

III.1.D Duration of the concession

50. The duration of the concession is established in the terms of reference of the bidding process. The law establishes a maximum time limit of 50 years.

51. The Law considers the transitory suspension of a concession in times of war or internal disruption, due to partial destruction of the facility or for other causes established in the terms of reference of the bidding process. The time for which the concession has been suspended will involve an extension of the duration of the concession for an equivalent period of time.

52. The concession contract is terminated in the following cases:

- (a) end of the time limit for the duration of the concession;
- (b) serious default on the part of the concessionaire⁹;
- (c) Mutual consent;
- (d) Causes specifically stipulated in the contract;
- (e) Total destruction of the facility¹⁰;
- (f) Bankruptcy¹¹.

III.1.D Dispute Settlement

53. The legislation safeguards private interests in the face of possible conflicts not only through the protection afforded through contracts and in the existing property rights. Additionally, there exist objective and impartial formulas for arbitration.

54. When there is a conflict, it may be submitted to the Conciliating Committee made up by a professional from the MOP, a representative of the concessionaires and a third by mutual consent, which will establish a series of procedures.

55. If the Conciliating committee is to review a situation, it must be requested by both parties (MOP and the concessionaire), except in the case of termination of the concession for serious non-

⁹ The main serious defaults established in the regulations are : a).- unauthorized delays in the construction of the facilities; b).- repeated non-compliance with the minimum levels of service established in the terms of reference; c).- repeated charges of tariffs higher than those authorized; and d).- repeated non-compliance with the standards of maintenance of the facilities.

¹⁰ It is the intention to eliminate this cause since the insurance would cover the costs of the damages and therefore the facilities could continue in operation.

¹¹ This cause was amended, since it made access to loans difficult for the concessionaires. The amendments grant the State the right to appoint and intervenor if a bankruptcy is declared. In the first Ordinary Assembly of the creditors a decision will have to be made as to whether the facility will be auctioned or it will continue in operation.