

28 May 2007

## CIRCULAR

### RELEASE OF NEW SIAC RULES (3<sup>rd</sup> Edition, 1 July 2007) SCHEDULE OF FEES & PRACTICE NOTES

<b>Circulation To:</b>	<b>1) All parties, counsel and arbitrators involved in SIAC arbitration proceedings</b>
	<b>2) All SIAC panel arbitrators</b>
	<b>3) All corporate counsel</b>
	<b>4) All businesses and persons engaged in international commerce</b>

This circular is to inform you of the release of the new SIAC Rules 2007 (“2007 Rules”) which will come into effect on **1 July 2007**. New Schedule of Fees and supplementary Practice Notes for *Ad Hoc* and Administered Cases will also come into force on the same date.

The new arbitration rules consolidate 10 years of experience in the administration of cases and aims to bring users improved efficiency and the best practices developed in institutional arbitration for the resolution of international commercial disputes.

The major changes, effected in the new Rules are outlined here:

#### **1. Role of SIAC as the Appointing Authority and Administrator of Cases**

The unequivocal, institutional nature of SIAC arbitration is embodied in the 2007 Rules through two pillars – as appointing authority and as administrator of cases.

- (i) SIAC’s role as the appointing authority is clarified in Rule 5, whether arbitrators are party appointed, party nominated, agreed to by parties, or nominated or appointed by any third person. In all cases, an arbitrator is not deemed to be appointed until confirmed by the Chairman of SIAC.
- (ii) SIAC’s function as the administrator of cases is found in numerous provisions throughout the 2007 Rules. The new features include vesting the Registrar with power to extend time in Rules 17.2, 27.1 and 28.4, and requiring the Tribunal to submit its draft award for scrutiny and issuance through the SIAC.

## **2. Introduction of Concept of Memorandum of Issues**

A clear scope of reference in any dispute, agreed to by the parties and the Tribunal, has the benefit of producing discipline in the arbitral process and consequential savings in time. This concept is introduced in Rule 17 and requires the Tribunal, within 45 days following the completion of case statements, in consultation with the parties, to draw up a memorandum of issues which will define the issues to be decided in the award.

## **3. Reference to Use of Practice Notes in the Administration of Cases**

Over the last few years, SIAC has experimented with the use of comprehensive Practice Notes to promote transparency and certainty between parties and arbitrators in the regulation of the financial management of arbitrations. The success of its use has now been formalized in the 2007 Rules. The Registrar is also vested with power, under Rule 35.4, to issue these from time to time for the purpose of facilitating the administration of arbitrations.

## **4. Quantum-based Scale of Fees for Arbitrators**

In tandem with the new Schedule of Fees, the 2007 Rules do away with the previous practice of remunerating arbitrators on hourly rates. In its place, an objective and transparent measure of fees based on the sum in dispute has been instituted. Under Rule 30, the fees of the Tribunal will now be ascertained in accordance with a published Schedule of Arbitrators' Fees, and where the arbitration is terminated, withdrawn or settled, the fees payable to the arbitrator will be fixed in accordance with the stage of proceedings at which the arbitration was terminated.

## **5. Repeal of SIAC Domestic Arbitration Rules, 2<sup>nd</sup> Edition, 1 September 2002**

The domestic arbitration rules of the SIAC, with the exception of its summary arbitration procedure, will cease to apply to arbitrations administered by the SIAC. Schedule I, Articles 2 and 3 of the 2007 Rules provide for transitional provisions for contracts that have reference to the domestic rules and for the summary arbitration procedure to continue to apply.

We invite you to review the new 2007 Rules and Schedule of Fees which are now published on our website at [www.siac.org.sg](http://www.siac.org.sg). Parties may also agree to have the 2007 Rules govern their SIAC arbitration they intend to initiate prior to its commencement date.

If you have any questions or comments regarding the meaning or application of these, please do not hesitate to contact the Secretariat.

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