

The new CIETAC Arbitration Rules 2015

December 22, 2014 | Written by Yong Tong Ang and Ik Wei Chong

The China International Economic and Trade Arbitration Commission ("CIETAC") recently revised its 2012 Arbitration Rules and will implement its new 2015 Arbitration Rules (the "New Rules") with effect from 1 January 2015. The New Rules adopt both best practices and the latest developments in international commercial arbitration and accommodate the increasing needs of the parties arbitrating at CIETAC. 20 articles of the old rules are revised and 10 new articles are added to the New Rules. The main revisions / additions to the New Rules include:-



The Emergency Arbitrator Procedure ("EA Procedure")

In line with developments in other international arbitration institutions, the EA Procedure (Article 23 and Appendix III) is introduced, under which a party may apply for urgent interim relief.

The New Rules aim to reflect the Hong Kong emergency arbitrator legal provisions, whereby an order of an

emergency arbitrator carries the same legal effect as a court order. Such an order, if given outside Hong Kong may also be enforced in Hong Kong. The EA Procedure will mainly apply to cases before the CIETAC Hong Kong Arbitration Center, as well as cases where emergency arbitrators are allowed on the basis of the applicable law or the parties' agreement.

Joinder of Additional Parties

New provisions (Article 18) are introduced which provide that in existing arbitral proceedings, a party may request CIETAC to join an additional party if the requesting party can establish a *prima facie* case that the additional party is also bound by the arbitration agreement. In addition, the nomination of arbitrators by parties, objection to jurisdiction with respect to the joinder proceedings and the arbitral proceedings are further regulated.

A Single Arbitration under Multiple Contracts

Under the New Rules, parties may now apply for a single arbitration under multiple contracts provided that the following conditions are met:-

- The contracts are principal and ancillary contracts, or are of the same nature among the same parties;
- The disputes arise from the same transaction or the same series of transactions; and
- The arbitration agreements of such contracts are identical or compatible.

Consolidation of Arbitrations

In addition to all parties' agreement to consolidate, revisions are made to Article 19 of the New Rules, whereby the consolidation of arbitrations may be decided by CIETAC without all parties' agreement.

Specifically, CIETAC may decide to consolidate at the request of a party if any of the following conditions is met:-

- All of the claims in the arbitrations are made under the same arbitration agreement;
- The claims in the arbitrations are under more than one arbitration agreement which are the same or compatible, the parties to the arbitrations are the same, and the nature of legal relationship is the same;
- The claims in the arbitrations are under more than one arbitration agreement which are the same or compatible, and the multiple contracts are master and accessory contracts; or
- Upon the agreement of all parties.

Threshold Amount for Summary Procedure

The threshold amount for the summary procedure under the New Rules has been increased from RMB 2,000,000 to RMB 5,000,000.

Special provisions for Hong Kong arbitration

A new chapter is added to the New Rules with special provisions for Hong Kong arbitration. This provides for the CIETAC Hong Kong Arbitration Centre which was established in 2012. The special provisions stipulate that, unless otherwise agreed by the parties, Hong Kong arbitration laws will apply to proceedings before CIETAC

Hong Kong Arbitration Centre and its award shall be a Hong Kong award.

Other Notable Changes

- CIETAC establishes a new Arbitration Court to better perform its functions in accordance with the New Rules.
- Additional means of service (not limited to service by public notary, entrustment or retention) are now included in the New Rules.
- A provision is included in the New Rules providing that the presiding arbitrator may solely decide procedural arrangements with the authorization of other arbitrators.
- Provisions on arbitrators' special remuneration are added to the New Rules to clarify special remuneration with reference to the fee schedule of CIETAC Hong Kong Arbitration Center.

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