Title:
ICC Award No. 8769, 10 ICC Bull. No. 2, 1999, at 75 et seq.

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Final Award in Case 8769

Date: December 1996
Lang: English
Usage: Claim: French company
Resp: Austrian company
Place: Zurich, Switzerland

The parties entered into a manufacturing contract, plus a tooling agreement relating thereto. Claimant alleges breach of contract by Respondent, referring to misleading conduct in negotiation, failure to meet technical specifications, misuse of toolings and non-registration of patent. Respondent objects and files a counterclaim to cover balance of tooling costs, unused packaging and materials, warehouse costs, settlement payment for termination of licensing agreement, additional machinery costs, outstanding invoices and lost profits. The sole Arbitrator applies French law and the Vienna Convention on Contracts for the International Sale of Goods (CISG), in accordance with the agreement reach by the parties in the arbitration clause. He rejects Claimant's demands and grants Respondent's counterclaims. In awarding interest, he refers to Article 74.9(2) of the Unidroit Principles relating to the rate of interest. Arbitration costs and Respondent's legal costs are to be borne by Claimant.

With respect to interest claimed by the parties:

[...]
Claimant is entitled to interest on the sums awarded pursuant to Art. 78 of the Vienna Convention. Art. 78 Vienna Convention does not specify a particular interest rate. The sole Arbitrator considers it appropriate to apply a commercially reasonable interest rate (see Art. 7.4.9. subs. 2 Unidroit Principles). The interest rate claimed is commercially reasonable for the award currency, Austrian schillings.

[...]

Referring Principles:
VII.6 - Duty to pay interest