

January 26, 2018

ENGLISH TRANSLATION

**Protocol on Procedural Rules Applicable to the International Chamber of the Court of  
Appeals of Paris**

**Preamble**

The Paris Court of Appeals has created a new Chamber specialized in disputes relating to international commercial contracts, governed by French law or by the laws of other countries.

The objective of creating the Chamber is to meet the expectations of international commercial market participants seeking the benefits of an attractive judicial system.

The purpose of this Protocol is to set forth the manner in which disputes will be reviewed and adjudicated before the new Chamber, providing for the use of the English language to a significant extent, including for witness testimony.

With respect to the substance, the Chamber will apply French or applicable foreign law.

**Article 1: Jurisdiction of the International Chamber of the Paris Court of Appeals**

1.1 The International Chamber of the Court of Appeals of Paris (CICAP) has jurisdiction over transnational commercial disputes, which include disputes related to:

- International commercial contracts and the termination of commercial relations
- Transport

- Unfair competition
- Anti-competitive commercial practices
- Transactions in Financial Instruments, Market Standard Master Agreements, as well as Financial Contracts, Instruments and Products.

More generally, the CICAP has jurisdiction over appeals from first instance court decisions issued in relation to international economic and commercial disputes, as well as actions seeking to nullify international arbitration awards.

The jurisdiction of the Court may also result from contractual clauses conferring jurisdiction on the courts that are under the Court of Appeals of Paris.

1.2 The CICAP has jurisdiction over judgements entered by the International Chamber of the Paris Commercial Court.

1.3 Should the Supervising Judge (Conseiller de la mise en état) not yet be appointed at a time when an urgent matter arises, as contemplated in article 905 of the Code of Civil Procedure, such matter shall be handled directly by the President of the CICAP or by any other judge specifically appointed by the President of the Court.

## **Article 2: Language of the Proceedings**

2.1 Procedural acts are drafted in French

2.2 Documentary evidence may be submitted in English

2.3 Subject to section 2.4 hereinafter, pleadings are conducted in French

2.4 Parties, experts and third party Witnesses who appear before the Court, and legal counsel who are not French nationals and who are authorized to appear before the Court, may use the English language.

### **Article 3: Translation**

3.1 If one of the Parties contests the translation of a document provided by the other Party, the Supervising Judge may order that a sworn translation be made of all or part of the contested translation, at the expense (payable in advance) of the Party he will designate, pursuant to article 269 of the Civil Procedure Code.

3.2 Subject to the CICAP's consent, any Party may at its own expense arrange for a simultaneous interpretation of oral proceedings held in French.

3.3 When a Party, a Party's counsel, an expert or third party witness uses a language other than French, simultaneous interpretation services must be arranged, with the interpreter chosen by mutual agreement of the Parties, and the expenses borne by the Party choosing to use a language other than French. If the Parties fail to reach agreement on the identity of the interpreter within the time specified by him, the Supervising Judge will directly appoint the interpreter.

#### **Article 4 : Procedural Frame Work and Time Table (Mise en état)**

**4.1 Conference dedicated to the confirmation that the Parties agree to proceed on the basis of the procedures set forth in this Protocol.**

4.1.1 Upon his designation, the Supervising Judge must immediately convene the Parties for a first conference in order to record their mutual consent to proceed in accordance with the procedures contained in this Protocol.

4.1.2 As per article 909 of the Civil Procedure Code, this first conference does not affect the deadline for the submission of the response brief by the Respondent.

#### **4.2 Conference on judicial submissions of evidence**

4.2.1 The Supervising Judge after reviewing the initial briefs filed by Appellant and Respondent, may, at his own initiative, or at the request of any of the Parties' legal counsel, order the Parties to appear personally at the hearings.

4.2.2 In addition, the Supervising Judge receives any requests by legal counsel for the Parties, for expert and third party witness examinations. He sets deadlines within which Appellant first and Respondent second, must notify the names and capacities of the persons who, in their view, should be examined.

4.2.3 After having heard Parties' legal counsel on their requests, the Supervising Judge issues, if need be, an order indicating whether examinations are conducted before him or the Court, and setting the dates on which examinations take place, and the dates on which witnesses must submit written statements forming the basis of their testimony (see Section 5.4.2 below).

The Supervising Judge must justify any decision denying a Party's request.

### **4.3 Procedural Timetable**

4.3.1 After ruling on the administrative and evidentiary issues, the Supervising Judge shall set the procedural timetable, which will include:

- The respective dates upon which the Parties will exchange their briefs, in addition of those initially served by the Parties, as contemplated in articles 909 and 910 of the Civil Procedure Code
- The date(s) on which the Parties will have to appear in person
- The date(s) on which the Parties will submit the written statements that will serve as the basis for witness testimony
- The date(s) of examination of witnesses and experts
- The date(s) on which legal counsel shall deliver their oral arguments
- The date of closure of the proceedings
- The date of deliverance of the decision of the Court

4.3.2 The procedural timetable may be modified due to, in particular, new objections or additional requests made by any of the Parties.

### **4.4 Organization of Oral Proceedings**

4.4.1 The Supervising Judge convenes a final conference with Parties' legal Counsel for the purpose of organizing the oral proceedings at the hearings.

4.4.2 At this meeting, the Supervising Judge shall specify the interpretation services that are to be put into place for insuring publicity of the hearings and the preparation of transcripts of the statements made by the Parties and their expert or third party witnesses in a language other than French (articles 194 and 219 of the Civil Procedure Code).

#### **4.5 Participative Procedural Agreement**

The provisions contained in Sections 4.1 through 4.4 above do not preclude the Parties from entering into a Participative Procedural Agreement as set forth in articles 1544 and seq. of the Civil Procedure Code. In such a case, the Parties may have recourse to an expert who may communicate with them in the English language.

#### **Article 5: Rules governing evidence**

##### **5.1 Compulsory production of documents in the possession of a Party to the proceedings or a third party.**

5.1.1 Requests for orders to produce documents held by a party or a third party are reviewed by the Supervising Judge, as per articles 11 and 138 through 141 of the Civil Procedure Code.

5.1.2 The parties may request the production of categories of documents that are specifically identified.

##### **5.2 Personal appearances of the Parties**

5.2.1 Personal appearances of the Parties take place in the manner contemplated in articles 184 through 198 of the Civil Procedure Code. The judge may submit to the Parties questions that he deems relevant to facts that are supported by legally admissible evidence. Thereafter, the judge may invite each Party to answer questions from the other Parties.

5.2.2 Legal entities which are Parties to the proceedings may be represented at the hearings by their legal representatives or by employees specifically appointed pursuant to a specific powers of attorney.

### **5.3 Third Party written statements**

5.3.1 Written statements issued by third parties must be in the form of attestations meeting the requirements of article 202 of the Civil Procedure Code.

5.3.2 As an exception to article 202, which exception shall not be contested by the Parties, statements made by expert and third party witnesses may be in typewritten form.

### **5.4 Third party examination (articles 199 and seq. of the Civil Procedure Code)**

5.4.1 As contemplated in Section 4.2 above, the examination of a third party may be ordered by the Supervising Judge or the Court, at their own initiative or at the request of any of the Parties.

5.4.2 As indicated in Section 4.2.3 above, witness testimony shall be based on written statements, which may be in typewritten form, containing the information set forth in article 202 of the Civil Procedure Code.

5.4.3 The examination of a witness is conducted in accordance with articles 206 and seq. of the Civil Procedure Code. Pursuant to these articles, a witness is legally compelled to appear at the hearings, and may be subject to a civil fine should he/she fail to do so.

The judge submits to witnesses questions which he deems relevant to facts that are the subject of legally admissible evidence. Then he invites witnesses to answer questions from any of the Parties.

5.4.4 The Supervisory Judge or the Court, as the case may be, will review and interpret written statements provided by a witness who has failed to appear for good reason. When failure to attend is not justified, the Judge or the Court may draw any and all conclusions resulting from such failure.

5.4.5 Each Party to this Protocol must insure that his/her requested witnesses appear at the hearings and must advance all costs related to such appearance.

### **5.5 Examination of Specialists and Experts (article 245 and 283 of the Civil Procedure Code)**

5.5.1 The Supervising Judge or the Court, as the case may be, orders the examination of judicial specialists and experts, at their own initiative or upon request of the parties.

5.5.2 The Supervising Judge or the Court, as the case may be, also rules on examination requests of specialists and experts proposed by the Parties. Attached to their requests, Parties must submit the reports prepared by each of their own designated specialists and experts, and provide their names and qualifications.

5.5.3 Provisions contained in Sections 5.4.2 to 5.4.5 above apply, as reasonably appropriate, to examinations of specialists and experts.

## **Article 6: Oral Proceedings**

### **6.1 Pleadings**

6.1.1 Oral proceedings are public, unless the Court decides otherwise under the conditions of article 435 of the Civil Procedure Code

6.1.2 In order for the Court to give proper consideration as to the costs and fees incurred by the Parties and the allocation thereof between the Parties, the Court will ensure that the Parties' legal Counsel shall, during their oral arguments, have the time to provide all relevant facts and data that they consider to be appropriate to support their requests.



6.1.3 Upon conclusion of oral proceedings, and unless special circumstances dictate otherwise, the Court will adjourn the hearings for deliberation on the date set in the procedural calendar.

**Article 7: Court's judgment**

The judgment of the Court shall be delivered in French together with a copy of a sworn English translation thereof.