Content:

No. IV.5.1 - Intentions of the parties

The construction of a contract has to determine the common intention of the parties or, if no such intention can be
determined, the meaning that reasonable parties of the same kind as the parties would give to it in the same
circumstances, taking into account, in particular, the nature and purpose of the contract, the conduct of the parties and
the meaning commonly given to contract terms and expressions in the trade concerned.

Commentary:

1 This principle results from the application of the overriding general Principle of good faith. Contract interpretation must
not stop at the literal meaning of the terminology used by the parties in their contract, but must seek to determine their
true intentions at the moment of contract conclusion, taking into account the circumstances of the case. This task involves
ascertaining what a reasonable person would have understood the parties to have meant. The relevant reasonable
person for that purpose is one who has all the background knowledge which would reasonably have been available to the
parties in the situation in which they were at the time of the contract.

2 The standard of reasonableness and the presumption of professional competence of the parties must also be observed.
The effect of the last two Principles mentioned is that in interpreting an international commercial contract, one must
assume that the parties intended to establish a reasonable distribution of contractual rights and duties between them,
aimed at achieving their common commercial objective.

3 The conduct of a party subsequent to the conclusion of the contract may also be taken into account since such conduct
may reflect that party's own understanding of the meaning of certain contractual terms or terminology. Also, previous
contracts of the same kind concluded between the parties may provide additional guidance.