



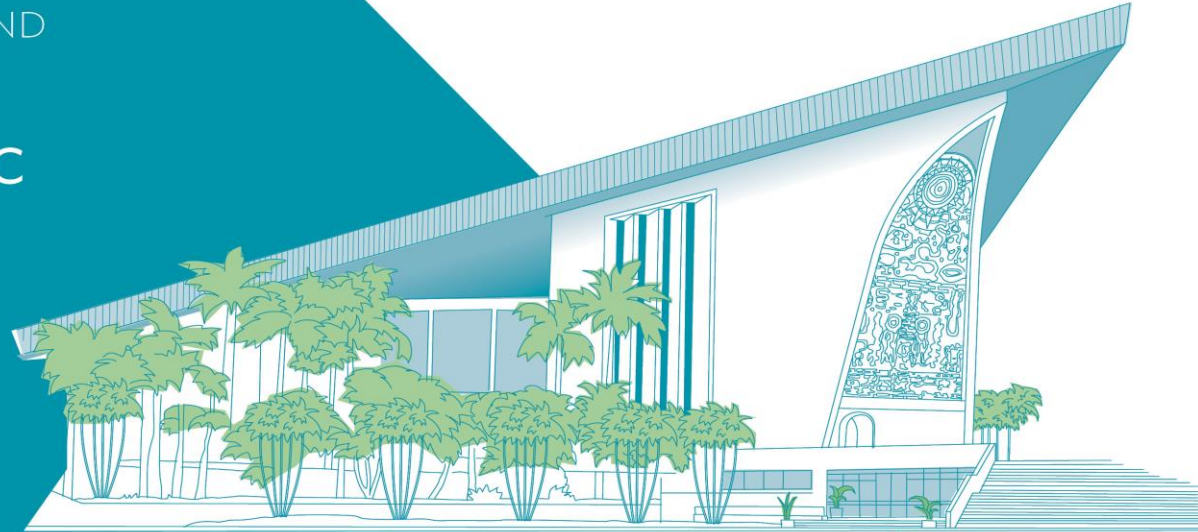
WILMER OUTLER PICKERING HALE AND DORR LLP



INTERNATIONAL MEDIATION AND
ARBITRATION CONFERENCE

2nd South Pacific International Arbitration Conference

25–26 March 2019
Stanley Hotel, Port Moresby
Papua New Guinea



COSTS AND TIME IN INTERNATIONAL COMMERCIAL ARBITRATION

Kevin Nash, Deputy Registrar & Centre Director, SIAC

25 March 2019

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HOW TO SAVE TIME AND COSTS?

- Institutional arbitration *v ad hoc* arbitration
- Cost components of an arbitration:
 - Legal fees and expenses
 - Tribunal fees
 - Institutional fees
- Special procedures under the SIAC Rules:
 - Emergency Arbitration
 - Expedited Procedure
 - Early Dismissal
 - Multiple Contracts, Consolidation and Joinder
 - Arb-Med-Arb Protocol

COSTS OF THE ARBITRATION - CALCULATION

Estimate Your Fees

For quick conversion of foreign currencies, please go to: <http://www.oanda.com/currency/converter/>

1. Enter Amount In Dispute (SGD):



2. Select Number of Arbitrators:



Results

Your Estimated Average Fees (75%) (SGD): **\$58,575.00**

Your Estimated Fees (Maximum) (SGD): **\$78,100.00**

COSTS OF THE ARBITRATION - CALCULATION

Details of Fees

Amount in Dispute (SGD) : \$1,000,000.00

Number of Arbitrators: 1

Case Filing Fee (Non-refundable) (SGD) : \$2,000.00

Arbitrators' Fees (Average) (SGD) : \$47,550.00

Arbitrators' Fees (Maximum) (SGD) : \$63,400.00

Administration Fees (Average) (SGD) : \$11,025.00

Administration Fees (Maximum) (SGD) : \$14,700.00

Estimated Fees (Average) (SGD) : \$58,575.00 ⓘ

Estimated Fees (Maximum) (SGD) : \$78,100.00 ⓘ



MULTIPLE PARTIES MULTIPLE CONTRACTS

SIAC RULES 2016

► CONSOLIDATION – RULE 8:

- After arbitration proceedings have been commenced, any party may make an application for consolidation of multiple arbitrations
- Such an application may be made to SIAC Court of Arbitration (before Tribunal has been constituted) or to the Tribunal directly (after constitution of Tribunal)

► JOINDER – RULE 7:

- Allows both parties and non-parties to be joined in pending arbitration proceedings under these Rules
- Such an application may be made to SIAC Court of Arbitration (before Tribunal has been constituted) or to the Tribunal directly (after constitution of Tribunal)

As of 15 March 2019

134	Applications for consolidation received
77	Applications granted

As of 15 March 2019

19	Applications for joinder received
11	Applications granted

SIAC RULES 2016

- ▶ EARLY DISMISSAL OF CLAIMS AND DEFENCES – RULE 29:
 - ▶ SIAC's early dismissal procedure - first of its kind amongst major institutional rules for commercial arbitration
 - ▶ Party may apply to Tribunal for early dismissal if claim/defence is:
 - ▶ manifestly without legal merit (Rule 29.1 (a)); or
 - ▶ manifestly outside jurisdiction of the Tribunal (Rule 29.1 (b))
 - ▶ Procedure has potential to provide significant savings of time and costs
 - ▶ As a safeguard against unmeritorious applications, Tribunal retains discretion to decide whether an application for early dismissal should be allowed to proceed

As of 15 March 2019

25 Applications for early dismissal have been received

14 Applications allowed to proceed under Rule 29.3
10 were made under Rule 29.1(a)
1 was made under Rule 29.1(b)
3 were made under Rule 29.1(a) and/or 29.1(b)

Final Outcome:

- **6** Granted (3 in whole; 3 in part)
- **6** Rejected (made under Rule 29.1(a))
- **1** Withdrawn
- **1** Pending



SIAC RULES 2016

- ▶ REMEDY AGAINST A NON-PAYING PARTY - RULE 27
 - ▶ Tribunal has power to issue an order or award for reimbursement of unpaid deposits towards costs of the arbitration where a party to the arbitration has paid another party's share of the deposits

INSTITUTIONAL MEASURES

- ▶ FOR CONTROLLING COSTS AND TIMELINES



EXPEDITED PROCEDURE



EMERGENCY ARBITRATOR



ARB-MED-ARB PROTOCOL

EXPEDITED PROCEDURE

UNDER SIAC RULES 2016

WHEN MAY A PARTY APPLY FOR EP

- When sum in dispute does not exceed SGD 6,000,000; or
- When parties agree; or
- In cases of exceptional urgency

- Useful for lower-value, less complex disputes
- President of Court of Arbitration determines application

WHAT HAPPENS IF APPLICATION IS GRANTED

- Matter is referred to a sole arbitrator
- Award to be made within 6 months

486

Number of applications received as at 15 March 2019

287

Number of applications granted as at 15 March 2019

EMERGENCY ARBITRATOR

OUTCOMES OF APPLICATIONS FOR EMERGENCY RELIEF

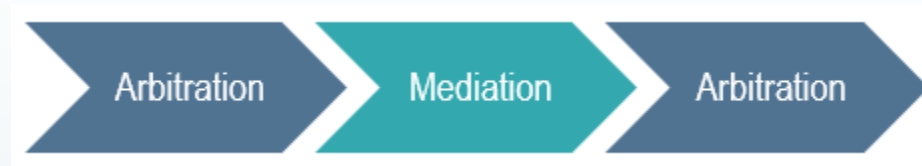
Granted	29
Granted (by consent)	6
Granted (in part)	16
No orders made (application withdrawn)	8
Rejected	25
Pending	1
TOTAL (as at 15 March 2019)	85

SIAC EMERGENCY ARBITRATOR FEES

SIAC Administration Fee	SGD 5,000 (+ GST if applicable)
Deposits for EA's Fee* and Expenses	SGD 30,000 (unless Registrar determines otherwise)
Total Payable upon Filing	SGD 35,000 (+ GST on SIAC's administration fee if applicable)

*EA's Fee shall be fixed at SGD 25,000 (unless Registrar determines otherwise)

ARB-MED-ARB PROTOCOL



- ▶ SIAC-SIMC Arb-Med-Arb Service is a one-stop process where a dispute is first referred to arbitration before mediation is attempted
- ▶ If mediation is successful, parties may request their mediated settlement be made a consent arbitral award with advantages of enforceability under New York Convention
- ▶ If mediation is unsuccessful, parties may proceed with arbitration

14

Number of SIAC - SIMC Arb-Med-Arb cases as of 15 March 2019

- involving parties from BVI, Cayman Island, Germany, India, Japan, Singapore, Switzerland, Taiwan, Thailand and UAE

58

Number of SIMC Mediation cases as of 15 March 2019

- involving parties from Australia, Cayman Islands, China, Germany, India, Indonesia, Japan, Kazakhstan, Laos, Macau SAR, Malaysia, Mongolia, Myanmar, Netherlands, Singapore, South Korea, Taiwan, Thailand, UAE, UK, US and Vietnam

72

Total number of cases as of 15 March 2019

Total sum in dispute: > USD 1.5 billion

SIAC'S COSTS AND DURATION STUDY

- ▶ SIAC's Costs and Duration Study released in October 2016. Study is based on actual cases filed with SIAC under SIAC Rules 2013
- ▶ Summary of results:

	Mean	Median
Duration of Cases	13.8 months	11.7 months
Administrative Fees	USD8,970 (SGD12,211)	USD5,853 (SGD 8,195)
Tribunal's Fees	USD71,367 (SGD97,518)	USD26,852 (SGD 34,170)
Total costs of arbitration*	USD80,337 (SGD 109,729)	USD29,567 (SGD40,416)

*Total costs of arbitration included SIAC's administration fees and expenses and the tribunal's fees. Legal fees and other costs, emergency arbitrator's fees, costs of challenges, and the tribunal's expenses and applicable taxes were excluded.

WHERE WE ARE

WORLDWIDE LOCATIONS



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