NOTE ON CORRECTION AND INTERPRETATION OF ARBITRAL AWARDS


Article 29 of the 1998 ICC Rules of Arbitration provides:

"1. On its own initiative, the Arbitral Tribunal may correct a clerical, computational or typographical error, or any errors of similar nature contained in an Award, provided such correction is submitted for approval to the Court within 30 days of the date of such Award.

2. Any application of a party for the correction of an error of the kind referred to in Article 29(1), or for the interpretation of an Award, must be made to the Secretariat within 30 days of the receipt of the Award by such party, in a number of copies as stated in Article 3(1). After transmittal of the application to the Arbitral Tribunal, it shall grant the other party a short time limit, normally not exceeding 30 days, from the receipt of the application by that party to submit any comments thereon. If the Arbitral Tribunal decides to correct or interpret the Award, it shall submit its decision in draft form to the Court not later than 30 days following the expiration of the time limit for the receipt of any comments from the other party or within such other period as the Court may decide.

3. The decision to correct or to interpret the Award shall take the form of an addendum and shall constitute part of the Award. The provisions of Articles 25, 27 and 28 shall apply mutatis mutandis."

Furthermore, Article 2(7) of Appendix III provides:

"In the case of an application under Article 29(2) of the Rules, the Court may fix an advance to cover additional fees and expenses of the Arbitral Tribunal and may subordinate the transmission of such application to the Arbitral Tribunal to the prior cash payment in full to the ICC of such advance. The Court shall fix at its discretion any possible fees of the arbitrator when approving the decision of the Arbitral Tribunal."

Article 35 of the 2012 ICC Rules of Arbitration provides:

"1. On its own initiative, the arbitral tribunal may correct a clerical, computational or typographical error, or any errors of similar nature contained in an award, provided such correction is submitted for approval to the Court within 30 days of the date of such award."
2. Any application of a party for the correction of an error of the kind referred to in Article 35(1), or for the interpretation of an award, must be made to the Secretariat within 30 days of the receipt of the award by such party, in a number of copies as stated in Article 3(1). After transmittal of the application to the arbitral tribunal, the latter shall grant the other party a short time limit, normally not exceeding 30 days, from the receipt of the application by that party, to submit any comments thereon. The arbitral tribunal shall submit its decision on the application in draft form to the Court not later than 30 days following the expiration of the time limit for the receipt of any comments from the other party or within such other period as the Court may decide.

3. A decision to correct or to interpret the award shall take the form of an addendum and shall constitute part of the award. The provisions of Articles 31, 33 and 34 shall apply mutatis mutandis."

Furthermore, Article 2(10) of Appendix III provides:

"In the case of an application under Article 35(2) of the Rules […] the Court may fix an advance to cover additional fees and expenses of the arbitral tribunal and additional ICC administrative expenses and may make the transmission of such application to the arbitral tribunal subject to the prior cash payment in full to the ICC of such advance. The Court shall fix at its discretion the costs of the procedure following an application […] which shall include any possible fees of the arbitrator and ICC administrative expenses, when approving the decision of the arbitral tribunal."


If the arbitral tribunal decides to correct the award on its own initiative, it should inform the parties and the Secretariat of its intention to do so and grant the parties a short time limit to comment. The arbitral tribunal should submit the draft Addendum to the Court for scrutiny within 30 days of the date of the award.


Upon receipt of an Article 29(2) (1998 Rules) / 35(2) (2012 Rules) application, the Secretariat may submit the matter to the Court for it to consider whether, in view of the circumstances of the case, an advance to cover additional fees and expenses of the arbitral tribunal and additional ICC administrative expenses (Article 2(10), Appendix III, 2012 Rules) is warranted. Should the Court fix an additional advance, such advance must be paid before the Secretariat will transmit the application to the arbitral tribunal. Otherwise, the Secretariat will transmit the application directly to the arbitral tribunal. As such, the arbitral tribunal should not address an application until the Secretariat transmits it to them.

If the Court did not ask for an advance on costs at the time when the application was submitted to the Secretariat, it can, in exceptional circumstances, take a decision on costs at the time of the scrutiny and make the notification of the Addendum or the Decision contingent upon the payment by one or both parties of the costs fixed by the Court.

Upon receipt of the application from the Secretariat the arbitral tribunal should grant the other parties a short time limit, normally not exceeding 30 days, for comments.
The arbitral tribunal should then submit its draft decision to the Court for scrutiny not later than 30 days following the expiration of the time limit granted for comments. Should the arbitral tribunal require an extension of such time limit, it should inform the Secretariat.

Depending upon the arbitral tribunal’s decision, such decision can take one of four forms:

1. **Addendum**: if the arbitral tribunal decides to correct or interpret the award, as this shall constitute part of the award.
2. **Decision**: if the arbitral tribunal decides that the award does not need to be corrected or interpreted and does not take a decision on costs.
3. **Addendum and Decision**: if there are two or more applications and the arbitral tribunal decides to correct or interpret the award on the basis of one or more, but not all applications.
4. **Decision and Addendum on Costs**: if the arbitral tribunal decides that the award does not need to be corrected or interpreted but takes a decision on costs related to the application.

**General Considerations**

All decisions should contain the reasons upon which they are based (Article 25(2) (1998 Rules) / 31(2) (2012 Rules)). They should also include operative conclusions ("dispositif") or a finding that the application is rejected. For further guidance about what should be included in the draft decision, see the ICC Checklist on Correction and Interpretation of Arbitral Awards. The Court will scrutinise the draft decision (Article 27 (1998 Rules) / 33 (2012 Rules)), and upon approval thereof it should be signed by the arbitral tribunal (Article 25(1) and (3) (1998 Rules) / 31(1) and (3) (2012 Rules)) and sent to the Secretariat for notification to the parties (Article 28 (1998 Rules) / 34 (2012 Rules)).

In all cases the arbitral tribunal must first ensure that mandatory rules of law at the place of arbitration do not exclude the correction or interpretation of an award by the tribunal.

Where the relevant national law or court practice provide specific circumstances in which an arbitral tribunal may render certain decisions other than corrections or interpretation regarding an award which had been approved and notified, such situations shall be treated in the spirit of this Note.