

**Law n° 11/99
of 8 July**

In view of the need to regulate, update and improve the existing legal framework in Mozambique in respect of Arbitration, Conciliation and Mediation as alternative means of conflict resolution to the judicial system, and seeking to respond to the transformations which have been taking place in the country, arising from the development of a market economy and of international commercial relations, the Assembly of the Republic, under Article 135(1) of the Constitution, determines as follows:

TITLE I

GENERAL PROVISIONS

SOLE CHAPTER

Article 1
(General Object)

This Law governs Arbitration, Conciliation and Mediation as alternative means of conflict resolution that persons may adopt prior to or as an alternative to submitting their disputes to the judicial power.

Article 2
(Principles)

1. Given the speedy and simplified nature of Conciliation and Mediation, the parties may turn to those means for the resolution of their conflicts before, during or after a court or arbitration proceeding, and the arbitral tribunal constituted should counsel that the parties use the means referred to whenever the circumstances of the case appear to be appropriate.
2. The alternative means of conflict resolution foreseen in this Instrument are subject to the following principles:
 - a. **Liberty**: recognition of the autonomy of the parties in the choice and adoption of means alternative to the judicial power for the resolution of conflicts;
 - b. **Flexibility**: preference given to the establishment of informal, adaptable and simplified procedures;
 - c. **Privacy**: guarantee of privacy and confidentiality of the proceedings and of the parties involved in them;
 - d. **Integrity**: requirement of characteristics of impartiality and independence for the performance of the functions of arbitrator or conciliator;
 - e. **Speed**: dynamism and rapidity in the resolution of conflicts;

- f. **Equality:** guarantee that the parties will be dealt with in strict equality and that the same conditions and every possibility of enforcing their rights will be given to each one of them;
- g. **Hearing:** typically, of an oral nature for the alternative mechanisms;
- h. **Adversarial Nature:** guarantee that both parties will be heard in an oral hearing or in writing, prior to the final award being made.

Article 3
(Definitions and Rules of Interpretation)

For the purposes of this Law:

- a. the terms “arbitration,” “conciliation” and “mediation” mean any arbitration, conciliation and mediation, whether or not administered by a permanent arbitral institution under the terms of Article 69 of this Law;
- b. the expression “arbitral tribunal” means a sole arbitrator or a panel of arbitrators;
- c. the expression “judicial court” means a body or organ of the judicial system of a country;
- d. where a provision of this Law, except Article 54, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- e. where a provision of this Law refers to the fact that the parties have agreed or that they may agree with respect to a certain issue, or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- f. where a provision of this Law other than Article 30(2)(a) and Article 40(2)(a), refers to a claim, it also applies to a counter-claim, and where it refers to a defense, it also applies to a defense to such counter-claim.

TITLE II

Arbitration

Chapter I

General Provisions

Article 4 **(Object)**

1. The interested parties may submit the resolution of all or some of their disputes to the system of arbitration, by means of express arbitration agreement.
2. The arbitration agreement may have as its object any current dispute, even if an action has been filed in judicial court and in any phase of the proceedings, it being designated in that case an agreement to arbitrate, or any dispute that eventually arises from a given contractual or extra-contractual legal relationship, being designated in that case, an arbitration clause.
3. The parties may agree to consider as covered in the concept of a dispute, in addition to questions of a litigious nature in the strict sense, any others, namely those related to the need to make more precise, to complete, update or even to review the contracts or legal relations which are at the origin of the arbitration agreement.

Article 5 **(Scope and Exclusions)**

1. Disputes of any nature may be subject to the system of arbitration provided in this Instrument, except in the cases mentioned in the following paragraph.
2. The following disputes are considered to be outside of the scope of the system of arbitration:
 - a. those that by special law shall be submitted exclusively to a judicial court or to a special system of arbitration not repealed by this Law;
 - b. those that relate to inalienable or non-negotiable rights.
3. The present law applies complementarily to special systems of arbitration.

Article 6 **(Legitimacy)**

1. The State and other public law persons may enter into arbitration agreements if these have as their object disputes regarding private law or of a contractual nature and if, further, they are for the purpose authorized by special law.

2. Those considered unemancipated minors and those who are legally disabled or disqualified under the terms of the civil law may not be parties to an arbitral proceeding, even through the intermediary of their legal representatives.

Article 7
(Waiver of Right to Object)

A party who knows that any provision from which the parties may derogate or any requirement under the arbitration agreement has not been complied with, yet did not object immediately or within the time limit provided therefor, shall be deemed to have waived his right to object.

Article 8
(Jurisdiction of the Arbitral Tribunal)

Only an tribunal constituted under the terms of this Law is competent to settle the conflicts submitted to it.

Article 9
(Intervention of the Judicial Court)

1. When the parties have agreed to make recourse to arbitration, conciliation and mediation, the intervention of the judicial court may occur only in the conditions set out in this article.
2. The competent judicial court for the acts mentioned in this Law, namely in its Articles 12, 18, 23, 37, 44 and 45, shall be that designated by the laws of civil procedure and other legislation applicable in the absence of arbitration.
3. In the event that it is impossible to determine applicable law by the aforementioned rules, the law of the place where the arbitration shall be held shall have jurisdiction, if such law was provided, failing which there shall be applied, in succession, the law of the place of the signing of the arbitration agreement or the law of the domicile of the respondent or any of the respondents, if they are multiple.

Chapter II

Arbitration Agreement

Article 10
(Requirements of the Agreement)

1. The arbitration agreement shall be in writing.
2. An arbitration agreement is considered in writing if it was contained in a document signed by the parties or an exchange of letters, telexes, faxes or other means of communication proving its existence in which the existence of an agreement was alleged by one party and not denied by another.

3. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement, provided that the contract referred to be in writing and the reference is such as to make that clause an integral part of the contract.
4. The agreement to arbitrate shall determine with precision the object of the current dispute; the arbitration clause shall specify the legal relationship to which the disputes that may arise relate.
5. In contracts of adhesion the arbitration clause is only effective if the adhering party takes the initiative to institute the arbitration or agrees expressly with its institution.

Article 11

(Autonomy of the Arbitration Clause)

The arbitration clause is autonomous in relation to the other clauses of the contract into which it is set, and the invalidity of the latter does not imply automatically the invalidity of the former.

Article 12

(Arbitration Objection)

1. The arbitration agreement implies the waiver by the parties of initiating court action on the matters or disputes submitted to arbitration, subject to the provisions set forth in paragraph 4 of this article.
2. A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests, not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void or incapable of being performed.
3. When an action referred to in the preceding paragraph of this article has been brought in a judicial court, an arbitral proceeding may nevertheless be commenced or continued, and an award be made, while the question is pending before the court.
4. Subject to the provisions of the present article, the solicitation of interim measures of protection made by a party to a judicial court before or during the arbitral proceeding, as well as the granting of such measures by the court referred to, is not incompatible with an arbitration agreement.

Article 13

(Waiver of Arbitration)

1. The parties may waive arbitration expressly or tacitly by recourse to judicial means.
2. The parties expressly waive arbitration by means of written communication directed to the court, observing the provisions of this Law as to the formalization of the arbitration agreement.
3. In the event of waiver by one of the parties, the agreement of the remaining parties not being obtained within fifteen days from notification by the waiving party, the arbitration agreement shall remain in force and effect.

4. Tacit waiver is assumed when one party, being sued judicially by the other, does not raise the objection of an agreement to arbitrate, as provided in this Law.
5. The petition by one of the parties to the judicial court for the adoption of measures under the terms of Article 12(4) of this Law or the granting by the court of the measures referred to, is not considered tacit waiver.

Article 14
(Expiry)

1. The arbitration agreement expires:
 - a. if, up to the time of the constitution of the arbitral tribunal, the parties agree to its revocation;
 - b. if any of the arbitrators dies, excuses himself, is unable to exercise his duties or if the appointment becomes null and void, as long as he is not replaced in accordance with the terms of Article 23 of this Law;
 - c. if the arbitrators do not make an award within the time limit set in the agreement or in a subsequent written instrument or, when a time limit has not been set, within the time limit referred to in Article 35(2).

Article 15
(Invalidity of the Agreement)

An arbitration agreement is null when entered into in violation of the provisions in this Law as to legitimacy, scope and exclusions from arbitration.

Chapter III

Arbitrators and the Arbitral Tribunal

Article 16
(Composition of Arbitral Tribunal)

1. The arbitral tribunal may be made up of a single arbitrator or by various arbitrators, in an odd number.
2. If the number of members of the arbitral tribunal is not set in the arbitration agreement or in a subsequent written instrument signed by the parties, nor results therefrom, the tribunal shall be composed of three arbitrators.
3. When various arbitrators have been appointed, they elect the chairperson from amongst their number by majority vote, unless the parties have agreed in writing on another solution prior to the acceptance of the first arbitrator. There being no consensus, the eldest shall be so designated.

4. The chairperson of the tribunal will appoint a secretary, if he deems it appropriate, who may be one of the arbitrators.

Article 17

(Constitution of the Arbitral Tribunal)

1. If the parties have referred in the arbitration clause to the rules of an institutional arbitration body or specialized entity, the arbitration shall be instituted in accordance with such rules, the parties also being able to establish, in the clause itself or in another document, the agreed form for the institution of the arbitration.
2. There being no prior agreement as to the form for instituting arbitration, the party that intends to bring the dispute before the arbitral tribunal shall notify the opposing party of that fact, convening her for the signing of an agreement to arbitrate, in the event of there not yet being a signed arbitration agreement.
3. The notice foreseen in the foregoing paragraph shall be carried out in accordance with the terms of Article 26 and shall indicate the arbitration agreement or specify the subject-matter of the dispute, if such is not already determined by the agreement.
4. If within eight days from the notice referred to in the foregoing paragraphs of this article, the parties have not arrived at agreement on the determination of the subject-matter of the dispute or on other matters considered essential by the parties to the signing of the agreement, they may request a decision from a permanent arbitral institution or a delegate thereof.
5. If there exists an arbitration clause and there being resistance to the institution of the arbitration, following the elapsing of the time period referred to in the foregoing paragraph, it falls to the institutionalized arbitral tribunal to clarify such possible gaps or doubts as may need to be clarified.
6. The tribunal is validly constituted with the acceptance by the arbitrators of their nomination.

Article 18

(Appointment of Arbitrators)

1. In the arbitration agreement or in a subsequent written instrument signed by them, the parties shall designate the arbitrator or arbitrators who will constitute the tribunal, or establish the way in which they will be chosen.
2. There being no prior agreement on the appointment of the arbitrators or on the form of their appointment, the rules foreseen in this article apply.
3. If it falls to the parties to appoint one or more arbitrators, the notification referred to in paragraph 2 of the preceding article shall contain the appointment of the arbitrator or arbitrators by the party that proposes to initiate the action, as well as the invitation directed to the other party to appoint the arbitrator or arbitrators that fall to him to appoint.

4. If the sole arbitrator is appointed by agreement of the parties, the notice shall contain the indication of the proposed arbitrator and the invitation to the other party to accept her.
5. In the event that it falls to a third party to appoint one or more arbitrators and such designation has not yet been made, the third party shall be notified in order to make this appointment and communicate it to both parties.
6. If the parties have not appointed the arbitrator or arbitrators nor set the manner of their selection and there is no agreement between them as to that appointment, each one should indicate one arbitrator, unless they agree that each one of them indicate more than one in equal number, it falling to the arbitrators thus appointed to choose the arbitrator who shall complete the constitution of the tribunal.
7. In all cases in which the appointment of an arbitrator or arbitrators is lacking, in accordance with the provisions of this article, that appointment falls to the chairperson of a permanent arbitral institution chosen by the parties or a delegate thereof, and failing agreement as to the choice of this body, to the judicial court on the request of either of the parties.
8. The appointment to which the foregoing paragraph refers may be requested eight days after the notice foreseen in paragraph 3 of this article, or from the appointment of the last of the arbitrators by a person to whom such appointment falls, in the case referred to in paragraph 6 of this same article.
9. The decision of a question entrusted to a permanent arbitral institution or to the judicial court, under the terms of paragraph 7 of this article, is not subject to appeal.
10. When naming an arbitrator, the permanent arbitral institution or the court shall take into account all of the qualifications required of an arbitrator by the agreement of the parties and everything material to ensure the appointment of an independent and impartial arbitrator and, when naming a sole arbitrator or a third arbitrator, it shall also take into consideration the fact that the appointment of an arbitrator of a nationality different from those of the parties may be desirable.

Article 19
(Requirements of Arbitrators)

Appointment as arbitrator shall fall to persons who at the time of the acceptance of their nomination fulfill the following requirements:

- a. being an individual, of the age of majority and fully competent;
- b. meeting the requirements set forth in the arbitration agreement or by the permanent arbitral institution, designated by the parties under the terms of Article 17(1) of this Law.

Article 20
(Freedom of Acceptance and Grounds for Refusal)

1. No one may be obliged to act as an arbitrator but, if the position has been accepted, the only legitimate excuse will be one based on a superseding cause which makes the exercise of the office by such person impossible.
2. When a person is consulted with a view to her possible nomination as an arbitrator, she should point out all the circumstances that may raise justifiable doubt as to her impartiality or independence. From the date of her nomination and during the entire arbitral proceeding, the arbitrator shall indicate such circumstances as referred to above without delay to the parties, unless she has already done so.
3. The position is considered accepted whenever the person appointed indicates the intention to act as an arbitrator or does not declare, in writing directed to a party, within the five days following communication of the appointment, that she does not wish to exercise the office.

Article 21
(Disqualification and Recusal)

1. No person may be precluded by reason of nationality from exercising the office of arbitrator, unless otherwise agreed by the parties.
2. The regime of disqualification and recusal established for judges in the law of civil procedure is applicable to appointed arbitrators, subject to their possible liability for having accepted the appointment in the knowledge of the disqualification.
3. Unless otherwise agreed by the parties, no one may be appointed as an arbitrator who has exercised the office of mediator in any arbitral or judicial proceeding in relation to the dispute which is the object of the attempt to arbitrate, unless the nomination comes from appointed arbitrators and is meant to fill the position of third arbitrator or of chairperson of the arbitral tribunal.
4. An arbitrator may only be challenged if circumstances exist that raise justifiable doubt as to impartiality or independence or if she does not possess the qualifications on which the parties have agreed. A party may only challenge an arbitrator who he has appointed or in whose appointment he has participated, for a reason that he found out about only after that appointment.
5. An arbitrator who, having accepted the position, excuses herself without justification from the exercise of her office, is liable at law for the damages she causes.

Article 22
(Ethical Code of Arbitrators)

1. The arbitrator shall not:
 - a. represent the interests of any of the parties;

- b. receive before, during or after the arbitration, any remuneration, award or monetary or other advantage, from any other person with direct or indirect interest in the dispute.
2. The arbitrator shall:
 - a. be free of any family, hierarchical or business link or any other kind of interest with any of the parties or with the group to which the party belongs, or shall reveal its existence to the parties immediately following the existence of such link, knowledge or interest, notwithstanding considering that it does not amount to a reason to refrain from arbitrating;
 - b. proceed with absolute impartiality, independence, fidelity and good faith;
 - c. ensure that the parties are dealt with on a basis of strict equality, specifically making efforts so that in all circumstances, in the course of the proceedings, each one of the parties has the benefit of the information used by the other parties;
 - d. ensure the right of each one of the parties to a fair proceeding;
 - e. treat the parties, their representatives, the witnesses and experts with diligence, attention and courtesy;
 - f. maintain the confidentiality of the deliberations, even in relation to the party who appointed her;
 - g. decide according to substantive law or equity, even if one of the parties has appointed him as arbitrator, and be guided exclusively as a function of the elements of the dispute as revealed by the adversarial arguments;
 - h. assume that the acceptance of the office of arbitrator means having the time needed for the arbitration of the dispute, except in the event of *force majeure* in which case she shall warn of her legitimate disqualification, which may lead to her replacement, if the parties so determine;
 - i. respect and enforce the applicable procedural rules, being bound to ensure that the proceedings be conducted with diligence and preventing any kind of delaying tactic.
3. In the event of an ethical shortcoming in respect of the terms specified in this article, the parties may solicit the withdrawal from the office of an arbitrator, naming a replacement in accordance with the terms of the subsequent article.
4. The arbitrators are responsible for the dishonest or fraudulent exercise of their office, for the damages caused and for the violations of the law committed during the arbitration.
5. An arbitrator who refuses to sign the arbitral award or who does not justify in writing the reasons for her dissent or particular vote may be penalized with the loss of fees.

Article 23
(Challenge and Substitution of Arbitrators)

1. The parties are free to agree on a procedure for challenging the arbitrator, subject to the provisions of paragraph 3 of this article.
2. Failing such agreement, the party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of the circumstances referred to in Article 20(2) or Article 22 (2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.
3. If the challenge under any procedure agreed upon by the parties or under the terms of the foregoing paragraph is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, that the court decide on the challenge, which decision will be subject to no appeal; while such request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.
4. When an arbitrator becomes *de jure* or *de facto* unable to perform his mission or for other reasons fails to carry out his duties without undue delay, his mandate terminates if he withdraws from office or if the parties agree on the termination. If a controversy remains concerning any of these grounds, any party may request the judicial court to decide on the termination of the mandate, which decision shall be subject to no appeal.
5. If under the terms of this article, an arbitrator withdraws from office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of the grounds referred to in Article 20(2) or in this article.
6. When the mandate of the arbitrator terminates under the terms of the foregoing paragraphs, when he withdraws from office for any reason, when his mandate is revoked by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.
7. The finding of the need for substitution implies interruption of the proceedings until the acceptance of the appointment by the substitute arbitrator.
8. Once the substitution has been put into effect, the arbitral tribunal may order the repetition of the oral evidence already given, unless the substitute arbitrator considers the reading of the record of the evidence presented to be adequate.

Article 24
(Charges in regard to the Proceedings)

1. The remuneration of the arbitrators and of others participating in the proceedings, as well as the other charges in regard to the proceedings and their division between the parties, shall be set in the arbitration agreement or in a subsequent document signed by the parties, or shall result from the arbitration regulation chosen in accordance with the

terms of Article 17(1), the rules set forth in this article being applicable in the absence of specific provision.

2. The expenses include the fees and expenses of the arbitrators, the administrative charges for the proceedings and the expenses for the presentation of evidence.
3. For the purposes of calculation of expenses the chairperson of the tribunal or sole arbitrator sets a value for the proceedings, corresponding to the immediate economic utility of the claim formulated by the proponent and as a function of which the fees for the arbitrators are set.
4. The administrative charges, the arbitrators' expenses and expenses for the presentation of evidence, shall be determined by their actual cost.
5. In order to guarantee the payment of expenses, the prepayment of costs shall take place.
6. An initial prepayment of costs should be made, to be carried out by each one of the parties, of an amount to be set by the chairperson of the arbitral tribunal or by the sole arbitrator, which may not exceed, for each one, 35% of the total minimum amount of expenses for the proceedings.
7. In the course of the proceedings, the chairperson of the tribunal or sole arbitrator may order the reinforcement of prepaid costs up to an amount which may reach the total minimum amount of expenses for the proceedings.
8. The prepayment of costs shall be made within five days counting from the notification of each of the parties.
9. When any prepayment of costs has not been carried out timely, the party should be notified of this fact and may carry out this payment, without interest, in the five days following the notification given to that end.
10. The non-timely payment of any additional prepayment of costs gives rise to the payment of penalty interest at the legal rate, subject to the court being able to determine, in the event of the delay being imputable to the claimant, the suspension of the proceeding and, in the event of it being imputable to the respondent, the impossibility of the latter participating in the hearings or presenting arguments.

Chapter IV

Functioning

Article 25

(Commencement of Arbitral Proceedings)

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which the request for that dispute to be submitted to arbitration is received by the respondent.

Article 26
(Notices and Written Communications)

1. Unless otherwise agreed by the parties, all notices and any other written communications are deemed to have been validly received when delivered to the addressee personally or when delivered at their place of business, habitual residence or mailing address or at any other special address as indicated by the party.
2. If none of the places referred to in the foregoing paragraph can be found after making a reasonable inquiry, written notice is considered to have been received when it has been sent to the last known place of business, habitual residence or mailing address, by registered letter or any other means which provides a record of the attempt to deliver it.
3. Notice is deemed to have been received on the date on which delivery has been effected, under the terms of the foregoing paragraphs.
4. Notices are considered valid if effected by post, telex, fax or other means of communication which leaves a written record.
5. The provisions of this article do not apply to the communications in court proceedings.

Article 27
(Rules of Procedure)

1. Subject to the provisions of this Law, the parties are free to agree on the rules of procedure to be followed by the arbitral tribunal, as well as on the place of the arbitration.
2. The agreement of the parties on the matter referred to in the foregoing paragraph may result from the choice of an arbitration regulation that has emanated from a permanent arbitral institution or from the choice of that entity for the organization of the arbitration.
3. If the parties have failed to agree on the rules of procedure to be observed in the arbitration and on the place of functioning of the tribunal, the choice shall fall to the arbitrators. The place of the arbitration will be fixed having regard to the circumstances of the case, including the convenience of the parties.
4. The power conferred on the arbitral tribunal which is referred to in the foregoing paragraph, includes the power to determine the admissibility, relevance and weight of any evidence.
5. Notwithstanding the provisions of paragraphs 1 and 3 of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Article 28
(Statements of Claim and Defense)

1. Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting her claim, the points at issue and the relief or remedy sought, and the respondent shall state his defense in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements, all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.
2. Unless otherwise agreed, either party may amend or supplement his claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers that it ought not authorize such amendment having regard to the delay in formulating it.

Article 29
(Hearings and Written Proceedings)

1. Subject to any contrary agreement by the parties, the tribunal shall decide whether the proceedings should include oral hearings for the presentation of evidence or for oral argument, or if the proceedings shall be conducted on the basis of written documents or other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the arbitral proceedings, if so requested by a party.
2. The parties shall be given sufficient advance notice of all hearings and meetings of the arbitral tribunal held for the purposes of inspection of goods, other property or documents.
3. All statements, documents or information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any report or document presented as evidence on which the tribunal may rely in making its decision shall be communicated to the parties.

Article 30
(Representation and Default of a Party)

1. The parties may designate a person or persons to represent or assist them before the tribunal.
2. Unless otherwise agreed by the parties, if, without showing sufficient cause:
 - a. the claimant fails to communicate her statement of claim in accordance with Article 28(1), the arbitral tribunal shall terminate the arbitral proceedings;
 - b. the respondent fails to communicate his statement of defense in accordance with Article 28(1), the arbitral tribunal shall continue the arbitral proceeding without treating such failure in itself as an admission of the claimant's allegations;

- c. any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal will continue the proceedings and make the award on the evidence before it.

Article 31

(Expert Appointed by the Arbitral Tribunal)

1. Unless otherwise agreed by the parties, the arbitral tribunal:
 - a. may appoint one or more experts charged with preparation of a report on specific issues to be determined by the tribunal;
 - b. may request that a party give the expert all relevant information or produce or provide access to any documents, goods or other relevant property for her inspection.
2. Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of her written or oral report, participate in a hearing where the parties have the opportunity to put questions to her and can arrange for the participation of expert witnesses to testify on the points at issue.

Article 32

(Evidence)

1. Any evidence admitted by the Civil Procedure Law may be presented before the arbitral tribunal, subject to the provisions of Article 2(g) and Article 29(1) of this Law.
2. The arbitral tribunal or a party with the authorization of that tribunal, may request from the judicial court assistance in taking evidence, with its results being referred to the arbitral tribunal. The judicial court may execute the request within the limits of its competence and according to its own rules on taking evidence.

Article 33

(Power of the Arbitral Tribunal to order Interim Measures)

1. Unless otherwise agreed by the parties, the arbitral tribunal may, on request of a party, order that any party take such interim measures as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute.
2. The arbitral tribunal may require any party to provide appropriate security in connection with the measures mentioned in the preceding paragraph of this article.

Chapter V

Award

Article 34

(Determination of Applicable Law)

1. The parties are free to choose the rules of law that will be applied in the arbitration, as long as they are not in violation of public morals and the principles of public policy of Mozambican law.
2. The arbitrators judge according to substantive law, unless the parties, in the arbitration agreement or in a document signed prior to acceptance of the first arbitrator, authorize them to judge according to equity.
3. When the parties do not stipulate the applicable law, the arbitral tribunal shall apply the rules of law it considers appropriate.
4. The parties may agree that the arbitration be carried out based on general principles of law, on customs and usages and on the international rules of trade.

Article 35

(Deadline for the Award)

1. In the arbitration agreement or by subsequent written instrument, up until the acceptance of the first arbitrator, the parties may set the deadline for the award of the arbitral tribunal or the manner of establishment of that deadline.
2. The deadline for the award shall be six months, if no other limit results from the agreement of the parties, in accordance with the terms of the foregoing paragraph.
3. The time limit to which the foregoing paragraphs refer is counted as of the date of constitution of the tribunal.
4. In the event of *force majeure*, by written agreement between the parties or on the initiative of the tribunal itself, the deadline for the award may be extended up to double its initial duration.
5. The arbitrators or the parties who without justification impede the award being made within the deadline, are liable at law for the damages caused.

Article 36

(Decision-making)

1. When the tribunal is composed of more than one arbitrator, all decisions are made by majority of its members, unless otherwise agreed by the parties. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

2. The parties may further stipulate that, failing the necessary majority, the decision is taken solely by the chairperson or that the question be considered decided in accordance with the chairperson's vote.
3. In the event of the necessary majority not being formed, due only to differences as to the monetary amount of the liability, the question is considered decided in accordance with the chairperson's vote, except in the event of express agreement to the contrary by the parties.

Article 37

(Decision on Preliminary Questions)

1. The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement.
2. The plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. A party is not precluded from raising such a plea by the fact that it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceeding. The tribunal may, in either case, admit a later plea if it considers the delay justified.
3. The arbitral tribunal may rule on the plea referred to in the foregoing paragraph, either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, that the judicial court decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award. If the tribunal so decides in the award, the ruling by which the arbitral tribunal declares itself as having jurisdiction may only be reviewed by the judicial court by the means specified in Article 44 of this Law.
4. When controversy arises in the course of the arbitration on inalienable rights and it is confirmed that the award will depend on whether or not such rights exist, the arbitrator or the arbitral tribunal shall refer the parties to the judicial power and suspend the arbitral proceeding.
5. Once the preliminary question has been resolved and the award or decision become *res judicata* and been attached to the files, the arbitration will carry on normally.

Article 38

(Settlement)

1. If, during arbitral proceedings the parties settle the dispute, the tribunal shall terminate the arbitral proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.
2. An award on agreed terms shall be made in accordance with the provisions of Article 39 and shall state that it is an arbitral award.

Article 39
(Elements of the Arbitral Award)

1. The award of the arbitral tribunal shall be made in writing and in it shall appear:
 - a. the identification of the parties;
 - b. reference to the arbitration agreement;
 - c. the subject-matter of the dispute;
 - d. the identification of the arbitrators;
 - e. the place of the arbitration and the location at and date on which the award was made;
 - f. the signature of the arbitrator or arbitrators.
2. In arbitral proceedings with more than one arbitrator, the signatures of the majority of the arbitrators shall suffice, provided that the reason for the omission of the other signatures is stated.
3. The award shall state the reasons on which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under Article 38.
4. The setting and division between the parties of the charges resulting from the proceedings shall appear in the award.

Article 40
(Termination of Proceedings)

1. The arbitral proceedings are terminated by the final award, subject to the terms of Article 48 of this Law.
2. The arbitral proceedings may also terminate early, in the following cases:
 - a. the claimant withdraws her claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
 - b. the parties agree on the termination of the proceedings;
 - c. the arbitral tribunal finds that continuation of the proceedings has for any reason become unnecessary or impossible.
3. The terms of Article 39 are applicable to the decision to terminate, with the necessary adaptations.

4. The mandate of the arbitral tribunal terminates with the termination of the proceedings, subject to the provisions of Articles 45 and 48 of this Law.

Article 41
(Suspension)

The parties, by joint agreement and by means of written communication to the arbitrators, may suspend the arbitral proceeding prior to the award being made, for a maximum time period of one month, counting from the last notice carried out in the proceeding.

Article 42
(Notice, Deposit and Disclosure of the Award)

1. The chairperson of the tribunal will order notification of the making of the decision to each one of the parties, by registered letter or other means that leaves a written record.
2. As soon as the charges resulting from the proceeding are deemed fully paid by both parties or by any one of them, a copy of the award will be sent to each of the parties.
3. The original of the award is deposited at the secretariat of the judicial court of the place of the arbitration after the time period stipulated in Article 48(1) and 48(3) has elapsed unless, in the arbitration agreement or in subsequent written instrument, the parties have foregone such deposit or in institutionalized arbitrations, the respective regulation provides for another form of deposit.
4. The chairperson of the arbitral tribunal will notify the parties of the deposit of the award.
5. The award may only be disclosed with the agreement of all the parties.
6. Reference may be made to the award for the purposes of research and study, given the legal interest of the case, as long as the anonymity of the parties and the confidentiality of the proceedings are respected.

Article 43
(Enforceability)

An arbitral award, deposited under Article 42, produces between the parties and their successors the same effects as a judgment made by an organ of the judicial power and, if condemnatory, constitutes an instrument valid to commence an execution proceeding.

Chapter VI

Recourse against Award

Article 44
(Availability of Recourse to the Judicial Courts)

1. Only an application for setting aside is accepted in respect of the award of the arbitral tribunal.

2. The arbitral award may be set aside by the judicial court only if:
 - a. the party making the application furnishes proof that:
 - i. party to the arbitration agreement referred to in Article 4 was under some incapacity; or
 - ii. the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereof, under the law of the Mozambican State; or
 - iii. it was not duly informed of the appointment of an arbitrator or of the arbitral proceeding or it was impossible for him to enforce his rights for any other reason; or
 - iv. the award deals with a dispute not referred to in the arbitration agreement or not contemplated in the submission to arbitration, or contains decisions on matters beyond the terms of the arbitration agreement or of the submission to arbitration, provided, that if the provisions of the award in respect of matters submitted to arbitration can be separated from those not so submitted, only that part of the award that contains decisions on matters not submitted to arbitration may be set aside; or
 - v. the composition of the arbitral tribunal or the arbitral procedures are not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, are not in accordance with this Law; or
 - b. the court finds that:
 - i. the subject-matter of the dispute is not capable of settlement by arbitration under the Law of the Mozambican State; or
 - ii. the judgment is in conflict with the public policy of the Mozambican State.
3. The application for setting aside referred to in the present article operates to stay the proceedings.

Article 45

(Filing, Grounds and Time Limit)

1. The application for setting aside is lodged before the arbitral tribunal that issued the award, within thirty days counting from the notification thereof or from the notification of a decision that corrected, interpreted or supplemented it.
2. The opposing party is notified of the application, and may reply within the same time limit. This time limit having elapsed and within a maximum time period of forty-eight hours, the arbitral tribunal shall submit the case to the competent judicial court.

3. The arbitral tribunal shall deny an application filed beyond the time limit therefor or the grounds of which do not follow the rules referred to in the preceding article.
4. Appeal is allowed from a decision denying the application based on non-fulfillment of the grounds for denial.

Article 46
(Procedure for Recourse)

1. The judicial court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other measure as the judicial court may deem likely to eliminate the grounds for setting aside.
2. At the end of the time limit referred to in the preceding paragraph, the judge shall make a ruling, and may for the purpose use the kinds of evidence admitted by the Civil Procedure Law.
3. No appeal is allowed from the ruling referred to in the preceding article.

Article 47
(Right to Request Setting Aside)

The right to appeal the award of the arbitrators is non-waivable.

Article 48
(Correction and Interpretation of Award; Additional Award)

1. Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties, a party may, with notice to the other party:
 - a. request the arbitral tribunal to correct in the text of the award, any errors of computation, any material or typographical error or any errors of similar nature;
 - b. if so agreed by the parties, request the arbitral tribunal to give an interpretation of a specific point or part of the award.
2. If the tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request.
3. Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to certain points of the claim presented in the arbitral proceedings but omitted from the award. If the tribunal considers the request to be justified, it shall issue the additional award within sixty days.
4. The arbitral tribunal may extend, if necessary, the period of time available to it to make a correction, interpretation or supplementary award, under paragraphs 2 and 3 of this article.

5. The arbitral tribunal may correct any error of the kind referred to in paragraph 1(a) of this article on its own initiative within thirty days of the date of the award.
6. The requests referred to in the preceding paragraphs do not operate to stay proceedings.
7. If the tribunal is unable to meet again, the chairperson of the arbitral tribunal is competent to interpret, correct or supplement the judgment.
8. The provisions of Article 39 shall apply to the correction or interpretation of the award or to an additional award, with the necessary adaptations.
9. A decision that interprets, corrects or supplements an arbitral award is incorporated thereinto and shall be notified to the parties.

Chapter VII

Enforcement

Article 49

(Execution of Judgment)

1. The parties commit themselves to execute the judgment in the exact terms that are communicated to them by the arbitral tribunal.
2. Once the time limit defined by the arbitral tribunal for the fulfillment of the award has elapsed or, in the absence of such definition, the time limit referred to in Article 45(1) has elapsed, without it having been fulfilled, the interested party may request its enforcement, before the competent judicial court.

Article 50

(Procedure for Enforcement)

1. The process of enforcement follows the terms of the most summary execution proceedings, irrespective of the amount in dispute, with the specificities of the following articles.
2. The party applying for the enforcement of an award shall include with its application duly authenticated copies of the following documents:
 - a. arbitration agreement;
 - b. arbitration award, its correction, interpretation and additional award;
 - c. confirmation of the notification to the parties and of the deposit of the award.
3. If the award has not been made in Portuguese, a duly certified translation into that language shall be supplied.

Article 51
(Objection to Enforcement)

1. Objection to enforcement is allowed within a time limit of eight days, counting from the notification of the decision on enforcement, on the grounds of fulfillment of the arbitration award, its setting aside or pending appeal for its setting aside. In this last case the judicial authority will suspend the enforcement until such time as that appeal is resolved.
2. A ruling based on grounds other than those referred to in the preceding paragraph is unavailable to the judge, and without effect.
3. The elapsing of the time period for bringing the action for setting aside does not preclude invoking the grounds therefor by way of objection to enforcement.
4. No appeal is allowed from a ruling that denies the appeal.

Chapter VIII

International Commercial Arbitration

Article 52
(Concept)

1. For the purposes of this Law, an arbitration will be of an international nature when it involves international trade interests and in particular when:
 - a. the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their business domiciles in different countries; or
 - b. one of the places referred to below is situated outside the country in which the parties have their place of business;
 - i. the place of the arbitration, if determined in or determinable pursuant to the arbitration agreement;
 - ii. any place where a substantial part of the obligations resulting from the commercial relationship is to be performed or the place with which the subject-matter of the dispute is deemed to be most closely connected;
or
 - c. the parties have expressly stipulated that the subject-matter of the arbitration agreement has connections with more than one country.
2. For the purposes foreseen in the preceding paragraph, if a party:
 - a. has more than one business domicile, the domicile to use is that which has the closest relationship with the arbitration agreement;
 - b. has no business domicile, its habitual residence is relevant for the purpose.

Article 53
(Regime)

Failing specific stipulation by the parties, the provisions of this Law that relate to arbitration in general are applicable to international commercial arbitration, with the necessary adaptations, subject to the application of the special provisions foreseen in this Law.

Article 54
(Determination of Applicable Law)

1. The arbitral tribunal decides the dispute in accordance with the rules of law chosen by the parties for application to the substance of the dispute. Any designation of the law or of the legal system of a given country shall be considered, unless otherwise expressed, as directly referring to the substantive law of that country and not its conflict of laws rules.
2. Failing any such designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable in the case.
3. The tribunal shall decide *ex aequo et bono* or in its capacity as *amiable compositeur*, only when the parties have expressly authorized it to do so.
4. In all cases, the arbitral tribunal shall decide in accordance with the stipulations of the contract and shall take into account the usages of the trade applicable to the transaction.

Article 55
(Competency)

The competency of the parties to enter into the arbitration agreement on their own behalf or in representation of another person, shall be as established by the law of the place of their domicile, main place of business or habitual residence, unless the Mozambican law is more favorable to the validity of the arbitration agreement.

Article 56
(Language)

1. The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings.
2. The agreement or determination referred to in the preceding paragraph, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or communication by the arbitral tribunal.
3. The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or chosen by the arbitral tribunal.

Article 57
(Number of Arbitrators)

1. The parties are free to determine the number of arbitrators.
2. Failing such determination, the number of arbitrators shall be three.

Article 58
(Appointment of Arbitrators)

1. The parties, by agreement, are free to choose the process of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs 3 and 4 of this article.
2. Failing such agreement:
 - a. in the event of an arbitration with three arbitrators, each party shall appoint one arbitrator and the two arbitrators thus appointed shall choose the third arbitrator; if one of the parties fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree as to the choice of the third arbitrator within thirty days of their respective appointment, the appointment shall be made, on request of a party, by a permanent arbitral institution chosen by the parties;
 - b. in the event of an arbitration with a sole arbitrator, if the parties are unable to agree on the choice of the arbitrator, he shall be appointed, on request of a party, by a permanent arbitral institution chosen by the parties.
3. A party may request that the judicial court take the desired measure, unless agreement in relation to the process for appointment stipulates other means of ensuring this appointment if, during an appointment process agreed upon by the parties:
 - a. a party fails to act as required under the procedure referred to; or
 - b. the parties, or two arbitrators, are unable to reach an agreement under the procedure referred to; or
 - c. a third party, including an institution, fails to perform a function that was entrusted to it under the procedure referred to.
4. The provisions of Article 18(9) and 18(10) of this Law apply to the appointment of arbitrators.

Article 59
(Notification of the Decision)

After the award is made, a copy signed by the arbitrator or arbitrators in accordance with the terms of Article 39 of this Law shall be sent to each party.

TITLE III

Conciliation and Mediation

Chapter I

General Provisions

Article 60

(Object)

1. Conciliation and mediation may be adopted by the parties as an alternative means of conflict resolution for the solution by mutual agreement of any dispute subject to settlement, before or during the formalities of a judicial or arbitral proceeding.
2. The mediation procedure is based on the designation of a third person who is impartial and independent, who has as her function finding a solution satisfactory to both parties.
3. Conciliation has as its function facilitating the communication and relationship between the parties such that they come to agreement
4. Judicial conciliation is governed by its own rules.

Article 61

(Specific Principles of Conciliation and Mediation)

1. The acts, procedures, statements and information that may arise in conciliation and mediation are of a reserved and confidential character, are subject to the rules of professional privilege and are devoid of evidentiary value in any court case.
2. The parties may participate directly or through the intermediary of representatives, be they lawyers or not, to whom special powers shall be attributed for the purpose.
3. Subject to the provisions of the regulations of conciliation and mediation institutions, the conciliation and mediation proceedings may be held in oral form, without any written record, or held by mechanical, electronic or magnetic means and means of a similar nature, subject to the signature of the final record by the parties.
4. By accepting to submit to an attempt at conciliation or mediation, the parties commit themselves to refrain from using as an argument or as evidence, in an arbitral or judicial proceeding of any nature:
 - a. the facts revealed, the statements made and the suggestions presented by the opposing party with a view towards an eventual solution to the dispute;
 - b. the proposals presented by the mediator or by any one of the parties;
 - c. the fact of any one of the parties having made known, in the conciliation or mediation, that he is inclined to accept an agreement that has been presented.

Article 62
(Complementary Character of the Arbitration System)

Failing prior stipulation by the parties or contrary legal provision, the provisions in this Law for arbitration are applicable complementarily to conciliation and mediation, with the necessary adaptations.

Article 63
(Jurisdiction)

1. Specialized conciliation and mediation institutions under the terms of Article 69 have jurisdiction to carry out conciliation and mediation, as do individuals, if the requirements set out in this article are respected.
2. Any individual who is of legal age and fully competent may be a mediator or conciliator.

Chapter II

Functioning

Article 64
(Procedural Rules)

1. The parties may institute mediation or conciliation jointly or separately, through submission of the request presented to a mediator or to an institutionalized body of conciliation or mediation of their choice. The appointed mediator or conciliator shall notify the parties so that the first hearing may be held immediately.
2. The hearing commences with the recapitulation of the acts and the establishment of the points in dispute, proceeding so as to bring together the parties in order that they may come to agreement or that a mutually satisfactory solution may be obtained.
3. The mediator or conciliator shall hold as many hearings as necessary to facilitate communication between the parties. In the event of it being necessary, and subject to the absolute respect for the duty of impartiality and confidentiality, private or separate talks may be held with each of the parties, the other party having been informed beforehand.

Article 65
(Conclusion)

1. The proceeding concludes with the signature of the record of the conciliation or mediation, which shall include the agreement signed by the parties and expressly specify the rights and obligations of each of the parties or the impossibility of reaching such conciliation.
2. The record of the conciliation or mediation is confidential in character, unless the will of the parties is otherwise or if publicity is necessary for its application or enforcement.

3. The provisions in respect of arbitration in Article 42 of this Law are applicable, with the necessary adaptations.

Article 66
(Enforceability)

The deposited record of the conciliation or mediation has the same legal effect as an arbitral award.

TITLE IV

Concluding and Transitory Provisions

SOLE CHAPTER

Article 67
(Conventions Prevail)

The multilateral or bilateral agreements or conventions entered into by the State of Mozambique in the context of arbitration, conciliation and mediation shall prevail over the provisions of this Law.

Article 68
(Territorial Scope of Application)

The present law, with the exception of Article 12(2) and 12(4), applies only to those arbitrations that take place within Mozambican territory.

Article 69
(Institutionalized Arbitration, Conciliation and Mediation)

1. Legal persons may constitute and administer institutionalized arbitration, conciliation and mediation centers, establishing in their articles of association:
 - a. the representative character of the institution responsible for the arbitration, conciliation and mediation center;
 - b. the specially constituted purpose of arbitration, conciliation and mediation.
2. The Minister of Justice may order the closing of an arbitration, conciliation or mediation center if any fact is found that demonstrates that the institution does not possess the technical conditions or integrity to carry out arbitration, conciliation or mediation.

Article 70
(Derogation of Legal Norms)

1. The following legal precepts from the Code of Civil Procedure are altered and replaced in the terms of this paragraph:

“Article 49

1. The judgments made by courts in foreign countries may only serve as a basis for execution following their review and confirmation by the court with jurisdiction.
2. (.....)”

“Article 71

(.....)

d. of the review of judgments made by foreign courts.”

“Article 90

1. (.....)
2. If the decision has been awarded by arbitrators in an arbitration which has taken place in Mozambican territory, its enforcement will fall to the judicial court with jurisdiction in the place in which the arbitral tribunal has operated.”
2. In Articles 1525 to 1528 of the Code of Civil Procedure, reference to the system of voluntary arbitral tribunal shall be considered to have been done to this Law, with the necessary adaptations.
3. The following precepts also are modified and replaced in accordance with the terms of this article: in Articles 20 and 21 of Ministerial Order n° 6/96 of 24 January, which approves the Regulation for the importation of goods subject to pre-embarkation inspection, where it reads “Technical Arbitration Council” it should read “Technical Council for Appeal.”
4. The following precepts of Law n° 5/92 of 6 May are further altered and replaced in the terms of these paragraphs:

“Article 3

1. (.....)
2. Arbitral tribunals may be constituted in the context of administrative contracts, of contractual or extra-contractual liability and in disputed acts of a predominantly economic content, provided they are chaired by a judge of the Administrative Tribunal and are integrated therewith, unless special law provides otherwise.”

Article 71

(Laws Repealed)

1. Article 48(2), Article 814 and Title I of Book IV, “Of the Voluntary Arbitral Tribunal,” of the Code of Civil Procedure, are repealed.
2. Articles 36 and 47 of the Code of Court Costs approved by Decree n° 43 809 of 20 July 1991 and altered by Decree n° 48/89 of 28 December, are repealed.

3. Article 15 of the Code of Labor Procedure, approved by Law-Decree n° 45 497 of 30 December 1963 and by Order-in-Council n° 87/70 of 2 February, is repealed.
4. Article 5 of the Code of Judicial Court Costs, approved by Law-Decree n° 45 698 of 30 April 1964, and by Order-in-Council n° 88/70 of 3 February, is repealed.

Article 72
(Entry into Effect)

This law enters into effect 30 days following its publication.

Approved by the Assembly of the Republic, 4 May 1999.

The President of the Assembly of the Republic, *Eduardo Joaquim Mulémbwè*

Promulgated on 8 July 1999.

Be it published.

The President of the Republic, JOAQUIM ALBERTO CHISSANO.