

SINGAPORE INTERNATIONAL ARBITRATION CENTRE

PRACTICE NOTE PN - 02/07 (1 July 2007)

AD HOC CASES

ON APPOINTMENT OF ARBITRATORS, ARBITRATORS' FEES & FINANCIAL MANAGEMENT

Introduction

1. This Practice Note shall apply to all requests made to the SIAC for appointment of arbitrators where the SIAC Rules 2007 do not apply or where parties have not agreed for the matter to be administered by the SIAC.
2. By requesting SIAC's assistance in relation to appointing an arbitrator in cases referred to in paragraph 1, parties accept the role of the SIAC as spelt out in these Practice Notes.
3. In these Practice Notes –

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

'Registrar' means the Registrar of SIAC and includes an Assistant Registrar.

Role of SIAC

4. In the instances mentioned in paragraph 1, the SIAC will –
 - a. appoint a suitable arbitrator;
 - b. fix the Tribunal's fees and other terms of appointment;
 - c. undertake the financial management of the arbitration which includes collecting deposits towards the costs of the arbitration, processing the Tribunal's fees and expenses and regular rendering of accounts; and
 - d. generally monitor the progress of the case.
5. The SIAC may also –
 - a. undertake scrutiny and issuance of all awards made by the Tribunal;
 - b. undertake such other tasks as the parties or the arbitrator may request.

Criteria and Procedure for Appointment

6. The criteria for appointment shall follow the provisions specified in legislation or the contract between the parties. In all cases, the objective is to appoint an arbitrator with the attributes of integrity and competence, who is independent and impartial, and who will be perceived as such by the parties.
7. Where the Chairman is requested to make an appointment under the UNCITRAL Rules of Arbitration, the list procedure set out in Article 6 thereunder will normally be followed. The Chairman may if he considers the list procedure to be inappropriate in a case, make the appointment in accordance with the SIAC appointing procedure.
8. In all other cases, where the Chairman is to make an appointment of arbitrator, the following appointing procedure will be observed:
 - a. The Nomination Committee comprising legal officers of the SIAC will short list and rank candidates based on the matching of expertise/experience and the nature of dispute; time availability of candidates; number of arbitration appointments made (to ensure fair distribution of cases); historical performance of cases handled ... etc;
 - b. The Confirmation Council comprising members of the SIAC Board may confirm, re-rank or otherwise reject the list of candidates short listed by the Nomination Committee;
 - c. The Chairman will make the appointment of the candidate who ranks first on the list received from the Confirmation Council unless there are circumstances within his knowledge to warrant a departure.
9. In each case, consideration is given to the candidate's qualifications, language abilities, expertise, nationality, residence and any other factors which may be relevant to ensure that the arbitrator appointed meets the expectations of the parties for a fair, expeditious and economical resolution of their disputes.

Conflict of Interest Audit

10. Before a candidate is appointed, SIAC conducts an audit for possible sources of conflict of interest so that the arbitrator appointed in any given case is not only independent and impartial in fact, but is also perceived by the parties to be so.
11. The conflict audit is done by requiring the prospective appointee to execute SIAC's Code of Ethics and to make frank and full disclosures of all past and present relationships with any of the parties and their representatives, and other matters that might give rise to justifiable doubts about his independence and impartiality.

Tribunal's Fees

12. The Tribunal's fees shall be ascertained in accordance with the Schedule of Arbitrator's Fees in force at the time of commencement of the arbitration. These fees are payable following the final conclusion of the matter.
13. In exceptional circumstances, the Registrar may allow an additional fee to be paid to the arbitrator over that prescribed in the Schedule of Arbitrator's Fees.
14. Where the arbitration is terminated, withdrawn or settled, the Registrar shall fix the quantum of fees payable to the arbitrator. In doing so, the Registrar shall take into account the stage of proceedings at which the arbitration was terminated and the amount of work done or time spent by the arbitrator on the matter.
15. The Tribunal shall not at any time issue directions concerning its own fees and expenses, and advances and deposits thereof.
16. Any administrative matter concerning costs or expenses in the arbitration shall be dealt with by the Registrar.

Tribunal's Expenses

17. The Tribunal's reasonable out-of-pocket expenses necessarily incurred shall be reimbursed at cost. The expenses will be reimbursed upon submission and verification by the SIAC of the supporting invoices or receipts.
18. An arbitrator who is required to travel outside his place of residence will be reimbursed a business class airfare, supported by an invoice or receipt.
19. In addition to out-of-pocket expenses, a per diem of SGD 800 shall be paid to an arbitrator who is required to travel outside his place of residence, whenever overnight accommodation is required.
20. Where no overnight accommodation is required, a per diem of SGD 400 shall be paid.
21. The expenses covered by the per diem in paragraphs 19 and 20 include the following items and are not claimable as out-of-pocket expenses:
 - a. Hotel accommodation
 - b. Meals / beverages
 - c. Laundry / dry cleaning / ironing
 - d. Airport transfer and city transportation
 - e. Communication costs (telephone, faxes, internet usage etc)
 - f. Tips

Appointment Fee

22. The fee for appointment of an arbitrator is set out in the Schedule of Appointment Fees in force at the time of commencement of the arbitration.
23. The appointment fee is payable by the party requesting the appointment at the time of submission of the request. No appointment shall be made until the fee is paid.

SIAC Handling Fee

24. SIAC shall charge a handling fee for the services rendered to the parties based on the amount of time spent and the nature of work done. Our current rate for services is fixed at SGD 300 per hour.
25. Unless the Registrar directs otherwise, the handling fee shall be borne equally by the parties.

Advances and Deposits

26. The SIAC shall collect advances and deposits from the parties towards the costs of the arbitration.
27. The first tranche of advances and deposits will normally be collected from the parties shortly after the notification of the appointment of the arbitrator.
28. The Registrar may from time to time request further advances and deposits from the parties.
29. Unless the Registrar directs otherwise, such advances and deposits shall be payable by the parties in equal shares.
30. 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

31. In exceptional circumstances and upon request of the arbitrator, the Registrar may allow interim payments to be made.
32. In assessing interim payments, the Registrar shall take into consideration the relevant stage of the arbitration and may make payments in accordance with the following:

Stage of the Proceedings	Percentage of Fees
Completion of filing of case statements	Up to 25%
Commencement of hearing on merits	Up to 50%

33. The percentages referred to in paragraph 32 shall be taken from the total amount ascertained in accordance with the applicable Schedule of Arbitrator's Fees.
34. The aggregate amount of interim payments shall not exceed 50% of the arbitrator's fees ascertained in accordance with the applicable Schedule of Arbitrator's Fees.
35. 'Exceptional circumstances' referred to in paragraphs 13 and 31 may include:
- a. multiple preliminary issues requiring determination by the arbitrator
 - b. multiple interlocutory applications
 - c. extreme length of oral hearings
 - d. inordinate delay by one or more of the parties
36. 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 for Costs of the Arbitration

37. 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.

Miscellaneous

38. This Practice Note shall apply to all requests for appointment of arbitrator made on or after 1 July 2007. It supersedes the earlier Practice Notes on Appointment of Arbitrators (PN – 01/07, 1 April 2007) and Practice Notes on Arbitrators' Fees (PN – 02/06, 1 March 2006).

Issued by:

**Registrar, SIAC
1 July 2007**