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Act of 2 June 2014 amending Book 3, Book 6 and Book 10 of the Civil Code and the Fourth Book of the Code of Civil Procedure in connection with the modernization of the Arbitration Court

We Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc. etc. etc.

To all who will see or hear this read, salute! do to know:

We have taken into consideration that it is desirable to amend Book 3, Book 6 and Book 10 of the Civil Code and the Fourth Book of the Code of Civil Procedure in connection with the modernization of arbitration law;

Thus it is that We, having heard the Advisory Division of the Council of State, and in consultation with the States General, have approved and understand, as We hereby approve and understand:

ARTICLE I

Book 3 of the Civil Code is amended as follows:

a

A paragraph is added to Article 316, reading:

4. The limitation period of a legal claim is also interrupted by a claim that does not lead to admissibility, if:
 - a) the arbitral tribunal has declared itself incompetent on the basis of Article 1052, paragraph 5, of the Code of Civil Procedure and that award has become final; or
 - b) the court has declared itself incompetent on the basis of Article 1022, first paragraph, 1067 or 1074d of the Code of Civil Procedure and that decision has become final.

b

A paragraph is added to Article 319, reading:

3. If the limitation period for a legal action under Article 316(4) is interrupted, a new limitation period begins to run from the day following the day of the judgment that has become final. The new limitation period is equal to the original limitation period, but not longer than five years. Nevertheless, the limitation period will in no case commence at an earlier date than when the original period would have expired without interruption.

ARTICLE Ia

In Article 236 of Book 6, section n, of the Civil Code, the words "or" and "or one or more arbitrators" are deleted.

ARTICLE II

In Book 10 of the Civil Code, a title is inserted after Article 165, which reads:

TITLE 16 ARBITRATION

Article 166

Notwithstanding Article 154, an arbitration agreement is substantively valid if it is valid under the law chosen by the parties or under the law of the place of arbitration or, if the parties have not made a choice of law, under the law that is applicable to the legal relationship to which the arbitration agreement relates.

Article 167

If a State, other public legal entity or state-owned enterprise is a party to an arbitration agreement, it cannot rely on its law or regulations to determine its capacity or authority to enter into the arbitration agreement or

the susceptibility of the dispute to be decided by arbitration. to dispute, if the other party did not know nor should have known this arrangement.

ARTICLE III

The Fourth Book of the Code of Civil Procedure is amended as follows:

a

The title of the first section will read:

SECTION 1 THE AGREEMENT TO ARBITRATE

b

A section is added after Article 1021, which reads:

SECTION 1 A THE AGREEMENT TO ARBITRATE AND THE JURISDICTION OF THE ORDINARY COURT

c

In Article 1022, the second and third paragraphs as well as the indication "1." are deleted. for the first paragraph.

D

Four articles are inserted after Article 1022, which read:

Article 1022a

An arbitration agreement does not prevent a party from requesting an ordinary court for a measure to preserve rights or from turning to the interim relief judge of the district court or the subdistrict court judge for summary proceedings in accordance with Article 254.

Article 1022b

An arbitration agreement does not prevent a party from requesting the ordinary court to order a preliminary hearing of witnesses, a preliminary expert report, a preliminary location and inspection, or inspection, copies or extracts of certain documents.

Article 1022c

If, in the cases referred to in Articles 1022a and 1022b, a party relies on the existence of an arbitration agreement for all defenses, the court declares itself exclusively competent if the requested decision cannot be obtained in arbitration or cannot be obtained in a timely manner.

E

After article 1022c (new), a section is added, which reads:

SECTION B THE ARBITRATION TRIAL

F

The third paragraph of Article 1024 is deleted.

G

Article 1025 is amended as follows:

1. The second paragraph is deleted.
2. The third paragraph is renumbered as the second paragraph.

H

A paragraph is added to Article 1026, which reads:

5. Article 1027, fourth paragraph, applies mutatis mutandis to the provisions of the second and fourth paragraphs.

I

Article 1027 is amended as follows:

1. The third sentence in the second paragraph is deleted.
2. In the second paragraph, the words "two months" are replaced by: three months.
3. In the third paragraph, the phrase "then these" will be replaced by: then the missing arbitrator or arbitrators will be.

J

Article 1028 will read as follows:

Article 1028

1. If, by agreement or otherwise, one of the parties has been granted a privileged position in the appointment of the arbitrator or arbitrators, each of the parties may, in deviation from the agreed appointment arrangement, request the preliminary relief judge of the court to appoint the arbitrator or arbitrators.
2. A party must submit the request referred to in the first paragraph within three months after the case is pending, under penalty of forfeiture of the right to later invoke the privileged position in the appointment of the arbitrator or arbitrators in the arbitral proceedings or at the ordinary judge. The parties may extend the term by agreement.
3. The opposing party of the applicant shall be given the opportunity to be heard. Article 1027, fourth paragraph, applies mutatis mutandis.

K

Article 1029 is amended as follows:

1. A sentence is added to the end of the first paragraph, which reads:

An arbitrator can only be released from his assignment in the cases referred to in the second to fifth paragraphs of this article, unless the parties have agreed otherwise.

2. In the fourth paragraph, the comma between the words "is" and "are" is deleted.

3. After the fourth paragraph, a paragraph is added that reads:

5. An arbitral tribunal that has accepted its mandate may, if, despite repeated reminders, carries out its mandate in an unacceptably slow manner, taking all circumstances into account, at the request of one of the parties it may be released from its mandate by the third party designated by the parties or, failing this, by the preliminary relief judge of the court.

L

In Article 1030, first paragraph, after the phrase "an arbitrator pursuant to Article 1029, second, third or fourth paragraph," is added: or an arbitral tribunal pursuant to Article 1029, fifth paragraph.

M

In Article 1031, the second paragraph as well as the indication "1." shall be deleted. for the first paragraph.

N

Article 1032 is deleted.

O

In Article 1033, first paragraph, the second and third sentences are deleted.

P

Article 1034 is amended as follows:

1. In the first and second paragraphs, the words "or secretary" are deleted each time.

2. After the second paragraph, a paragraph is added that reads:

3. An arbitrator who, pending the arbitral proceedings, suspects that he may be challenged shall notify the parties in writing and, if the arbitral tribunal consists of more arbitrators, the co-arbitrators, stating the probable reasons for the challenge.

Q

Article 1035 will read:

Article 1035

1. The challenging party shall notify the challenge in writing, stating the reasons, to the arbitrator involved, the other party and, if the arbitral tribunal consists of several arbitrators, the co-arbitrators. The notification shall be made within four weeks after the day of receipt of the notification referred to

in Article 1034 or, failing that, within four weeks after the reason for the challenge has become known to the challenging party.

2. If a challenged arbitrator does not withdraw within two weeks after the day of receipt of a timely notification as referred to in the first paragraph, the merits of the challenge will be decided by the preliminary relief judge of the court at the request of the most willing party. . The request shall be made within two weeks of the day of receipt of the written notice from the challenged arbitrator that he will not withdraw, or failing that, within six weeks of the day of receipt of the notice.
3. If the challenged arbitrator withdraws or his challenge is found to be well-founded by the preliminary relief judge of the court, he will be replaced in accordance with the rules that applied to his original appointment, unless the parties have agreed on another method of replacement. Article 1030, second and third paragraph, applies mutatis mutandis.
4. If a challenged arbitrator withdraws, this does not imply acceptance of the validity of the reasons for the challenge.
5. The arbitral tribunal may suspend the arbitral proceedings from the day of receipt of the timely notification referred to in the first paragraph, or afterwards, pending the challenge procedure, from the moment the arbitral tribunal considers this appropriate. If the challenge is found to be inadmissible or unfounded, the proceedings, if they were suspended, will be resumed as they are.
6. By agreement, the parties may shorten or extend the periods referred to in the first and second paragraphs of this article.
7. By agreement, the parties can provide for a request for disqualification to be handled by an independent third party other than the preliminary relief judge of the court.
8. A party that has reasons to challenge an arbitrator shall base these reasons on a request for disqualification in accordance with the provisions of this article, under penalty of forfeiture of the right to rely on them later in the arbitral proceedings or in court.

R

An article is added after Article 1035, which reads:

Article 1035a

If the arbitral tribunal is assisted by a secretary, Articles 1033 to 1035 apply mutatis mutandis.

S

Article 1036 will read as follows:

Article 1036

1. Without prejudice to the mandatory law provisions in this title, the arbitral proceedings will be conducted in the manner agreed by the parties. To the extent that the parties have not provided for the settlement of the arbitral proceedings, this will be conducted in the manner determined by the arbitral tribunal, without prejudice to the provisions of this title.

2. The arbitral tribunal treats the parties on an equal footing. The arbitral tribunal shall give the parties the opportunity to put forward and explain their positions and to comment on each other's positions and on all documents and other information that has been brought to the attention of the arbitral tribunal in the dispute. In making its decision, the arbitral tribunal shall not base its judgment to the detriment of one of the parties on documents and other information about which that party has not been able to express itself sufficiently.
3. The arbitral tribunal shall guard against unreasonable delays in the proceedings and, if necessary, shall take measures at the request of a party or on its own initiative. The parties are obliged to each other to prevent unreasonable delays in the proceedings.

T

In Article 1037, third paragraph, by replacing the full stop at the end with a comma, the following is added: unless the parties have agreed otherwise. The arbitral tribunal is authorized to appoint one of its members to hold the hearing referred to in the previous sentence, unless the parties have agreed otherwise.

YOU

Article 1038 is amended as follows:

1. In the first paragraph, the words "before the arbitral tribunal" are replaced by: in the proceedings.
2. In the second paragraph, the following is added before the word "choice": their.

V

After Article 1038, four articles are added, which read:

Article 1038a

1. Unless the parties have agreed otherwise, the claimant and the defendant will be given the opportunity by the arbitral tribunal to submit a statement of claim and a statement of defense respectively.
2. Unless the parties have agreed otherwise, the arbitral tribunal is free to determine whether further statements can be submitted.

Article 1038b

The arbitral tribunal shall, at the request of one of the parties or on its own initiative, give the parties the opportunity to explain their case orally at a hearing, unless the parties have agreed otherwise.

Article 1038c

1. A counterclaim is admissible if the same arbitration agreement on which the claim is based applies or the same arbitration agreement has been expressly or tacitly declared applicable by the parties.
2. Unless the parties have agreed otherwise, a counterclaim as referred to in the first paragraph shall immediately be submitted in a statement of defense.

Article 1038d

A party may change or increase its claim or counterclaim or the grounds thereof during the arbitral proceedings, provided that this does not unreasonably hinder the other party's defense or unreasonably delay the proceedings.

W

Article 1039 will read as follows:

Article 1039

1. The presentation of evidence, the admissibility of the evidence, the allocation of the burden of proof and the assessment of the evidence are at the discretion of the arbitral tribunal, unless the parties have agreed otherwise.
2. The arbitral tribunal is authorized to appoint one of its members to hear witnesses or experts or to conduct a site survey or viewing, unless the parties have agreed otherwise.

X

Article 1040 will read as follows:

Article 1040

1. Unless the parties have agreed otherwise, the memoranda referred to in Article 1038a shall be accompanied as much as possible by the documents on which the parties rely.
2. The arbitral tribunal may, at the request of one of the parties or on its own initiative, order inspection, copies or extracts of certain documents relating to the dispute from the party that has these documents at its disposal, unless the parties have agreed otherwise. The arbitral tribunal shall determine the conditions under which and the manner in which inspection, copies or extracts of documents are provided.

Y

Article 1041 will read as follows:

Article 1041

1. The arbitral tribunal may, at the request of one of the parties or on its own initiative, order the parties to provide evidence by hearing witnesses and experts, unless the parties have agreed otherwise.
2. The arbitral tribunal may determine the form in which the statements of the witnesses and experts are given, unless the parties have agreed otherwise.
3. If an oral examination of witnesses or experts takes place, the arbitral tribunal will determine the time and place of the examination and the manner in which the examination will take place.
4. If the arbitral tribunal deems it necessary, it will hear the witnesses after they have sworn in the manner prescribed by law to tell the whole truth and nothing but the truth.

Z

After Article 1041, a new article is added, which reads:

Article 1041a

1. If a witness does not appear voluntarily or, having appeared, refuses to make a statement, the arbitral tribunal may allow the party requesting this to apply to the preliminary relief judge of the court within a period to be determined by the arbitral tribunal. with the request to appoint an examining magistrate before whom the witness hearing will take place.
2. The interrogation takes place in the same manner as in normal cases, with the understanding that the arbitrator or arbitrators are given the opportunity by the clerk of the court to be present during the witness interrogation and to ask the witness questions.
3. The registrar of the court shall promptly send the minutes of the hearing to the arbitral tribunal and to the parties.
4. The arbitral tribunal may suspend the proceedings until the day on which the arbitral tribunal has received the report of the hearing.

AA

Article 1042 will read as follows:

Article 1042

1. Unless the parties have agreed otherwise, the arbitral tribunal may appoint one or more experts to provide advice. The arbitral tribunal may consult the parties about the assignment to be given to the experts. The arbitral tribunal will send a copy of the appointment and the instructions given to experts to the parties as soon as possible.
2. The arbitral tribunal may require a party to provide the expert with the required information and to provide the necessary cooperation.
3. At the request of one of the parties, the experts will be heard at a hearing of the arbitral tribunal. If a party wishes to make such a request, it shall inform the arbitral tribunal and the other party as soon as possible.
4. Without prejudice to the provisions of the third paragraph, the arbitral tribunal shall give the parties the opportunity to comment on the advice of the experts appointed by the arbitral tribunal, unless the parties have agreed otherwise.

BB

After Article 1042, a new article is added, which reads:

Article 1042a

The arbitral tribunal may, at the request of one of the parties or on its own initiative, inspect local conditions or inspect items, in or outside the Netherlands, unless the parties have agreed otherwise. The arbitral tribunal shall give the parties the opportunity to be present at the site inspection or viewing.

DD

After Article 1043, two new articles are added, which read:

Article 1043a

1. If the claimant, despite being properly given the opportunity to do so, fails to submit or properly explain his claims, without giving valid reasons for doing so, the arbitral tribunal may by judgment or in any other manner that the arbitral tribunal may decide to do so. deemed appropriate, put an end to the arbitral proceedings.
2. If the defendant, despite being properly given the opportunity to do so, fails to put forward a defense without providing valid reasons for doing so, the arbitral tribunal may immediately render an award.
3. The claim will be granted in the award referred to in the second paragraph, unless it appears to the arbitral tribunal to be unlawful or unfounded. Before rendering an award, the arbitral tribunal may require the claimant to prove one or more of its claims.

Article 1043b

1. During pending arbitral proceedings on the merits, the arbitral tribunal may, at the request of one of the parties, grant provisional relief, with the exception of protective measures as referred to in the fourth title of the Third Book. The interim measure must be related to the claim or counterclaim in the pending arbitral proceedings.
2. By agreement, the parties may grant a separate arbitral tribunal to be appointed for this purpose, within the limits set in Article 254, first paragraph, the authority, regardless of whether the arbitral proceedings on the merits are pending, to make provisional relief at the request of one of the parties, with the exception of protective measures as referred to in the fourth title of the Third Book.
3. The arbitral tribunal referred to in the first and second paragraphs may, in conjunction with the provisional measure, require each party to provide adequate security.
4. Unless the arbitral tribunal determines otherwise, a decision by the arbitral tribunal on the request for provisional relief shall be regarded as an arbitral award; the provisions of the third to fifth sections of this title apply.
5. The arbitral tribunal may, at the unanimous request of the parties, stating the request, immediately make a ruling on the merits instead of a ruling on an interim measure. Such a ruling on the merits will be deemed an arbitral award; the provisions of the third to fifth sections of this title apply.
6. The arbitral tribunal may, at the unanimous request of the parties, stating the request, convert an arbitral award as referred to in the fourth paragraph into an arbitral award as referred to in the fifth paragraph.

EE

In Article 1044, first paragraph, "The arbitral tribunal may" is replaced by: Unless the parties have agreed otherwise, the arbitral tribunal may.

F.F

Article 1045 will read as follows:

Article 1045

1. Unless the parties have agreed otherwise, at the written request of a third party who has any interest in an arbitral proceeding, the arbitral tribunal may allow him to join or intervene therein, provided that the same arbitration agreement applies between the parties and the third party or becomes effective as between the original parties.
2. The arbitral tribunal shall send a copy of the request to the parties as soon as possible.
3. The arbitral tribunal shall give the parties the opportunity to express their opinion. The arbitral tribunal may give the third party the opportunity to express its opinion.
4. By allowing the joinder or intervention, the third party becomes a party to the arbitral proceedings.
5. After allowing a joinder or intervention, the arbitral tribunal will regulate the further course of the proceedings, unless the parties have provided for this by agreement.

GG

An article is added after Article 1045, which reads:

Article 1045a

1. At the written request of a party, the arbitral tribunal may allow it to summon a third party in writing to indemnify it, provided that the same arbitration agreement applies or enters into force between the interested party and the third party as between the original parties.
2. A copy of the summons will be sent as soon as possible to the arbitral tribunal and to the other party.
3. The arbitral tribunal shall give the parties and the third party the opportunity to express their opinion.
4. The arbitral tribunal will not allow indemnification if the arbitral tribunal considers it implausible in advance that the third party will be obliged to bear the adverse consequences of a possible conviction of the interested party or if it is of the opinion that an indemnity procedure would unreasonably or unnecessarily delay the proceedings. is to be expected.
5. After granting an indemnity, the arbitral tribunal will settle the further course of the proceedings, unless the parties have provided for this by agreement.

HH

Article 1046 will read as follows:

Article 1046

1. With regard to arbitral proceedings pending in the Netherlands, a party may request a third party designated by the parties to order the merger with other arbitral proceedings pending in or outside the Netherlands, unless the parties have agreed otherwise. In the absence of a third party

designated by the parties for this purpose, the preliminary relief judge of the court in Amsterdam may be requested to order the consolidation of an arbitral proceeding pending in the Netherlands with another arbitral proceeding pending in the Netherlands, unless the parties have agreed otherwise.

2. Consolidation may be ordered insofar as it does not unreasonably delay the pending proceedings, also in view of the status they are in and there is such a close connection between the arbitral proceedings that the proper administration of justice requires simultaneous hearing and adjudication, in order to avoid separate adjudication of the cases where irreconcilable decisions are given.
3. The third party or the preliminary relief judge may, after giving all parties and, if appointed, the arbitrators the opportunity to express their opinion, grant or reject the request. His decision will be communicated in writing to all parties and the arbitral tribunals involved.
4. If the third party or the preliminary relief judge orders consolidation, the parties will appoint the arbitrator or arbitrators in mutual consultation, in odd numbers, and determine which rules will apply to the merged proceedings. If the parties cannot reach agreement on this within a period to be set by a third party or the preliminary relief judge, the third party or the preliminary relief judge will, at the request of the most eager party, appoint the arbitrator or arbitrators and, if necessary, determine which rules will apply to the matter. joined proceedings will apply. If necessary, the third party or the preliminary relief judge will determine the remuneration for the work already performed by the arbitrator or arbitrators who are released from their assignment as a result of the merger. Article 1027, fourth paragraph, applies mutatis mutandis.

II

In Article 1047, the words "subject to Article 1037" are replaced by: subject to Articles 1037 and 1048.

JJ

In Article 1048, after the word "time", the following shall be deleted.

KK

An article is added after Article 1048, which reads:

Article 1048a

A party that has appeared in the proceedings shall, without unreasonable delay, lodge an objection with the arbitral tribunal with a copy to the other party as soon as it knows or reasonably should know that it has acted contrary to or has failed to act in accordance with any provisions of the second section of this title, the arbitration agreement or an order, decision or measure of the arbitral tribunal. If a party fails to do so, the right to rely on it afterwards, in arbitral proceedings or before the ordinary court, will lapse.

LL

Article 1049 is amended as follows:

1. For the text of the article, the indication "1." placed.
2. A sentence is added to the end of the first paragraph, which reads:

There is a complete or partial final judgment when the claim in a judgment is settled in whole or in part by operative part.

3. A paragraph is added to read:

2. If an arbitral tribunal renders an award that, according to the operative part, constitutes partly an interim award and partly a final award, such an award is a partial final award.

MM

Articles 1050 and 1051 are deleted.

NN

Article 1052 is amended as follows:

1. In the fourth paragraph, the phrase "Article 1064, first paragraph" is replaced by: Article 1064.
2. The fifth paragraph will read as follows:
 5. If and insofar as the arbitral tribunal has declared itself incompetent on the grounds of the absence of a valid arbitration agreement as referred to in the second paragraph, the ordinary court has jurisdiction to hear the case. If and to the extent that the arbitral tribunal has declared itself incompetent on another ground, the arbitration agreement will remain in force, unless the parties have agreed otherwise.
3. The sixth paragraph will read as follows:
 6. The declaration of lack of jurisdiction as referred to in the previous paragraph applies as an arbitral award to which the first section B to the fifth section of this title applies.

OO

The second sentence of Article 1053 shall read as follows:

The arbitral tribunal is authorized to rule on the existence and legal validity of the main agreement of which the arbitration agreement forms part or to which it relates.

PP

In the third paragraph of Article 1054, replace the word "men" with: persons.

QQ

Article 1055 is deleted.

RR

The second sentence of Article 1056 shall read as follows:

Without prejudice to the applicability of Articles 611a to 611h, in the cases referred to in Article 611d, the cancellation, suspension or reduction of the penalty must be requested from the arbitral tribunal, and if the

arbitral tribunal's order does not continue, to be requested by petition to the preliminary relief judge of the court of the district in which the place of the arbitration is located.

SS

Article 1057 is amended as follows:

1. A sentence is added to the end of the first paragraph, which reads:

If the arbitral tribunal consists of more than one arbitrator, procedural matters of minor importance may be decided by the chairman if the co-arbitrators have been authorized to do so, unless the parties have agreed otherwise.

2. In the third paragraph, the word "under" is replaced by: in.

3. The second sentence in the third paragraph is deleted.

4. The fourth paragraph, under e, shall read as follows:

e. the grounds for the decision given in the judgment.

5. After the fourth paragraph, a paragraph is added that reads:

5. Notwithstanding the fourth paragraph, under e, the judgment shall not contain grounds for the decision given if:

- a. the judgment exclusively concerns the mere determination of the quality or condition of goods as referred to in Article 1020, fourth paragraph, under a;
- b. the recording of a settlement as referred to in Article 1069; or
- c. in all other cases, after the arbitration has been initiated, the parties agree in writing that no grounds for the decision will be given.

TT

Article 1058 is amended as follows:

1. The first paragraph, part a, will read as follows:

a. the original of the award, or a copy thereof certified by an arbitrator or the third party designated by the parties, is sent to the parties;

2. The following sentence is added at the end of the first paragraph, part b, replacing the full stop with a comma: insofar as the parties have agreed this.

3. The second paragraph will read:

2. The judgment is deemed to have been sent when four weeks have passed after the date of the judgment.

4. Three paragraphs are added, reading:

3. Without prejudice to the provisions of Articles 1060, 1061 and 1065a, the assignment of the arbitral tribunal ends by sending the last final award to the parties or, in the case referred to in the first paragraph under b, by depositing the last final award with the registry of the court.
4. No copy or extract of a deposited judgment will be provided to third parties.
5. Unless the parties have agreed on other periods as referred to in Articles 1060, 1061, 1061c, a period of three months after the day of deposit of the judgment at the court registry applies, if the parties have agreed on deposit.

UU

Article 1059 will read as follows:

Article 1059

1. Decisions that concern the legal relationship in dispute and are contained in an arbitral award that has become final and final have the authority of res judicata in other proceedings between the same parties with effect from the day on which they were given. Article 236, second and third paragraph, applies mutatis mutandis.
2. The first paragraph does not apply to decisions as referred to in Article 1043b regarding an interim measure.
3. An arbitral award as referred to in the first paragraph has binding force between the same parties in another proceeding from the day on which it was rendered.

VV

Article 1060 will read as follows:

Article 1060

1. A party may, within a period as agreed between the parties or up to three months after the date of dispatch of the award, request the arbitral tribunal in writing to correct an apparent arithmetic error, clerical error or other obvious error in the award that can be easily corrected.
2. If the information referred to in Article 1057, fourth paragraph, under a to d, is incorrectly stated or is missing in whole or in part in the judgment, a party may within a period as agreed between the parties or up to three months after the day of dispatch of the award, request the arbitral tribunal in writing to correct those data.
3. A copy of a request as referred to in the first or second paragraph will be sent by the arbitral tribunal to the other party.
4. The arbitral tribunal may also, on its own initiative, make the correction referred to in the first or second paragraph within a period agreed between the parties or up to three months after the date of dispatch of the award.

5. Before the arbitral tribunal decides on the request referred to in the first or second paragraph, or decides on its own initiative to proceed with the improvement referred to in the fourth paragraph, it shall give the parties the opportunity to comment on this.
6. If the arbitral tribunal proceeds with the correction, it will be entered and signed by the arbitral tribunal on the original and on the copies of the award, or stated in a separate document signed by the arbitral tribunal, which document is deemed to form part of the award. verdict. Articles 1057, first to third paragraphs, and article 1058, first paragraph, apply mutatis mutandis.
7. If the arbitral tribunal rejects the request for correction, it will inform the parties of this in writing.
8. The request referred to in the first and second paragraphs does not suspend the possibility of enforcement, unless the preliminary relief judge considers there are compelling reasons to suspend that possibility until a decision has been made on the request. The provisions of Article 1070 apply to the decision of the preliminary relief judge. The same applies if the arbitral tribunal makes improvements on its own initiative in accordance with the fourth paragraph.

WW

Article 1061 is amended as follows:

1. In the first paragraph, the word "cases" is replaced by: claims or counterclaims.
2. In the first paragraph, "up to thirty days after the day of deposit of the judgment at the registry of the court" is replaced by: within a period agreed between the parties or up to three months after the day of dispatch of the judgment.
3. In the second paragraph, the word "sent" is replaced by: sent.
4. In the third paragraph, the phrase "to be heard" is replaced by: to express an opinion on this.
5. In the first sentence of the fifth paragraph of Article 1061, "arbitral tribunal" is replaced by "arbitral tribunal" and in the second sentence of the fifth paragraph, replacing "shall" with "may" after "Article 1058, first paragraph, » added: part b.
6. The sixth paragraph is deleted.

XX

A section is added after Article 1061, which reads:

SECTION THIRD A ARBITRAL APPEAL

Article 1061a

If the parties have agreed on an arbitral appeal, the provisions of this title apply unless this section provides otherwise or the nature of the arbitral appeal dictates otherwise.

Article 1061b

Arbitral appeal against an arbitral award is only possible if the parties have provided for this by agreement. This agreement must meet the requirements of Articles 1020 and 1021 as well as the requirements of Articles 166 and 167 of Book 10 of the Civil Code.

Article 1061c

The parties may lodge an arbitral appeal within a period agreed between the parties or up to three months after the date of dispatch of the award.

Article 1061d

1. Arbitral appeal can be lodged against a full final award and a final partial final award.
2. Unless the parties have agreed otherwise, arbitral appeals may also be lodged against other partial final awards.
3. An arbitral appeal against an interim award, with the exception of a judgment pursuant to Article 1043b, first paragraph, may only be lodged at the same time as that of the full or partial final award, unless the parties have agreed otherwise.

Article 1061e

An arbitral award rendered on the basis of Article 1046, paragraph 4, may be subject to an arbitral appeal if and insofar as all parties involved in the joined proceedings have provided for such an appeal by agreement. This agreement must meet the requirements of Articles 1020 and 1021 as well as the requirements of Articles 166 and 167 of Book 10 of the Civil Code.

Article 1061f

1. In the event of a declaration of lack of jurisdiction by the arbitral tribunal as referred to in Article 1052, paragraph 5, second sentence, an arbitral appeal is permitted.
2. In the event of jurisdiction or disqualification by the arbitral tribunal, the provisions of Article 1052, fourth and fifth paragraphs, shall apply after a decision has been made on appeal, whether the period applicable to this appeal has expired unused or earlier, if by each of the parties in writing. appeal has been waived, or later, at the time of premature termination of the appeal.

Article 1061g

1. The penalty referred to in Article 1056 can also be claimed for the first time in an arbitral appeal.
2. Notwithstanding the provisions of Article 1056, in the cases referred to in Article 611d, the cancellation, suspension or reduction of the penalty payment must be requested from the arbitral tribunal on appeal, if and for as long as the assignment of that arbitral tribunal continues.

Article 1061h

The arbitral award rendered at first instance can only be supplemented in an arbitral appeal in accordance with Article 1061. The request for this must be made within the period applicable to the appeal. The parties may deviate from the provisions of this article by agreement.

Article 1061i

1. Unless otherwise required by law or the nature of the case, the arbitral tribunal at first instance may, if so requested, declare that its award will be provisionally enforceable notwithstanding arbitral appeal. The provisional declaration of enforceability may concern the entire judgment or part thereof. The arbitral tribunal may attach the condition to the provisional enforceability declaration that security is provided up to an amount to be determined by the arbitral tribunal.
2. If the award has not been declared provisionally enforceable by the arbitral tribunal at first instance and an arbitral appeal has been lodged against that award, a claim for a declaration of provisional enforceability may be filed with the arbitral tribunal in arbitral appeal. This claim will be decided immediately after hearing the other party. The second and third sentences of the first paragraph apply *mutatis mutandis*.
3. If the award has been declared provisionally enforceable by the arbitral tribunal at first instance, but without the condition that security is provided, and if an arbitral appeal has been lodged against that award, a claim to that effect may be filed with the arbitral tribunal in arbitral appeal. This claim will be decided immediately after hearing the other party.

Article 1061j

Notwithstanding the provisions of Article 1059, third paragraph, an arbitral award rendered at first instance has binding force between the same parties in another proceeding from the day on which the term applicable for the arbitral appeal has expired unused, or earlier, with effect from the day on which the appeal has been waived in writing, or later, at the time of premature termination of the appeal, or with effect from the day on which judgment has been given on appeal, if and insofar as the judgment in the first disposition in that appeal has been confirmed.

Article 1061k

1. An arbitral award rendered at first instance that has been declared provisionally enforceable, and an arbitral award that has been rendered in arbitral appeal, may be enforced in accordance with the provisions of the fourth section of this title. In addition to Article 1063, first paragraph, the preliminary relief judge of the court may also refuse enforcement of the arbitral award if provisional enforcement has been ordered in violation of Article 1061i.
2. An arbitral award rendered at first instance that has been declared not provisionally enforceable can only be enforced in accordance with the provisions of the fourth section of this title after the period applicable for the arbitral appeal has expired unused, or if and insofar as it is on appeal. confirmed, or earlier, if the appeal has been waived in writing, or later, at the time of premature termination of the appeal.

Article 1061l

1. Only the legal remedies of annulment and revocation in accordance with the fifth section of this title are available against a full or partial final award rendered in arbitral appeal.
2. Annulment or revocation of an arbitral award rendered in an arbitral appeal automatically entails the annulment or revocation of the arbitral award rendered at first instance, unless the court determines that the arbitral award rendered at first instance remains upheld.
3. The legal remedies of annulment and revocation on the basis of the fifth section of this title are only available against a full or partial final arbitral award rendered at first instance if the term applicable

for the arbitral appeal has expired unused or earlier if each of the parties parties have waived their appeal in writing. Notwithstanding Article 1064a, second paragraph, the authority to file a claim for annulment of such an award expires three months after the day on which the period applicable for the arbitral appeal has expired.

4. With regard to an interim arbitral award rendered at first instance or on appeal, Article 1064a, third paragraph, applies mutatis mutandis, with due observance of the provisions of this article.

YY

Article 1062 will read as follows:

Article 1062

1. The enforcement in the Netherlands of an arbitral award can only take place after the preliminary relief judge of the court of the district in which the place of arbitration is located has granted leave to do so at the request of one of the parties.
2. The leave will be noted on the original of the judgment or, if no deposit has taken place, included in a decision. The clerk will promptly send the parties a certified copy of the judgment, with the written permission for enforcement or a certified copy of the decision granting the permission for enforcement.
3. If the preliminary relief judge of the court grants permission for enforcement, the other party of the applicant is only entitled to the legal remedies referred to in Article 1064.
4. Annulment or revocation of the arbitral award automatically entails the grant of leave for enforcement.

ZZ

Article 1063 will read as follows:

Article 1063

1. The preliminary relief judge of the court may only refuse to enforce the arbitral award if, after a summary investigation, it appears to him that it is likely that the award will be annulled on one of the grounds referred to in Article 1065, first paragraph, or revoked on a of the grounds referred to in Article 1068, first paragraph, or if a penalty has been imposed in violation of Article 1056. In the latter case, the refusal only concerns the enforcement of the penalty payment.
2. If the period for instituting an action for annulment as referred to in Article 1064a has expired unused, the preliminary relief judge of the court may only refuse permission to enforce the arbitral award if, after a summary investigation, it has become apparent to him that it is plausible that the judgment is contrary to Article 1065, first paragraph, under e.
3. The clerk will promptly send the parties a certified copy of the order of the preliminary relief judge of the court refusing permission for enforcement.
4. An appeal may be lodged with the Court of Appeal against the decision refusing leave to enforce.

5. If leave for enforcement is not granted on appeal, an appeal in cassation can be filed.
6. If leave for enforcement is still granted on appeal or after an appeal in cassation, the provisions of Article 1062, third paragraph, apply mutatis mutandis.

AAA

Article 1064 will read as follows:

Article 1064

Only the legal remedies of annulment and revocation in accordance with the provisions of this section are available against a complete or partial final arbitral award.

BBB

An article is added after Article 1064, which reads:

Article 1064a

1. The claim for annulment shall be filed with the court of the jurisdiction in which the place of arbitration is located.
2. The authority to file a claim for annulment expires three months after the date of dispatch of the judgment. If the parties have agreed to make use of the provisions of Article 1058, first paragraph, part b, this authority shall expire three months after the day of deposit of the judgment. However, if the judgment, accompanied by leave for enforcement, is served on the other party, that party can still file a claim for annulment within three months of this service, regardless of the expiry of the three-month period referred to in the previous sentence. .
3. The claim for annulment against an arbitral interim award can only be brought together with the claim for annulment of the full or partial final award.
4. All grounds for annulment must be presented in the summons, under penalty of forfeiture of the right to do so.
5. An appeal in cassation may be lodged against a ruling on the basis of the first paragraph. The parties may agree that no appeal in cassation may be lodged against a ruling on the basis of the first paragraph, unless one of them is a natural person not acting in the exercise of a profession or business.

CCC

Article 1065 is amended as follows:

1. In the first paragraph, under e, the phrase "is contrary to public order or good morals" is replaced by: is contrary to public order.
2. In the third paragraph, the words "Article 1052, third paragraph" are replaced by: Articles 1028, second paragraph, and 1052, third paragraph.

3. The fourth paragraph should read as follows:

4. The ground referred to under c of the first paragraph cannot lead to annulment if the failure to comply with the order is not of a serious nature. Nor can the ground referred to under c of the first paragraph lead to annulment if the party citing it has failed to object in accordance with Article 1048a.

4. The fifth paragraph will read as follows:

5. If a ground for annulment concerns only part of the arbitral award, it will not be annulled for the remaining part, insofar as this is not inextricably linked to the part to be annulled, given the content and scope of the award.

5. In the sixth paragraph, the word "cases" is replaced by: the claims or counterclaims.

6. The seventh paragraph will read as follows:

7. Notwithstanding the provisions of Article 1064a, second paragraph, the period for instituting the claim for annulment referred to in the previous paragraph expires three months after the day of dispatch of the additional judgment or of the notification of rejection referred to in Article 1061, fifth paragraph. If the parties have agreed to make use of the provisions of Article 1058, first paragraph, part b, the period for instituting the action for annulment referred to in the previous paragraph shall expire three months after the day of filing of the additional judgment. of the notification of rejection referred to in Article 1061, fifth paragraph. The provisions of the first and second sentences apply mutatis mutandis to the correction of the judgment referred to in Article 1060.

DDD

An article is added after Article 1065, which reads:

Article 1065a

1. The court may, at the request of a party or on its own initiative, suspend the annulment proceedings for a period to be determined by the court in order to enable the arbitral tribunal to undo the grounds for annulment by reopening the arbitral proceedings or by taking such other measure as the arbitral tribunal deems appropriate. There is no appeal against a decision of the court.
2. Before the arbitral tribunal decides, it shall give the parties the opportunity to be heard.
3. If the arbitral tribunal is of the opinion that the grounds for annulment can be reversed, it will issue an arbitral award accordingly, which will replace the award whose annulment has been requested.
4. After the suspension of the annulment proceedings, the court shall decide in accordance with what it considers appropriate, taking into account the circumstances.

EEE

Article 1066 is amended as follows:

1. In the third paragraph, "the court" is replaced by: the court of appeal.

2. In the sixth paragraph, "In case" is replaced by "In case".

FFF

Article 1067 will read as follows:

Article 1067

As soon as the judgment setting aside an arbitral award has become final, the jurisdiction of the ordinary court revives, if and insofar as the arbitral award has been set aside on the grounds of the absence of a valid arbitration agreement. If and to the extent that the arbitration award is set aside on any other ground, the arbitration agreement will remain in force, unless the parties have agreed otherwise.

GGG

Article 1068 is amended as follows:

1. In the first paragraph, "documents" is always replaced by: documents.

2. The second paragraph will read as follows:

The claim for revocation shall be brought before the court of the district in which the place of arbitration is located within three months after the fraud or forgery has become known or after a party has obtained the new documents. Article 1066 applies mutatis mutandis.

3. In the second sentence of the third paragraph, the words "Article 1067 is" are replaced by: Articles 1065a and 1067 are.

HHH

Article 1069, second paragraph, is amended as follows:

1. The words "public order or good morals" are replaced by: public order.

2. The following is added to the end of part a: and.

3. By replacing the semicolon at the end of part b with a period, part c is deleted.

III

In Article 1071, the phrase "Articles 1026, second and fourth paragraph, 1027, third paragraph, 1028, 1044, first paragraph, and 1062, first paragraph" is replaced by: Articles 1026, second and fourth paragraph, 1027, third paragraph, 1028, first paragraph, 1029, second, fourth and fifth paragraphs, 1041a, first paragraph, 1044, first paragraph and 1062, first paragraph.

YYY

In Article 1072, the phrase "Articles 1026, second and fourth paragraph, 1027, third paragraph, 1028, 1029, second and fourth paragraph, 1031, second paragraph, 1035, second paragraph, and 1041, second paragraph" is replaced by: Articles 1026, second and fourth paragraph, 1027, third paragraph, 1028, first paragraph, 1029, second, fourth and fifth paragraph, 1035, second paragraph, and 1041a, first paragraph.

After Article 1072, four articles are added, which read:

Article 1072a

Unless otherwise provided in this title, Articles 261 to 291 apply to cases initiated by petition pursuant to the provisions of this title.

Article 1072b

1. If the addressee has indicated that he can be reached in this way and the arbitral tribunal agrees to this, to the extent that any provision of this title requires written form for an agreement, procedural document, communication, request or action, this can also be done electronically. in any manner, except insofar as it concerns an act carried out in legal proceedings, unless this is permitted in the latter proceedings. Accessibility in this way applies for the duration of the arbitral proceedings, unless the addressee informs him that he is changing it or, insofar as the parties have agreed on this possibility, withdrawing it.
2. Documents as referred to in this title also include data placed on a data carrier, as well as data submitted electronically.
3. The judgment referred to in Article 1057, second paragraph, can also be drawn up in electronic form by providing it with an electronic signature that complies with the provisions of Article 15a, first and second paragraph, of Book 3 of the Civil Code.
4. Instead of a personal appearance of a witness, an expert or a party, the arbitral tribunal may determine that the person concerned is in direct contact with the arbitral tribunal and, where applicable, with others, by electronic means. The arbitral tribunal shall determine, in consultation with the parties involved, which electronic means will be used for this purpose and how this will be done.
5. A communication or action given by electronic means or a procedural document filed by electronic means shall be deemed to have been sent when the message reaches a data processing system for which the sender is not responsible.

Article 1072c

1. The death of a party does not terminate the arbitration agreement or the mandate of the arbitral tribunal, unless the parties have agreed otherwise.
2. The arbitral tribunal shall suspend the proceedings for a period to be determined by it. The arbitral tribunal may, at the request of the legal successors of a deceased party, extend this period. The arbitral tribunal shall give the other party the opportunity to be heard on the request.
3. After suspension, the proceedings will continue as they are, unless the parties have agreed otherwise.

4. If the party who has grounds to demand the annulment or revocation of an arbitral award dies within the periods referred to in Article 1064a, second paragraph, and Article 1065, seventh paragraph, and Article 1068, second paragraph, respectively, Article 341 applies mutatis mutandis.

KKKa

In Article 1073, second paragraph, the following is inserted after "in the first section": B.

LLL

Article 1074 is amended as follows:

1. The second paragraph is deleted, as is the indication "1." for the first paragraph.
2. After the word "closed" the following is added: and.

MMM

After Article 1074, five articles are added, which read:

Article 1074a

The agreement from which it follows that arbitration must take place outside the Netherlands does not prevent a party from requesting a measure to preserve rights from the Dutch court or from applying to the interim relief judge of the district court or the subdistrict court judge for summary proceedings in accordance with Article 254.

Article 1074b

An arbitration agreement from which it follows that arbitration must take place outside the Netherlands does not prevent a party from requesting the Dutch court to order a preliminary witness hearing, a preliminary expert report or a preliminary site inspection and viewing in the Netherlands.

Article 1074c

An arbitration agreement from which it follows that arbitration must take place outside the Netherlands does not prevent a party from requesting the ordinary court to appoint a supervisory judge if a witness who lives or actually resides in the Netherlands does not appear voluntarily. In that case, the provisions of Article 1041a, first to third paragraphs, apply mutatis mutandis.

Article 1074d

If, in the cases referred to in Articles 1074a to 1074c, a party relies on the existence of an arbitration agreement for all defenses, the court declares itself exclusively competent if the requested decision cannot be reached in arbitration or cannot be reached in a timely manner. got.

NNN

Article 1075 will read as follows:

Article 1075

1. An arbitral award rendered in a foreign State to which a recognition and enforcement treaty applies may, at the request of one of the parties, be recognized and enforced in the Netherlands.

2. Articles 985 to 991 apply mutatis mutandis to the extent that the treaty does not contain any deviating provisions and on the understanding that the court of appeal replaces the district court and the period for appeal in cassation is three months.
3. Articles 261 to 291 apply to the request unless otherwise provided in the second paragraph of this article.

OOO

Article 1076 is amended as follows:

1. In the first paragraph, before the words "requested", the following is added: by one of the parties.
2. The fourth paragraph will read as follows:
 4. The ground under A sub c of the first paragraph does not lead to refusal of recognition or enforcement, if the failure to comply with the order is not of a serious nature. Nor can the ground under A sub c of the first paragraph lead to a refusal of recognition or enforcement if the party citing it participated in the proceedings without invoking it in time, even though it was aware that the arbitral tribunal did not comply with it. kept his command.
3. In the sixth paragraph, the words "the preliminary relief judge of the court" are replaced by "the court of appeal", the words "appeal and" are deleted and the words "two months" are replaced by: three months.
4. In the sixth paragraph, the word "documents" is replaced by: documents.
5. In the sixth paragraph, the word "consulted" is replaced by: submitted.
6. When the seventh to eighth paragraphs are renumbered, a paragraph is added that reads:
 7. Articles 261 to 291 apply to the request unless otherwise provided in paragraph 6 of this article.

ARTICLE IV

1. This law applies to arbitrations initiated on or after the date of entry into force of this law.
2. The Fourth Book of the Code of Civil Procedure continues to apply to arbitrations that are or were pending before the date of entry into force of this law, as it was before the date of entry into force of this law.
3. This law applies to cases brought before the court by issuing an introductory summons or by submitting an introductory petition if and insofar as they concern arbitration as referred to in the first paragraph.
4. This law does not apply to cases that have been or were brought before the court by issuing an introductory summons or by submitting an introductory petition if and insofar as they concern

arbitration as referred to in the second paragraph. The Fourth Book of the Code of Civil Procedure continues to apply to these cases, as it applied before the date of entry into force of this law.

ARTICLE V

This law comes into force at a time to be determined by Royal Decree.

Charges and orders that this will be published in the Official Gazette and that all ministries, authorities, colleges and civil servants concerned will ensure its accurate implementation. ^{hist note}

Given in Wassenaar, June 2, 2014

Willem Alexander

*The Minister of Security and Justice,
IW Opstelten*

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*The State Secretary for Security and Justice,
F. Teeven*

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