the dispute, regarding the jurisdiction of the arbitral tribunal or regarding interim measures.

Article 50

Decision-making by a panel of arbitrators

1. In proceedings where the arbitral tribunal consists of more than one arbitrator, any decision shall be taken by a majority vote of its members, unless otherwise agreed by the parties.

2. The deliberations of the arbitral tribunal are secret.

3. Where authorised by the parties or by all the members of the arbitral tribunal, the president may decide questions of organisation, procedure and the progress of the proceedings.

Article 51

Award on agreed terms by the parties

1. If the parties reach an agreement during the arbitral proceedings which wholly or partially settles the dispute, the arbitral tribunal shall terminate the proceedings in respect of the points agreed and, if both parties request it and the arbitral tribunal sees no reason to object, it shall record that settlement in the form of an award on the terms agreed by the parties.

2. The award on agreed terms shall be made in accordance with the provisions of article 52 and it shall state that it is an award. The award shall have the same nature and effect as any other award made regarding the merits of the dispute.

Article 52

Form, time limit, content and notification of the award

1. Unless otherwise agreed by the parties, the arbitral tribunal shall decide the dispute in a single award or in as many partial awards as it deems necessary.

2. Unless otherwise agreed by the parties:

a) The arbitral tribunal must decide the dispute within six months of the date of submission of the response to the statement of claim or the expiry of the time limit for its submission.

b) That period of six months may be extended by the arbitral tribunal for a period of no more than two months, by means of a reasoned decision.

c) The expiry of that period or the extension thereof, without the definitive award having been made shall not affect the effectiveness of the arbitration agreement, nor the validity of any award made, without prejudice to any liability which the arbitrators may incur.

3. Any award made by the arbitral tribunal must contain:

a) the date on which it is made;

b) the names, surnames or the denomination of the parties, as well as their domicile or registered office;

c) the name of the lawyers or representatives of the parties, where applicable;

d) the name of the arbitrators making up the arbitral tribunal which deliver the award;

e) the seat of the arbitration, which shall be regarded as the place where the award is made;

f) a concise statement of the respective claims of the parties and the evidence produced;

g) the decision;

h) the costs, where applicable and if not agreed by the parties in the arbitration agreement.

4. In the case of arbitration in law, the award made by the arbitral tribunal must always be reasoned, except where the award is made on agreed terms, pursuant to article 51. In the case of equity arbitration, however, the parties may agree that the award does not need to be reasoned.

5. Any award must be made in writing and be signed by the arbitrators making up the arbitral tribunal. The award shall be regarded as being made in writing when its content and signatures are recorded and accessible for subsequent consultation in an electronic, optical or other format.

6. In proceedings with more than one arbitrator, the signatures of the majority of the members of the arbitral tribunal, or that of the presiding arbitrator alone, shall suffice, provided that the reasons for the absence of one or more signatures are stated.

7. If any of the arbitrators making up the arbitral tribunal votes against the decision of the majority, he can express his dissenting vote.

8. Once it has been made, the arbitral tribunal shall notify the award to each of the parties in the form and within the period of time agreed by the parties, or, in the absence of such agreement,

by delivering to each of them a copy of the award signed by the arbitrators in accordance with paragraph 5.

9. Any of the parties may require, before the award is made, the arbitral tribunal to have the award recorded before a public notary at their own expense.

Article 53

Suspension or termination of the proceedings

1. The parties may suspend the proceedings, at any time and for any reason, including negotiation, conclusion or resolution of the dispute.

2. The arbitral proceedings shall terminate with the definitive award or by an order of the arbitral tribunal made in accordance with paragraph 3.

3. The arbitral tribunal shall order the termination of the arbitral proceedings where:

a) The claimant withdraws the claim, unless the defendant objects to such withdrawal and the arbitral tribunal recognises that the defendant has a legitimate interest in obtaining a final resolution to the dispute.

b) The parties agree to consider the proceedings as completed.

c) The arbitral tribunal finds that it is unnecessary or impossible to continue with the proceedings.

4. The arbitral tribunal shall cease its functions at the end of the arbitral proceedings, except as provided in article 54 and article 56.4.

5. The arbitral tribunal shall cease to be obliged to keep the documentation relating to the proceedings at the end of the period specified by the parties for that purpose, or, in the absence of such provision, six months from the end of the proceedings. Within that period, any of the parties may request that the arbitral tribunal return the documents submitted by that party. The arbitral tribunal shall agree to the request, provided that it does not jeopardise the confidentiality of the arbitral deliberations and that the requesting party bears the cost of shipment.

Article 54

Correction, clarification, complement and rectification of an award exceeding its scope and additional awards

1. Except where the parties have agreed a different period, any of the parties may, within fifteen days of being notified of the award and giving notice thereof to the other parties, request the arbitral tribunal:

a) to correct any arithmetical, clerical or typographical error, or any other error of a similar nature, in the award.

b) to clarify a point or a specific part of the award.

c) to complement the award as to claims made and not resolved in the award.

d) to rectify the award partially exceeding its powers, having resolved questions which were not submitted to decision or which cannot be subject to arbitration.

2. After hearing the other parties, if the arbitral tribunal considers the request justified, it shall make the correction, clarification, addition or rectification requested within twenty days of being notified of the request. The correction, clarification, addition or rectification shall form part of the award.

3. Within twenty days of the date of the award, the arbitral tribunal may also, on its own initiative, correct any error referred to in paragraph 1.a).

4. The arbitral tribunal may, where it deems it necessary, extend by ten days the time period for the correction, clarification, addition or rectification of the award.

5. The provisions of article 52 shall also apply to the corrections, clarifications and rectifications of the award.

Chapter VIII. Challenge of the award

Article 55

Res judicata and challenge of the definitive award

1. A final arbitral award has the effects of *res judicata*.

2. A definitive award may only be challenged by means of an application for annulment of the award and a final award may only be challenged by means of a review, as set out in the following articles.

Article 56

Application for annulment of the award

1. A definitive arbitral award, whether total or partial, may only be challenged by means of an application for annulment of the award made to the Civil Chamber of the High Court ("*Sala Civil del Tribunal Superior de Justícia*") in accordance with paragraphs 2 and 3.

2. The arbitral award may only be annulled by the Civil Chamber of the High Court where:

a) The party making the application for annulment of the award alleges and demonstrate that:

i. one of the parties to the arbitration agreement was affected by some incapacity when the agreement was executed, or that the arbitration agreement is not valid under the law chosen by the parties, or in the absence of such choice, under Andorran law; or

ii. it was not duly notified of the appointment of the arbitrators constituting the arbitral tribunal or of the arbitral proceedings, or has not, for any other reason, been able to assert its rights; or

iii. the award relates to a dispute not contemplated in the arbitration agreement or contains decisions which exceed the terms of that agreement; however, if the provisions of the award which refer to the issues submitted to arbitration can be separated from those which do not, the latter only may be set aside; or

iv. the composition of the arbitral tribunal or the arbitral proceedings did not comply with the agreement between the parties, except where that agreement conflicts with a mandatory provision of this Act; or, in the absence of such an agreement, that the composition of the arbitral tribunal or the arbitral proceedings did not comply with this Act; or

b) The High Court, of its own motion or at the request of the Public Prosecutor's office in the defence of the interests legally entrusted to it, confirms that:

   i. under the law applicable to the arbitration, the subject matter in dispute cannot be referred to arbitration; however, if the provisions of the award which refer to the matters submitted to arbitration can be separated from those which cannot, the latter only may be set aside; or

   ii. the award conflicts with public policy in the Principality of Andorra.

The last two grounds may be considered by the High Court when dealing with the application for annulment of the award brought by any of the parties.

3. The application for annulment of the award must be made within three months of the date of its notification or, in the cases provided for in article 54, of the date of notification of their resolutionor expiry of the time limit provided for.

4. When an application for annulment of the award is made, the High Court may decide, if it considers it appropriate and one of the parties requests it, to suspend the proceedings for the period of time which it determines, in order to provide the arbitral tribunal with an opportunity to resume the arbitral proceedings or take any other measure which, in the opinion of the arbitral tribunal, removes the grounds for the application for annulment of the award.

Article 57

Procedure for an application for annulment of the award

1. An application for annulment of the award shall be heard by the Civil Chamber of the High Court, in accordance with the rules of procedure laid down for appeals in civil matters, with the following special features:

a) The application must be submitted together with the documents supporting the applicant's claim, the arbitration agreement and include claimant's contemplated means of proof in the annulment case.

b) The Civil Chamber of the High Court shall notify the application for annulment of the award to the respondent, who may answer within twenty days, if it wishes. The response must be accompanied by the documents supporting respondent's claim and include respondent's means of proof in the annulment case. The High Court shall notify the applicant of the response, so that he can submit additional documents and means of proof.

c) Once the response to the application has been received, or the time limit for receiving the response expired, the parties shall be summoned to attend a hearing, if requested by either of the parties in the application and response documents or if the Civil Chamber of the High Court deems it appropriate.

2. No appeal can be lodged against the decision of the High Court.

Article 58

Review of the award

The arbitral award may only be reviewed on an exceptional basis, in accordance with the civil procedure rules in force at the given time.

Chapter IX. Enforcement of the arbitral award

Article 59

Applicable rules

The enforcement of awards shall be governed by the provisions of this chapter and, on a subsidiary basis, by the civil procedure rules regarding the enforcement of final court decisions.

Article 60

Suspension, deposit and continued enforcement in the event of an application for annulment of the award

1. An award shall be enforceable even when an application for annulment of the award has been made. However, in that case, the party against whom enforcement is sought may apply to the Civil Section of the Batllia to suspend the enforcement, provided that he offers security in the amount of the award, plus any damage which may arise from the delay in the enforcement of theaward. The security may take any of the forms provided for in the civil procedure rules. Once the application for suspension has been made, the Civil Section of the Batllia, after hearing the party seeking enforcement, shall rule on the suspension request. No appeal can be lodged against the decision.

2. Where the Civil Section of the Batllia learns of the rejection of the annulment of the award, it shall lift the suspension and order the enforcement of the award to proceed, without prejudice to the right of the party seeking enforcement to seek, where applicable, compensation for any damage caused by the delay in the enforcement, in accordance with the civil procedure rules governing ancillary proceedings relating to enforcement. When the Batllia is informed of the annulment of the award, it shall stay the enforcement definitively according to the civil law norms effects it implies.

Chapter X. Exequatur of foreign awards

Article 61

Applicable rules

1. The exequatur of foreign awards is governed by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, made in New York on 10 June 1958, without prejudice to the provisions of other international treaties which form part of the legal system and which may be more favorable to the recognition.

2. The exequatur procedure shall be conducted according to the civil procedure rules governing the enforcement of judgments delivered by foreign courts.

Title III. International arbitration

Chapter I. General provisions

Article 62

General provisions

1. The arbitration shall be regarded as international in any of the circumstances mentioned in article 4.2.

2. Can be submitted to arbitration the disputes, the resolution of which is not expressly conferred to the jurisdiction of the state courts, under the rules agreed by the parties to govern the arbitration agreement, under the rules of law applicable to the merits of the dispute or under Andorran law pursuant to article 3.1.

3. The Civil Section of the Battlia has the assisting and supervising powers set forth under article 9, provided that:

a) the arbitration takes place in the Principality of Andorra, or

b) the parties agree that the arbitration should be conducted in accordance with Andorran procedural law, or

c) the parties expressly confer jurisdiction to the Andorran courts to hear disputes relating to Andorran procedure, or

d) there is a risk of one of the parties being denied justice.

4. The rules relating deadlines, suspension and interruption of the arbitral proceedings are those laid down in the arbitration agreement, in the arbitration rules, as the case may be, or by the arbitral tribunal, without prejudice to the possibility for the parties and, failing which, for the arbitral tribunal to extend the time limit for the arbitration as provided in article 52.2.i and to the power of the arbitral tribunal to suspend the proceedings as provided for in article 53.

5. In the absence of any provision to the contrary in the previous provisions, the general provisions of title I, as well as the provisions of chapter I of title II, shall apply to international arbitration, even though they refer to domestic arbitration.

Chapter II. The international arbitration agreement

Article 63

The international arbitration agreement

1. The international arbitration agreement is not submitted to any requirements as to its form.

2. The arbitration agreement shall be valid and the dispute can be subject to arbitration, provided that they meet the requirements set forth under the rules of law agreed by the parties to govern the arbitration agreement, the legal rules applicable to the merits of the dispute or those of Andorran law.

3. The arbitration agreement, either directly or by reference to specific arbitration rules or other procedural rules, may designate the arbitrators or provide for their method of appointment.

4. Where one of the parties is a State or an undertaking, organisation or company controlled by a State, that party cannot invoke the prerogatives of its own law to elude the obligations arising from the arbitration agreement.

5. In the absence of any provision to the contrary in the previous paragraphs, the provisions contained in chapter II of title II relating to domestic arbitration agreements shall apply to international arbitration.

Chapter III. The arbitral tribunal

Article 64

The arbitral tribunal

The provisions contained in chapter III of title II relating to the arbitral tribunal in domestic arbitration shall apply to international arbitration.

Article 65

Jurisdiction of the arbitrators

The provisions of chapter IV of title II relating to the jurisdiction of arbitrators in domestic arbitration shall apply to international arbitration.

Chapter IV. Interim measures and preliminary orders

Article 66

Interim measures and preliminary orders

The provisions of chapter V of title II relating to interim measures and preliminary orders in domestic arbitration shall apply to international arbitration.

Chapter V. Conduct of the arbitral proceedings

Article 67

Conduct of the arbitral proceedings

1. The provisions of chapter VI of title II relating to the conduct of arbitral proceedings in domestic arbitration shall apply to international arbitration.

2. If the parties wish the arbitration to be confidential, they must provide so expressly.

3. Subject to the mandatory provisions of this Act, the parties are free to agree, in the arbitration agreement or subsequently, the procedure which the arbitral tribunal and the parties to the arbitral proceedings must follow, and they may do so either directly or by reference to particular arbitration rules or other rules.

4. Regardless of the procedure agreed by the parties, the arbitral tribunal must ensure that the principles of equality, right to be heard and the adversarial principle are complied with.

5. In the absence of agreement, the arbitral tribunal may, subject to the mandatory provisions of this Act, establish the rules and conduct the arbitral proceedings in whatever manner it considers appropriate, without being subject to the rules laid down for the ordinary courts. This power of the arbitral tribunal includes, inter alia, the power to decide on admissibility, relevance and usefulness of evidence, on the taking of evidence, even of its own motion, and on the evaluation thereof.

Chapter VI. Making of the award and termination of the arbitration proceedings

Article 68

Making of the award and termination of the arbitral proceedings

1. The provisions of chapter VII of title II relating to domestic arbitration shall apply to international arbitration.

2. The arbitral tribunal shall only make an award in equity (*ex aequo et bono*) if the parties have expressly authorised it to do so.

3. The arbitral tribunal shall decide the dispute in accordance with the rules of law chosen by the parties and applicable to the merits of the dispute (*lex causae*), even if there is no connection between the rules and the dispute. Absent of such rules, the arbitral tribunal shall decide in accordance with the ones it considers most appropriate. Any reference to the law or legal system of a specific State shall be deemed to be made, unless otherwise specified, to the substantive law of that State and not to its conflict of laws rules.

4. In any event, the arbitral tribunal shall decide in accordance with the terms of the contract and consider the applicable trade usages.

5. Except where the arbitration agreement provides otherwise, in arbitral proceedings with more than one arbitrator, the award shall be made by a majority vote and be signed by all the arbitrators. If a minority of the arbitrators refuse to sign it, the others shall mention that fact in the award. An award signed by a majority of arbitrators, or by the president alone, shall have the same effects as if it were signed by all of them.

6. The award shall be notified in the manner agreed by the parties and, in the absence of such agreement, in accordance with article 52.8.

Article 69

Correction, clarification, complement and rectification of an award exceeding its scope and of additional awards

1. Without prejudice to the provisions of the subsequent paragraphs of this article, article 54 relating to domestic arbitration and dealing with correction, clarification, complement or the rectification of an award exceeding its scope shall apply to international arbitration.

2. In the case of international arbitration, the time limit for requesting the correction, clarification, complement or the rectification of an award exceeding its powers and of an additional award, as referred to in article 54, shall be thirty days.

3. Furthermore, in case of international arbitration, the time limit for deciding on a request for the correction, clarification, complement or rectification of an award exceeding its scope and of an additional award, as referred to in article 54, shall be sixty days.

Chapter VII. Recognition and enforcement of the award

Article 70

Recognition and enforcement of the award.

1. The provisions of chapter IX of title II relating to the enforcement of awards in domestic arbitration shall apply to international arbitration.

2. An award made in international arbitration shall be recognised and enforced in the Principality of Andorra if the applicant proves its existence and that such recognition and enforcement is not manifestly contrary to the Andorra legal system or to international public policy.

3. The existence of the arbitral award is established by presenting its original together with the arbitration agreement, or copies of those documents which satisfy the conditions necessary to authenticate them. If any of those documents is not written in Catalan, Spanish or in French, the applicant must include a translation into Catalan made by a sworn translator.

Chapter VIII. Challenge of international arbitral awards made in Andorra

Article 71

Challenge of international arbitral awards made in Andorra

1. No appeal may be brought against international arbitration awards subject to this Act, save for an annulment of the award application on any grounds set out in article 56. In that case, the reference made in article 56.2. b). ii to public policy in the Principality of Andorra must be understood to extend to international public policy.

2. The time limit for making an application for annulment of the award is two months from the notification of the award.

3. The court of competent jurisdiction to hear the application for annulment of the award is the Civil Chamber of the High Court of the Principality of Andorra.

4. By special and express agreement, the parties may, at any time, even in the arbitration agreement, waive their right to the application for annulment.

5. The application for annulment of the award and the appeal referred to in paragraph 6 do not have suspensive effects, except where the court expressly decides otherwise on the basis that the enforcement of the award could seriously harm the interests of one of the parties.

6. The parties may bring an appeal before the Civil Chamber of the High Court against an exequatur decision, on the grounds set out in article 56.2, within thirty days of being notified of the decision. The appeal must be brought before the Assembly (*"Ple"*) of the High Court of Justice.

7. Without prejudice to the provisions of paragraph 6, no appeal may be brought against a decision confirming exequatur. On the other hand, in the case of a decision refusing exequatur made in international arbitration and subject to this Act, an appeal may be brought before the Assembly (*"Ple"*) of the High Court, within thirty days of notification of the decision.

Article 72

Challenge of international arbitral awards made abroad

The judicial decision relating to an application for the recognition or exequatur of an international arbitration award made abroad, may be subject to appeal before the Assembly ("Ple") of the High Court of Justice, within thirty days of notification of the decision.

Article 73

Grounds for refusing recognition or enforcement

1. The Civil Chamber of the High Court of Justice can only refuse the recognition or exequatur of an arbitral award, regardless of the country where it was made:

a) At the request of the party against whom it is intended to be enforced or invoked, when that party is able to prove:

   i. that one of the parties to the arbitration agreement was affected by some incapacity, or that the agreement is not valid under the law chosen by the parties or, where nothing is stipulated in that regard, under the law of the country where the award was made; or

ii. that the party against whom the award is invoked was not duly notified of the appointment of an arbitrator or of the arbitral proceedings, or has not, for any other reason, been able to assert its rights; or

iii. that the award relates to a dispute not contemplated in the arbitration agreement or contains decisions which exceed the terms of that agreement; however, if the provisions of the award which refer to the issues submitted to arbitration can be separated from those which do not, the former may be recognised and enforced; or

iv. that the composition of the arbitral tribunal or the arbitral proceedings did not comply with the agreement between the parties or, in the absence of such an agreement, that they did not comply with the law of the country where the arbitration took place; or

v. that the award is not yet binding on the parties or has been set aside or suspended bya jurisdictional body of the country where, or under whose law, the award was made; or

b) Where the state jurisdictional body confirms that:

i. the subject matter of the dispute cannot be submitted to arbitration according to Andorran law; or

ii. the recognition or enforcement of the award would be contrary to national public policy.

2. Where an application for annulment or suspension of the award was made before a state jurisdictional body to which the arbitration is subjected, or before a jurisdiction of the country where the award was made, the Civil Chamber of the High Court may, at its discretion, postpone its decision and, at the request of the party seeking the recognition or enforcement of the award,may also order the other party to provide appropriate security.

Transitional provision.

Arbitral proceedings initiated after this Act comes into force shall be governed by this Act. Arbitral proceedings which are ongoing shall remain governed by the previous law. However, if the award is made after the coming into force of this Act, any application for annulment of the award and, where applicable, for its recognition and enforcement shall be made in accordance with the provisions of this Act.

Final provision.

This Act shall come into force on the day following its publication in the Official Gazette of the Principality of Andorra.

Casa de la Vall, 18 December 2014

Vicenç Mateu Zamora

President of the Parliament (*Síndic General*)

We the Co-Prince approve and enact this Act and order its publication in the Official Gazette of the Principality of Andorra.

Joan Enric Vives Sicília
Bishop of Urgell
Co-Prince of Andorra

François Hollande
President of the French Republic
Co-Prince of Andorra