

SINGAPORE INTERNATIONAL ARBITRATION CENTRE

PRACTICE NOTE

PN - 04/13 (1 September 2013)

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

UNCITRAL RULES 1976

Introduction

1. This Practice Note shall apply to all cases administered by the SIAC under the UNCITRAL Arbitration Rules 1976 ('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 –

 "Court" means the Court of Arbitration of SIAC and includes a Committee of the Court;

 "President" means the President of the Court and includes a Vice President and the Registrar;

 "Registrar" means the Registrar of the Court and includes any Deputy Registrar.
3. Administration by the SIAC includes:
 - a. 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. Any notice, Statement of Claim, Defence, Counterclaim, Reply (and any amendments thereto) as well as any communications, and notifications, exchanged between the parties and the Tribunal shall also be sent to the Registrar.

Appointment of Arbitrators

6. The President will perform the functions of the appointing authority as set forth in the UNCITRAL Rules.
7. The President will insofar as practicable follow the list procedure set out in Article 6 of the UNCITRAL Rules.
8. If the President considers the list procedure to be inappropriate in a case, he may make the appointment in accordance with the SIAC appointing procedure. In making such appointments, the President may where appropriate consult two members of the Court. The President and members of the Court may seek the assistance of the Secretariat of the SIAC.
9. The President shall not appoint a member of the Court or a Director of SIAC as an arbitrator, except where a Director or member of the Court is expressly nominated by a Party as its party-nominated arbitrator, or where two co-arbitrators in a tribunal nominate a Director or member of the Court as the third or presiding arbitrator. Where a party or two co-arbitrators nominate the President, the appointment shall be made by the Vice-President.
10. In exceptional cases, such as where there are no suitable candidates on the SIAC panel of arbitrators, the President may appoint an arbitrator who is not on the SIAC panel of arbitrators.

Conflict of Interest

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

SIAC Financial Management

12. 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

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

Tribunal's Fees

15. 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 paragraphs 27 to 31 (Interim payments to the Arbitrator).

Tribunal's Expenses

16. 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 SIAC of the supporting invoices or receipts.
17. 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.
18. 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.
19. The expenses covered by the per diem in paragraph 18 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

20. The SIAC shall collect advances and deposits from the parties towards the costs of the arbitration.
21. The costs of arbitration specified in Article 38 of the UNCITRAL Rules shall include SIAC's administrative fees and expenses.
22. The first tranche of advances and deposits shall normally be required from the parties shortly after the Registrar receives the request for administration.
23. The Registrar may from time to time request further advances and deposits from the parties.
24. Unless the Registrar directs otherwise, such advances and deposits shall be payable by the parties in equal shares. For the avoidance of doubt, the Registrar may fix separate advances on costs for claims and counterclaims, respectively.

25. 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.
26. 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

27. In appropriate circumstances and upon the request of the arbitrator, the Registrar may allow interim payments to be made.
28. 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%

29. The percentages referred to in paragraph 28 shall be taken from the total amount of fees ascertained in accordance with the Schedule of Arbitrator's Fees.
30. 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.
31. 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

32. The parties are jointly and severally liable for the costs of the arbitration. SIAC acts as an 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.
33. SIAC, including the President, members of its Court, directors, 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

34. 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. In doing so, the Registrar may, where appropriate, consult the Court.

Miscellaneous

35. This Practice Note applies to all cases submitted to the SIAC for administration under the UNCITRAL Rules 1976. It supersedes the Practice Note for UNCITRAL Cases (PN-02/13, 1 April 2013).

Issued by:

**Registrar, SIAC
1 September 2013**