

SINGAPORE INTERNATIONAL ARBITRATION CENTRE

PRACTICE NOTE PN - 02/09 (6 April 2009)

ON CASE ADMINISTRATION, APPOINTMENT OF ARBITRATORS & FINANCIAL MANAGEMENT FOR CASES UNDER THE

UNCITRAL RULES

Introduction

1. This Practice Note shall apply to all cases administered by the SIAC under the UNCITRAL Arbitration Rules ('UNCITRAL Rules') where the SIAC is designated to administer the arbitration, whether stipulated in the arbitration agreement or agreed upon subsequent to the dispute arising.
2. In this Practice Note –

'Chairman' means the Chairman of the Singapore International Arbitration Centre ('SIAC') and includes the Deputy Chairman;

'Registrar' means the Registrar of SIAC and includes a Deputy Registrar.
3. Administration by the SIAC includes:
 - a. Confirmation and appointment of arbitrators;
 - b. Financial management of the arbitration;
 - c. Case management, which includes liaising with arbitrators, parties and their authorised representatives on proper delivery of notices, monitoring schedules and time lines for submissions, arranging hearing facilities and all other matters which facilitate the smooth conduct of the arbitration;
 - d. Exercising such supervisory functions under the UNCITRAL Rules as may be necessary; and
 - e. Scrutiny and issuance of awards made by the Tribunal, if requested by the Tribunal.
4. Administration by the SIAC for cases referred to in paragraph 1 shall be subject to the requisite filing fee and administration fees ascertained in accordance with the Schedule of Fees in force at the time the request for such administration is made.

Notifications and Service of Documents

5. All notices, Statements of Case, Defence, Counterclaim, Reply (and any amendments thereto) as well as any communications, and notifications, between the parties and the Tribunal shall also be sent to the Registrar of SIAC.

Confirmation and Appointment of Arbitrators

6. The Chairman will perform the functions of the appointing authority as set forth in the UNCITRAL Rules.
7. The Chairman will insofar as practicable follow the list procedure set out in Article 6 of the UNCITRAL Rules.
8. If the Chairman considers the list procedure to be inappropriate in a case, he may make the appointment in accordance with the SIAC appointing procedure. He will be advised by an Appointments Committee comprising three members of the Board of Directors of SIAC. The Appointments Committee may seek the assistance of the Secretariat of the SIAC.

Conflict of Interest

9. Any potential candidate for appointment must make a full declaration of independence and impartiality, and disclose any fact, circumstance, or relationship which could give rise to justifiable doubts about his or her independence and impartiality.

SIAC Financial Management

10. In lieu of Articles 39 and 41 of the UNCITRAL Rules, the financial management of the arbitration administered by the SIAC includes:
 - a. fixing of Tribunal's fees and other terms of appointment;
 - b. regular rendering of accounts;
 - c. collecting deposits towards the costs of the arbitration; and
 - d. processing the Tribunal's fees and expenses.

Tribunal Not to Make Directions Concerning Fees and Deposits

11. The Tribunal shall not at any time issue directions concerning its own fees and expenses, and deposits thereof.
12. Any administrative matter concerning the costs or expenses in the arbitration shall be dealt with by the Registrar.

Tribunal's Fees

13. The Tribunal's fees shall be ascertained in accordance with the Schedule of Arbitrator's Fees in force at the time the request for administration was made. These fees are payable following the final conclusion of the matter. Interim payments may be made at the discretion of the Registrar following the completion of significant steps in the arbitration, in accordance with paragraph 25 (Interim payments to the Arbitrator).

Tribunal's Expenses

14. The Tribunal's reasonable out-of-pocket expenses necessarily incurred shall be borne by the parties and reimbursed at cost. The expenses will be reimbursed upon submission and verification by the SIAC of the supporting invoices or receipts.
15. An arbitrator who is required to travel outside his place of residence will be reimbursed with business class airfare, supported by an invoice or receipt.
16. In addition to out-of-pocket expenses, a per diem of SGD 800 shall be allowed to an arbitrator who is required to travel outside his place of residence, whenever overnight accommodation is required. Where no overnight accommodation is required, a per diem of SGD 400 shall be paid.
17. The expenses covered by the per diem in paragraph 16 include the following items which are therefore not claimable as out-of-pocket expenses:
 - a. Hotel accommodation;
 - b. Meals / beverages;
 - c. Laundry / dry cleaning / ironing;
 - d. City transportation (excluding airport transfers);
 - e. Communication costs (telephone, faxes, internet usage etc); and
 - f. Tips.

Advances and Deposits

18. The SIAC shall collect advances and deposits from the parties towards the costs of the arbitration.
19. The costs of arbitration specified in Article 38 of the UNCITRAL Rules shall include SIAC's administrative fees and expenses.
20. The first tranche of advances and deposits shall normally be required from the parties shortly after the Registrar receives the request for administration.
21. The Registrar may from time to time request further advances and deposits from the parties.
22. Unless the Registrar directs otherwise, such advances and deposits shall be payable by the parties in equal shares.
23. If the required advances and deposits are not paid pursuant to the directions of the Registrar, either wholly or in part, the Registrar may direct the Tribunal to suspend its work until such deposits are paid.
24. All advances and deposits shall be made to and held by the SIAC. Any interest which may accrue on such advances and deposits shall be retained by the SIAC.

Interim Payments to the Arbitrator

25. In appropriate circumstances and upon the request of the arbitrator, the Registrar may allow interim payments to be made.
26. In assessing interim payments, the Registrar shall take into consideration the relevant stage of the arbitration and the work taken by the Arbitrator to date. The following may be undertaken as a guide to determine the appropriate amounts of payment

Stage of the Proceedings	Percentage of Fees
Issuance of a substantial order or partial award	Up to 20%
Completion of hearing on merits	Up to 50%

27. The percentages referred to in paragraph 26 shall be taken from the total amount of fees ascertained in accordance with the Schedule of Arbitrator's Fees.
28. The aggregate amount of interim payments shall not exceed 50% of the arbitrator's fees ascertained in accordance with the applicable Schedule of Arbitrators' Fees.
29. Interim payments to the arbitrator may be made without reference to the parties. The parties will be informed of such payments through an updated statement of account.

Legal Liability

30. The parties are jointly and severally liable for the costs of the arbitration. SIAC acts as agent of the Tribunal in collecting these advances and deposits, but is not legally liable to the Tribunal or the parties except to account for the advances and deposits so collected.
31. SIAC, including its officers, employees or agents, shall not be liable for anything done or omitted to be done in connection with the administration of any arbitration conducted under the UNCITRAL Rules.

Scrutiny of Awards

32. Before issuing any award under the UNCITRAL Rules, the Tribunal may submit it in draft form to the Registrar. The Registrar may suggest modifications as to the form of the award and, without affecting the Tribunal's liberty of decision, may also draw the Tribunal's attention to points of substance.

Miscellaneous

33. This Practice Note applies to all cases submitted to the SIAC for administration under the UNCITRAL Rules on or after 6 April 2009.

Issued by:

Registrar, SIAC

6 April 2009