7 February 2018

Protocol relating to procedural rules
applicable to the International Chamber of the Paris Commercial Court

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En presence de Mrs. Nicole BELLOUBET, *garde des sceaux*, Minister of Justice,

The President of the Paris Commercial Court,

The Paris Bar, represented by its President,

Have concluded the following:

Preamble

The International Law Chamber of the Paris Commercial Court was established in 1995; in 2015 it was merged with the European Union Law Chamber, itself created in 1997.

Now called the International Chamber, it is composed of ten judges, including its President, all anglophones. Cases adjudicated to the International Chamber by the Enrollment Chamber are those of an economic or commercial nature with an international element, and in particular those to which provisions of European Union or foreign law are applicable.

In cases where the characteristics of a case require the competencies of judges of specialised chambers of the Commercial Court, for example such as those related to competition law or abusive terminations of commercial relations, the International Chamber may enlist, in the context of delivering judgment, judges belonging to said chambers.

The purpose of the present Protocol is to organise the proceedings by which cases will be heard and judged before this new Chamber, providing for the use of the English language to a

significant extent and for testimonial evidence, in order to meet the expectations of economic actors who wish to benefit from an attractive jurisdictional system.

With respect to the substance, the International Chamber will apply French law or any other rules of foreign law applicable to the case.

Article 1: Jurisdiction of the International Chamber

1.1 The Enrollment Chamber of the Court or, as appropriate, the judge specifically appointed by the President of the Court for urgent matters, as contemplated in article 858 of the Civil Procedure Code, shall direct all transnational commercial disputes to the International Chamber.

1.2 Transnational commercial disputes include disputes related to:

- Commercial contracts and the termination of commercial relations
- Transport
- Unfair competition
- Anti-competitive commercial practices
- Operations on financial instruments, standard master agreements, and financial contracts, instruments, and products

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

Article 2: Language of the proceedings

2.1 The proceedings before the Commercial Court are oral.

2.2 Procedural acts are drafted in French.

2.3 Written submissions in English may be given without translation.

2.4 Pleadings are conducted in French, without prejudice to what is stated in section 2.5 hereinafter.

2.5 Parties appearing before the judge, witnesses, and any specialist witnesses, including experts, as well as parties' legal counsel, when they are foreign and authorised to plead before the Paris Commercial Court, are authorised to express themselves in English, if they wish to do so.

2.6 Records of the Hearings are drafted in French by the Court’s Clerk under the direction of the President of the court.

Article 3: Mandatory procedural timetable

3.1 The judge assigned to the case sets a mandatory procedural timetable, which shall provide for, in particular:

- The date(s) on which the Parties will be invited to appear in person
- The date(s) on which the parties shall submit the written statement of the witnesses they have requested the testimony of, on the basis of which those witnesses will be heard
- The date(s) on which any witness or expert's testimony will take place
- The date(s) on which legal counsels will state their oral arguments after which the closure of proceedings will occur
- The date on which the decision of the Court on the merits will be rendered

3.2 The procedural timetable may be modified pending the proceedings, in particular, in the event of a motion (*incident*) or additional requests that may delay the review on the merits of the case.

Article 4: Rules on judicial submissions of evidence

4.1 Compulsory production of documents held by a party or by a third party

4.1.1 Requests for compulsory production of documents held by a party or by a third party are examined by the Judge, pursuant to the rules set forth in articles 11 and 138 to 142 of the French Code of Civil Procedure

4.1.2 Parties may request the production of categories of documents that are specifically identified.

4.2 Personal appearances of the Parties

4.2.1 Personal appearance of the parties takes place under the conditions set forth in articles 184 to 198 of the French Code of Civil Procedure. The judge carries out the examination of the parties, by asking questions he deems relevant to the facts that are supported by legally admissible evidence. Each party may thereafter be invited by the judge to answer to the questions that the other parties wish to ask.

4.2.2 The personal appearance of a legal entity means the appearance of a party’s legal

representative or of any corporate officer (*mandataire social)* or employee of the legal entity pursuant to a specific power of attorney.

4.3 Third parties' written statements

4.3.1 Written statements issued by third parties to the proceedings take the form of affidavits (*attestations)* meeting the requirements set forth in article 202 of the French Code of Civil Procedure.

4.3.2 As an exception to article 202 of the French Code of Civil Procedure, third parties' statements may be in typewritten form, the parties waiving their right to claim any procedural defect on that basis.

4.4 Witnesses' examination (articles 199 and seq. of the French Code of Civil Procedure)

4.4.1 Any person may be heard as a witness, upon the decision of the Judge, or of the Court, as the case may be, ruling on its own initiative or at the request of a party

4.4.2 Witnesses' examination or testimony (third parties, knowledgeable parties, etc.) proposed by a party will take place on the basis of a written statement, which may be typewritten, and which shall contain the information provided for by article 202 of the French Code of Civil Procedure.

4.4.3 Witnesses' examination is conducted in accordance with articles 206 and seq. of the French Code of Civil Procedure. In accordance with articles 206 and 207 of the French Code of Civil Procedure, whoever is legally compelled to testify must do so, under penalty of a civil fine.

4.4.4 The judge carries out the examination of witnesses, by asking questions he deems relevant to the facts that are supported by legally admissible evidence. Witnesses may then be invited by the judge to answer to the questions that the parties wish to ask.

4.4.5 The Judge, or the Court, as the case may be, is free to take into consideration the written statement of a witness who, for a legitimate reason, did not appear, and to draw any conclusion resulting from a non-appearance for which there is no legitimate

reason.

4.4.6 Each party shall ensure the summons of the witnesses whose party requests their hearing and shall advance payment of those witnesses' costs.

4.5 **Expert witnesses' examination (articles 245 and 283 of the French Code of Civil Procedure)**

4.5.1 The Judge, or the Court depending on the case, orders the examination of judicially appointed expert witnesses, when requested by the parties, unless he or she makes such an order on its own initiative.

4.5.2 The Judge, or the Court, as the case may be, uses its discretion to grant requests for the examination of expert witnesses designated by the parties. In support of their requests, parties produce the report prepared by the specialist witness who they wish to hear, as well as his last name, first name and address.

4.5.3 Proceedings provided for in sections 4.4.2 to 4.4.6 above apply, to the extent relevant, to expert witnesses whose examination is organised.

Article 5: Oral proceedings

Oral proceedings are public, unless the Court decides otherwise pursuant to article 435 of the French Code of Civil Procedure.

Article 6: Translation

6.1 In case of disagreement between the parties with regard to the translation of documentary evidence freely provided by one of the parties in its submissions, the Judge may order a sworn translation of all or part of the documentary evidence, at the provisional expense paid by the party chosen by the judge (article 269 of the French Code of Civil Procedure).

6.2 Oral proceedings held in French may be subject to a simultaneous interpretation, for the convenience of one of the parties, by an interpreter chosen by that party with advanced costs.

6.3 When a party, an expert or a witness wishes to express themselves in a foreign language, a simultaneous interpretation is carried out by a translator chosen by mutual agreement of the parties, with costs advanced by the party that requested the testimony. In case of disagreement between the parties on the choice of the translator, within the time limit set by the Judge, this judge will appoint the translator.

Article 7: Court's judgment

The judgement of the Court, as well as orders issued from any judge, shall be drafted in French together with a sworn translation in English organised by the Court Registry, the costs of which are included in the expenses.

Article 8: Entry into force

The present protocol applies to proceedings initiated from 1 March 2018.

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Paris, 7 February 2018
In two original copies