"The arbitration clause (Clause 20) is, with small and irrelevant additions, in the form of a standard clause leading to arbitration under the ICC. But that does not mean that it has to receive a standard, or restrictive interpretation. The clause must always be interpreted as part of, and unt the light of, the particular contract in which it appears. [...]\(^\text{12}\)

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The following principles have been applied in ICC arbitration without reference to national law.

- (i) Institutional freedom to regulate the conduct of arbitrators
- (ii) Freedom to establish rules of procedure
- (iii) Freedom to establish applicable law
- (iv) Arbitrators' authority to rule on their own jurisdiction
(v) A State may not invoke its internal law to repudiate its agreement to arbitrate

[...]

(vi) Pacta sunt servanda (contracts are to be enforced)

[...]

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[...]

(vii) Performance and renegotiation in good faith

[...]

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(viii) Rules of force majeure

[...]

(ix) Conduct may be deemed tacit acceptance of modifications of contract

[...]

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(x) Ut res magis valeat quam pereat ("so that the thing be held valid rather than perish")

[...]

(xi) The burden of proof of facts alleged to support a claim

[...]

(xii) Disregard of legal nomenclature misused by the parties

[...]

(xiii) Use of goods implies acceptance

[...]

(xiv) Mitigation of damages

[...]

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(xv) Damages for contractual breach are limited to foreseeable consequences

[...]

(xvi) The availability of setoff or compensation
(xvii) Estoppel

(xviii) Contracts are unenforceable if their purpose is contrary to international morality

\(^{12}\) ICC Case 5754/1988, unpublished.

**Referring Principles:**

- I.1.1 - Good faith and fair dealing in international trade
- I.1.2 - Prohibition of inconsistent behavior
- III.1 - Set-off
- IV.1.2 - Sanctity of contracts
- IV.2.3 - No repudiation of contractual consent by state party
- IV.5.3 - Interpretation in favor of effectiveness of contract
- IV.5.2 - Context-oriented interpretation
- IV.6.7 - Duty to renegotiate
- IV.7.1 - Invalidity of contract that violates good morals ("<em>boni mores</em>")
- VI.3 - Force majeure
- VII.2 - Principle of foreseeability of loss
- VII.4 - Duty to mitigate
- XII.1 - Distribution of burden of proof