

dispute to a Court of Arbitration shall each appoint an arbitrator within thirty days of the date of such agreement. If there is more than one creditor or more than one debtor the arbitrator shall be appointed by such creditors or debtors jointly. If an arbitrator is not appointed within the above time-limit, the other parties to the dispute shall be entitled to request the International Chamber of Commerce to appoint such arbitrator. The two arbitrators shall, within thirty days from the date of the appointment of the arbitrator last appointed, choose a third arbitrator to act as Chairman. If a Chairman is not chosen within such time, either party may request the International Chamber of Commerce to make the appointment.

(2)—(a) A creditor who, pursuant to the second paragraph of Article 11 of Annex IV to the present Agreement, appeals to a Court of Arbitration, shall within thirty days of service of the decision of the German court—

- (i) notify the German Court which rendered the decision of such appeal;
- (ii) notify the debtor of the name of the arbitrator he has appointed to sit on the Court of Arbitration.

(b) The receipt of the notice provided in sub-paragraph (a) (i) of this paragraph shall put an end to all proceedings in German courts in respect of the decision, in so far as it relates to the debt which is the subject of the appeal and such decision to this extent shall have no effect.

(c) Within thirty days of the receipt of the notice provided in sub-paragraph (a) (ii) of this paragraph, the debtor shall notify the creditor of the name of the arbitrator he has appointed to sit on the Court of Arbitration. If the debtor does not make such notification within the time prescribed the creditor shall be entitled to request the International Chamber of Commerce to appoint such arbitrator. A third arbitrator, to act as Chairman, shall be chosen in accordance with the procedure provided in paragraph (1) of this Article.

(d) A Court of Arbitration, which is hearing an appeal under the provisions of the second paragraph of Article 11 of Annex IV to the present Agreement, shall—

- (i) sit at a place within the Federal Republic of Germany, unless the parties to the proceedings agree otherwise;
- (ii) apply the principles laid down in the first paragraph of Article 11 of Annex IV to the present Agreement;
- (iii) conduct such proceedings as a new trial.

(e) If, in the course of any appeal to a Court of Arbitration under the provisions of the second paragraph of Article 11 of Annex IV to the present Agreement, a question is referred to the Mixed Commission under paragraph (2) (b) of Article 31 of the present Agreement, the Court of Arbitration shall forthwith suspend the proceeding in such appeal until the final decision of the Mixed Commission respecting such question has been rendered. When such decision is rendered the Court of Arbitration shall resume the proceeding and shall take any action which may be necessary to give effect to such decision.

(3) A Court of Arbitration shall, in reaching decisions respecting the interpretation of Annex IV to the present Agreement, be bound by any relevant decision of the Mixed Commission.

(4) In the event of any vacancy caused by the death, illness, withdrawal or failure of a member of a Court of Arbitration to carry out his duties, such vacancy shall be filled, in the same manner as the original appointment, within thirty days of the occurrence of such vacancy.

(5) A Court of Arbitration may determine the manner in which the costs of the proceeding, including counsel's fees, are to be borne and, in an appeal