

China - CIETAC Arbitration Rules, 1995 (International Economic and Trade Arbitration Commission)

CIETAC

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**China International Economic and Trade Arbitration Commission (Cietac) Arbitration Rules
(Revised and adopted by China Chamber of International Commerce on September 4, 1995, effective as from October 1, 1995)** 1

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1 **China International Economic and Trade Arbitration
Commission (Cietac) Arbitration Rules
(Revised and adopted by China Chamber of
International Commerce on September 4, 1995,
effective as from October 1, 1995)**

2 **Chapter I - General Provisions**

3 **Section 1 - Jurisdiction**

4 **Article 1**

5 These Rules are formulated in accordance with the Arbitration Law of the People's Republic of China and the provisions of the relevant laws and pursuant to the "Decision" of the former Government Administration Council of the Central People's Government and the "Notice" and "Official Reply" of the State Council.

6 **Article 2**

7 China International Economic and Trade Arbitration Commission (originally named Foreign Trade Arbitration Commission of the China Council for the Promotion of International Trade, later renamed as Foreign Economic and Trade Arbitration Commission of the China Council for the Promotion of International Trade, and presently called China International Economic and Trade Arbitration Commission, hereinafter referred to as the Arbitration Commission) independently and impartially resolves, by means of arbitration, disputes arising from international or foreign-related, contractual or non-contractual, economic and trade transactions, including those disputes between foreign legal persons and/or natural persons and Chinese legal persons and /or natural persons, between foreign legal persons and/or natural persons, and

between Chinese legal persons and/or natural persons, in order to protect the legitimate rights and interests of the parties and promote the development of domestic and international economy and trade.

In case the law or administrative regulations of the People's Republic of China have special provisions or special authorization concerning the scope of accepting cases, the Arbitration Commission may accept cases in accordance with the special provisions or special authorization.

8 **Article 3**

9 The Arbitration Commission takes cognizance of cases in accordance with an arbitration agreement between the parties concluded before or after the occurrence of the dispute to refer their dispute to the Arbitration Commission for arbitration and upon the written application by one of the parties.

10 An arbitration agreement means an arbitration clause stipulated by the parties in their contract or a written agreement concluded by the parties in other forms to submit their dispute for arbitration.

11 **Article 4**

12 The Arbitration Commission has the power to decide on the existence and validity of an arbitration agreement and the jurisdiction over an arbitration case. If a party challenges the validity of the arbitration agreement and requests the Arbitration Commission to make a decision thereupon and the other party applies to the People's Court for a ruling, the latter's ruling shall prevail.

Article 5

15 An arbitration clause contained in a contract shall be regarded as
existing independently and separately from the other clauses of
the contract, and an arbitration agreement attached to a contract
shall be treated as a part of the contract existing independently and
separately from the other parts of the contract. The validity of an
arbitration clause or an arbitration agreement shall not be affected
by the modification, rescission, termination, invalidity, revocation or
non-existence of the contract.

16 **Article 6**

17 Any objections to an arbitration agreement and /or jurisdiction over
an arbitration case shall be raised before the first hearing con-
ducted by the arbitration tribunal. Where a case is examined on
the basis of documents only, the objections to jurisdiction should
be raised before submission of the first substantive defense.

18 **Article 7**

19 Once the parties agree to submit their dispute to the Arbitration
Commission for arbitration, it shall be deemed that they have
agreed to conduct the arbitration under these Rules.

20 **Section 2 - Organization**

21 **Article 8**

22 The Arbitration Commission has one honorary Chairman and sev-
eral advisers.

23

Article 9

The Arbitration Commission is composed of one Chairman, sev- 24
eral Vice-Chairmen and a number of Commission members. The
Chairman performs the functions and duties vested in him by these
Rules and the Vice-Chairmen may perform the Chairman's func-
tions and duties with the Chairman's authorization.

The Arbitration Commission has a secretariat to handle its day- 25
to-day work under the leadership of the secretary-general of the
Arbitration Commission.

Article 10

The Arbitration Commission maintains a Panel of Arbitrators. The 27
arbitrators are selected and appointed by the Arbitration Commis-
sion from among Chinese and foreign personages with special
knowledge and practical experience in the fields of law, economics
and trade, science and technology, and other fields.

Article 11

The Arbitration Commission is located in Beijing. The Arbitration 28
Commission has a Shenzhen Sub-Commission in Shenzhen Spe-
cial Economic Zone and a Shanghai Sub-Commission in Shanghai.
The Sub-Commissions are an integral part of the Arbitration Com-
mission.

The Sub-Commissions have their own secretariats to handle their 30
day-to-day work under the leadership of the secretaries-general of
the Sub-Commissions.

These Rules uniformly apply to the Arbitration Commission and its 31
Sub- Commissions. When arbitration proceedings are conducted
in the Sub-Commissions, the functions and duties under these

Rules to be carried out by the Chairman, the secretariat and the secretary-general of the Arbitration Commission shall be performed by the Vice-Chairmen authorized by the Chairman, the secretariats and the secretaries-general of the Sub-Commissions respectively and accordingly.

32 **Article 12**

33 The parties may agree to have their dispute submitted for arbitration conducted by the Arbitration Commission in Beijing or by its Shenzhen Sub-Commissions in Shanghai. In the absence of such an agreement, the Claimant may opt to have the arbitration conducted by the Arbitration Commission in Beijing or by its Shenzhen Sub-Commission in Shenzhen or by its Shanghai Sub-Commission in Shanghai. When exercising such option, the option first made shall prevail. If a dispute arises over the option, it shall be decided by the Arbitration Commission.

34 **Chapter II - Arbitration Proceedings**

35 **Section 1 - Application for Arbitration, Defense and Counter-claim**

36 **Article 13**

37 The arbitration proceedings shall commence from the date on which the Notice of Arbitration is sent out by the Arbitration Commission or its Sub-Commissions.

38 **Article 14**

39 The Claimant shall satisfy the following requirements when submit-

ting his Application for Arbitration:

(1) an Application for Arbitration in writing shall be submitted and the following shall be specified in the Application for Arbitration: 40

(a) the name and address of the Claimant and those of the Respondent, including the zip code, telephone number, telex number, fax number and cable number, if any; 41

(b) the arbitration agreement relied upon by the Claimant; 42

(c) the facts of the case and the main points of dispute; 43

(d) the Claimant's claim and the facts and evidence on which his claim is based. 44

The Application for Arbitration shall be signed and/or stamped by the Claimant and/or the attorney authorized by the Claimant. 45

(2) When an Application for Arbitration is submitted to the Arbitration Commission, the relevant documentary evidence on which the Claimant's claim is based shall accompany the Application for Arbitration. 46

(3) The Claimant shall pay an arbitration fee in advance to the Arbitration Commission according to the Arbitration Fee Schedule of the Arbitration Commission. 47

Article 15 48

After receipt of the Application for Arbitration and its attachments and when the secretariat of the Arbitration Commission, after examination, deems that the Claimant has not completed the formalities required for arbitration, the secretariat shall demand the Claimant to complete them, and when the secretariat deems that the Claimant has completed the formalities, the secretariat shall immediately send to the Respondent a Notice of Arbitration together 49

with one copy each of the Claimant's Application for Arbitration and its attachments as well as the Arbitration Rules, the Panel of Arbitrators and the Arbitration Fee Schedule of the Arbitration Commission, and shall simultaneously send to the Claimant one copy each of the Notice of Arbitration, the Arbitration Rules, the Panel of Arbitrators and Arbitration Fee Schedule.

50 The secretariat of the Arbitration Commission, after sending the Notice of Arbitration to the Claimant and Respondent, shall appoint one of its staff-members to take charge of procedural administration of the case.

51 **Article 16**

52 The Claimant and the Respondent shall, within 20 days as from the date of receipt of the Notice of Arbitration, appoint an arbitrator from among the Panel of Arbitrators of the Arbitration Commission or authorize the Chairman of the Arbitration Commission to make such appointment.

53 **Article 17**

54 The Respondent shall, within 45 days from the date of receipt of the Notice of Arbitration, submit his written defense and relevant documentary evidence to the secretariat of the Arbitration Commission.

55 **Article 18**

56 The Respondent shall, at the latest within 60 days from the date of receipt of the Notice of Arbitration, lodge with the secretariat of the Arbitration Commission his counterclaim in writing, if any. The

arbitration tribunal may extend that time limit if it deems that there are justified reasons.

When lodging a counterclaim, the Respondent must state in his written statement of counterclaim his specific claim, reasons for his claim and facts and evidence upon which his claim is based, and attach to his written statement of counterclaim the relevant documentary evidence. 57

When lodging a counterclaim, the Respondent shall pay an arbitration fee in advance according to the Arbitration Fee Schedule of the Arbitration Commission. 58

Article 19

The Claimant may request to amend his claim and the Respondent may request to amend his counterclaim; but the arbitration tribunal may refuse such a request for amendment if it considers that it is too late to raise the request and the amendment may affect the arbitration proceedings. 59

Article 20

When submitting application for arbitration, written defense, statement of counterclaim, documentary evidence and other documents, the party/parties shall submit them in quintuplicate.* If the number of one parties exceeds two, additional copies shall be submitted accordingly; if the number of arbitrator of the arbitration tribunal is one, two copies may be reduced. 60

Article 21

The arbitration proceedings shall not be affected in case the Respondent fails to file his defense in writing or the Claimant fails 64

to submit his written defense against the Respondent's counter-claim.

65 **Article 22**

66 The parties may authorize arbitration agents to deal with the matters relating to arbitration; the authorized attorney must produce a Power of Attorney to the Arbitration Commission.

67 Chinese and foreign citizens can be authorized to act as arbitration agents.

68 **Article 23**

69 When a party applies for property preservative measures, the Arbitration Commission shall transmit the party's application for a ruling to the intermediate people's court in the place where the domicile of the party against whom the property preservative measures are sought is located or in the place where the property of the said party is located.

70 When a party applies for taking interim measures of protection of evidence, the Arbitration Commission shall transmit the party's application for a ruling to the intermediate people's court in the place where the evidence is located.

71 **Section 2 - Formation of Arbitration Tribunal**

72 **Article 24**

73 Each of the parties shall appoint one arbitrator from among the Panel of Arbitrators of the Arbitration Commission or entrust the Chairman of the Arbitration Commission to make such appointment. The third arbitrator shall be jointly appointed by the parties

or appointed by the Chairman of the Arbitration Commission upon the parties' joint authorization.

In case the parties fail to jointly entrust the Chairman of the Arbitration Commission to appoint the third arbitrator within 20 days from the date on which the Respondent receives the Notice of Arbitration, the third arbitrator shall be appointed by the Chairman of the Arbitration Commission. The third arbitrator shall act as the presiding arbitrator.

The presiding arbitrator and the two appointed arbitrators shall jointly form an arbitration tribunal to jointly hear the case.

Article 25

Both parties may jointly appoint or jointly authorize the Chairman of the Arbitration Commission to appoint a sole arbitrator to form an arbitration tribunal to hear the case alone.

If both parties have agreed on the appointment of a sole arbitrator to hear their case alone but have failed to agree on the choice of such a sole arbitrator within 20 days from the date on which the Respondent receives the Notice of Arbitration, the Chairman of the Arbitration Commission shall make such appointment.

Article 26

If the Claimant or the Respondent fails to appoint or authorize the Chairman of the Arbitration Commission to appoint an arbitrator according to Article 16 of these Rules, the Chairman of the Arbitration Commission shall appoint an arbitrator for the Claimant or the Respondent.

Article 27

82 When there are two or more Claimants and/or Respondents in an arbitration case, the Claimants' side and/or the Respondents' side each shall, through consultation, appoint or entrust the Chairman of the Arbitration Commission to appoint one arbitrator from among the Panel of Arbitrators of the Arbitration Commission.

83 If the Claimants' side or the Respondents' side fails to make such appointment or entrustment within 20 days as from the date on which the respondents' side receives the Notice of Arbitration, the appointment shall be made by the Chairman of the Arbitration Commission.

Article 28

85 Any appointed arbitrator having a personal interest in the case shall himself disclose such circumstances to the Arbitration Commission and request a withdrawal from his office.

Article 29

87 A party may make a request in writing to the Arbitration Commission for the removal of an appointed arbitrator from his office, if the party has justified reasons to suspect the impartiality and independence of the appointed arbitrator. In the request, the facts and reasons on which the request is based and evidence thereof must be given.

88 A challenge against an arbitrator for a removal from his office must be put forward in writing no later than the first oral hearing. If the grounds for the challenge come out or are made known after the first oral hearing, the challenge may be raised after the first hearing but before the end of the last hearing.

81 **Article 30**

The Chairman of the Arbitration Commission shall decide on the challenge. 90

Article 31

If an arbitrator cannot perform his duty owing to withdrawal, demise, removal or other reasons, a substitute arbitrator shall be appointed in accordance with the procedure pursuant to which the original arbitrator was appointed. 92

After the appointment of the substitute arbitrator, the arbitration tribunal has discretion to decide whether the whole or part of the previous hearings shall be started again. 93

Section 3 - Hearing

Article 32

The arbitration tribunal shall hold oral hearings when examining a case. At the request of the parties or with their consent, oral hearings may be omitted if the arbitration tribunal also deems that oral hearings are unnecessary, and then the arbitration tribunal may examine the case and make an award on the basis of documents only. 96

Article 33

The date of the first oral hearing shall be fixed by the arbitration tribunal in consultation with the secretariat of the Arbitration Commission. The notice of the date of the hearing shall be communicated by the secretariat of the Arbitration Commission to the parties 30 98

days before the date of the hearing. A party having justified reasons may request a postponement of the date of the hearing. His request must be communicated to the secretariat of the Arbitration Commission 12 days before the date of the hearing and the arbitration tribunal shall decide whether to postpone the hearing or not.

99 **Article 34**

100 The notice of the date of hearing subsequent to the first hearing is not subject to the 30-day time limit.

101 **Article 35**

102 The cases taken cognizance of by the Arbitration Commission shall be heard in Beijing, or in other places with the approval of the secretary-general of the Arbitration Commission. The cases taken cognizance of by a Sub-Commission of the Arbitration Commission shall be heard in the place where the Sub-Commission is located, or in other places with the approval of the secretary-general of the Sub-Commission.

103 **Article 36**

104 The arbitration tribunal shall not hear cases in open session. If both parties request a hearing to be held in open session, the arbitration tribunal shall decide whether to hold the hearing in open session or not.

105 **Article 37**

106 When a case is heard in closed session, the parties, their attorneys,

witnesses, arbitrators, experts consulted by the arbitration tribunal and appraisers appointed by the arbitration tribunal and the relevant staff-members of the secretariat of the Arbitration Commission shall not disclose to outsiders the substantive or procedural matters of the case.

Article 38

107

The parties shall produce evidence for the facts on which their claim, defense or counterclaim is based. The arbitration tribunal may undertake investigations and collect evidence on its own initiative, if it deems it necessary.

108

If the arbitration tribunal investigates and collects evidence on its own initiative, it shall timely inform the parties to be present on the spot if it deems it necessary. Should one party or both parties fail to appear on the spot, the investigation and collection of evidence shall by no means be affected.

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Article 39

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The arbitration tribunal may consult an expert or appoint an appraiser for the clarification of special questions relating to the case. Such an expert or appraiser can be an organization or a citizen, Chinese or foreign.

111

The arbitration tribunal has the power to order the parties and the parties are also obliged to submit or produce to the expert or appraiser any materials, documents, properties or goods related to the case for check-up, inspection and /or appraisal.

112

Article 40

113

The expert's report and the appraiser's report shall be copied to

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the parties so that the parties may have the opportunity to give their opinions there on. At the request of any party to the case and with the approval of the arbitration tribunal, the expert and appraiser may be present at the hearing and give explanations of their reports when the arbitration tribunal deems it necessary and appropriate.

115 **Article 41**

116 The evidence submitted by the parties shall be examined and decided by the arbitration tribunal. The adoption of the expert's report and the appraiser's report shall be determined by the arbitration tribunal.

117 **Article 42**

118 Should one of the parties fail to appear at the hearing, the arbitration tribunal may proceed with the hearing and make an award by default.

119 **Article 43**

120 During the hearing, the arbitration tribunal may make a record in writing and/or by tape-recording. The arbitration tribunal may, when it deems it necessary, make a minute stating the main points of the hearing and ask the parties and/or their attorneys, witnesses and/or other persons involved to sign their names on it and/or affix their seals to it.

121 The record in writing or by tape-recording is only for the use and reference of the arbitration tribunal.

Article 44

If the parties to an arbitration case reach an amicable settlement agreement by themselves, they may either request the arbitration tribunal to make an award in accordance with the contents of their amicable settlement agreement to end the case or request a dismissal of the case. The secretary-general of the Arbitration Commission shall decide on the request for a dismissal of the arbitration tribunal, and the arbitration tribunal shall decide if the request is put forward after the formation of the arbitration tribunal.

If the party or the parties refer the dismissed case again to the Arbitration Commission for arbitration, the Chairman of the Arbitration Commission shall decide whether to accept the reference or not.

Article 45

A party who knows or should have known that any provision or requirement of these Rules has not been complied with and yet proceeds with the arbitration proceedings without explicitly raising in writing his objection to non-compliance in a timely manner shall be deemed to have waived his right to object.

Article 46

If both parties have a desire for conciliation or one party so desires and the other party agrees to it when consulted by the arbitration tribunal, the arbitration tribunal may conciliate the case under its cognizance in the process of arbitration.

Article 47

130 The arbitration tribunal may conciliate cases in the manner it deems appropriate.

Article 48

132 The arbitration tribunal shall terminate conciliation and continue the arbitration proceedings when one of the parties requests a termination of conciliation or when the arbitration tribunal believes that further efforts to conciliate will be futile.

Article 49

134 If the parties have reached an amicable settlement outside the arbitration tribunal in the course of conciliation conducted by the arbitration tribunal such settlement shall be deemed as one which has been reached through the arbitration tribunal's conciliation.

Article 50

136 The parties shall sign a settlement agreement in writing when an amicable settlement is reached through conciliation conducted by the arbitration tribunal, and the arbitration tribunal shall end the case by making an arbitration award in accordance with the contents of the settlement agreement unless otherwise agreed by the parties.

Article 51

138 Should conciliation fail, any statement, opinion, view or proposal

129 which has been made, raised, put forward, acknowledged, accepted or rejected by either party or by the arbitration tribunal in the process of conciliation shall not be invoked as grounds for any claim, defense and/or counterclaim in the subsequent arbitration proceedings judicial proceedings or any other proceedings.

Section 4 - Award

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Article 52

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The arbitration tribunal shall render an arbitral* award within 9 months as from the date on which the arbitration tribunal is formed. The secretary-general of the Arbitration Commission may extend this time limit at the request of the arbitration tribunal if the secretary-general of the Arbitration Commission considers that it is really necessary and the reasons for extension are truly justified.

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Article 53

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The arbitration tribunal shall independently and impartially make its arbitral award on the basis of the facts, in accordance with the law and the terms of the contracts, with reference to international practices and in compliance with the principle of fairness and reasonableness.

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Article 54

144

Where a case is heard by an arbitration tribunal composed of three arbitrators, the arbitral award shall be decided by the majority of the arbitrators and the minority opinion may be written in the record and docketed into the file.

145

146 When the arbitration tribunal cannot attain a majority opinion, the
arbitral award shall be decided in accordance with the presiding
arbitrator's opinion.

147 **Article 55**

148 The arbitration tribunal shall state in the arbitral award the claims,
the facts of the dispute, the reasons on which the arbitral award
is based, the result of the arbitral award, the allocation of the arbi-
tration costs, the date on which and the place at which the arbitral
award is made. The facts of the dispute and the reasons on which
the arbitral award is based may not be stated in the arbitral award
if the parties have agreed not to state them in the arbitral award, or
the arbitral award is made in accordance with the contents of the
settlement agreement reached between the parties.

149 **Article 56**

150 Unless the arbitral award is made in accordance with the opinion of
the presiding arbitrator or the sole arbitrator, the arbitral award shall
be signed by all the arbitrators or the majority arbitrators sitting on
the arbitration tribunal. An arbitrator who has a dissenting opinion
may sign or not sign his name on the arbitral award.

151 The arbitrator shall submit his draft arbitral award to the Arbitration
Commission before signing the award. The Arbitration Commis-
sion may remind the arbitrator of any issue related to the form of
the arbitral award on condition that the arbitrator's independence
of decision is not affected.

152 The Arbitration Commission's stamp shall be affixed to the arbitral
award.

153 The date on which the arbitral award is made is the date on which
the arbitral award comes into legal effect.

Article 57

154

The arbitration tribunal may, if it deems it necessary or the parties
so request and the arbitration tribunal agrees, make an interlocu-
tory award or partial award on any issue of the case at any time
in the course of arbitration before the final award is made. Either
party's failure to perform the interlocutory award does not affect the
continuation of the arbitration proceedings and the making of the
final award by the arbitration tribunal.

155

Article 58

156

The arbitration tribunal has the power to determine in the arbitral
award the arbitration fee and other expenses to be eventually paid
by the parties to the Arbitration Commission.

157

Article 59

158

The arbitration tribunal has the power to decide in the arbitral award
that the losing party shall pay the winning party as compensation
a proportion of the expenses reasonably incurred by the winning
party in dealing with the case. The amount of such compensation
shall not in any case exceed 10% of the total amount awarded to
the winning party.

159

Article 60

160

The arbitral award is final and binding upon both disputing parties.
Neither party may bring a suit before a law court or make a request
to any other organization for revising the arbitral award.

161

Article 61

163 Either party may request in writing that a correction be made to the writhing, typing , calculating and similar errors contained in the arbitral award within 30 days from the date of receipt of the arbitral award; if there is really an error in the arbitral award, the arbitration tribunal shall make a correction in writing within 30 days form the date on receipt of the written request for correction, and the arbitration tribunal may by itself make a correction in writing within 30 days from the date on which the arbitral award is issued. The correction in writing forms a part of the arbitral award.

Article 62

164 If anything that should be awarded has been omitted in the arbitral award, either of the parties may make a request in writing to the arbitration tribunal for an additional award within 30 days from the date on which the arbitral award is received.

166 If something which should be awarded is really omitted, the arbitration tribunal shall make an additional award within 30 days from the date of receipt of the request in writing for an additional award. The arbitration tribunal may also by itself make an additional award within 30 days from the date on which the arbitral award is issued. The additional award forms a part of the arbitral award which has been previously issued.

Article 63

168 The parties must automatically execute the arbitral award within the time limit specified in the arbitral award. If no time limit is specified in the arbitral award, the parties shall carry out the arbitral award immediately.

162 In case one party fails to execute the arbitral award, the other party may apply to the Chinese court for enforcement of the arbitral award pursuant to Chinese law or apply to the competent foreign court for enforcement of the arbitral award according to the 1958 Convention on Recognition and Enforcement of Foreign Arbitral Awards or other international treaties that China has concluded or participated in.

169

Chapter III - Summary Procedure

170

Article 64

171

Unless otherwise agreed by the parties, this Summary Procedure shall apply to any case in dispute where the amount of the claim totals not more than RMB 500, 000 yuan, and to any case in dispute where the amount of the claim totals more than RMB 500, 000 yuan provided that one party applies for arbitration under this Summary Procedure and the other party agrees in writing.

172

Article 65

173

When an application for arbitration is submitted to the Arbitration Commission after examination and the Summary Procedure is applicable, the secretariat of the Arbitration Commission shall immediately send a Notice of Arbitration to the parties.

174

Unless both parties have jointly appointed one sole arbitrator from among the Panel of Arbitrators of the Arbitration Commission, they shall jointly appoint or jointly entrust the Chairman of the Arbitration Commission to appoint one sole arbitrator within 15 days from the date on which the Notice of Arbitration is received by the Respondent. Should the parties fail to make such appointment or entrustment, the Chairman of the Arbitration Commission shall imme-

175

diately appoint one sole arbitrator to form an arbitration tribunal to hear the case. 184

176 **Article 66**

177 The Respondent shall, within 30 days from the date of receipt of the Notice of Arbitration, submit his defense and relevant documentary evidence to the secretariat of the Arbitration Commission; a counterclaim, if any, shall be filed with documentary evidence within the said time limit.

178 **Article 67**

179 The arbitration tribunal may hear the case in the way it deems appropriate. The arbitration tribunal has discretion to hear the case only on the basis of the written materials and evidence submitted by the parties or to hold an oral hearing as well.

180 **Article 68**

181 The parties must hand in written materials and evidence needed for the arbitration in compliance with the requirements of the arbitration tribunal within the time limit given by the arbitration tribunal.

182 **Article 69**

183 For a case which needs an oral hearing, the secretariat of the Arbitration Commission shall, after the arbitration tribunal has fixed a date for hearing, inform the parties of the date of the hearing 15 days before the date of the hearing.

Article 70

If the arbitration tribunal decides to hear the case orally, only one oral hearing shall be held. However, the arbitration tribunal may hold two oral hearings if really necessary. 185

Article 71

Should one of the parties fail to act in compliance with this Summary Procedure during summary proceedings, such failure shall not affect the arbitration tribunal's conduct of the proceedings and the arbitration tribunal's power to render an arbitral award. 186

Article 72

The conduct of the summary proceedings shall not be affected by any amendment of the claim or by the lodging of a counterclaim. 187

Article 73

Where a case is heard orally, the arbitration tribunal shall make an arbitral award within 30 days from the date of the oral hearing if one hearing is to be held, or from the date of the second oral hearing if two oral hearings are to be held. Where a case is examined on the basis of documents only, the arbitration tribunal shall render an arbitral award within 90 days from the date on which the arbitration tribunal is formed. The secretary-general of the Arbitration Commission may extend the said time limit if such extension is necessary and justified. 188

Article 74

193 For matters not covered in this Chapter, the relevant provisions in
the other Chapters of these Rules shall apply.

194 **Chapter IV - Supplementary Provisions**

195 **Article 75**

196 The Chinese language is the official language of the Arbitration
Commission. If the parties have agreed otherwise, their agreement
shall prevail.

197 At the hearing, if the parties or their attorneys or witnesses require
language interpretation, the secretariat of the Arbitration Commis-
sion may provide an interpreter for them or the parties may bring
with them their own interpreter.

198 The arbitration tribunal and/or the secretariat of the Arbitration
Commission may, if it deems it necessary, request the parties to
hand in corresponding translation copies in Chinese language
or other languages of the documents and evidential materials
submitted by the parties.

199 **Article 76**

200 All the arbitration documents, notices and materials may be sent
to the parties and/or their attorneys in person, or by registered let-
ter or express airmail, telefax, telex, cable or by any other means
which are deemed proper by the secretariat of the Arbitration Com-
mission.

201 **Article 77**

Any written communication to the parties is deemed to have been
properly served if it is delivered to the addressee or delivered at
his place of business, habitual residence or mailing address; or if
none of these can be found after making a reasonable inquiry, a
written communication is deemed to have been properly served if
it is sent to the addressee's last known place of business, habitual
residence or mailing address by registered letter or by any other
means which provides a record of the attempt to deliver it.

Article 78

Apart from charging arbitration fees from the parties according to
the Arbitration Fee Schedule of the Arbitration Commission, the Ar-
bitration Commission may collect from the parties other extra, rea-
sonable and actual expenses including arbitrators' special remu-
neration and their travel and boarding expenses for dealing with
the case and the fees and expenses for experts, appraisers and
interpreters appointed by the arbitration tribunal, etc.

If a case is withdrawn after the parties have reached between them-
selves an amicable settlement, the Arbitration Commission may
charge a certain amount of fees from the parties in consideration
of the quantity of work and the amount of the actual expenses in-
curred by the Arbitration Commission.

Article 79

Where an arbitration agreement or an arbitration clause contained
in the contract provides for arbitration to be conducted by China In-
ternational Economic and Trade Arbitration Commission or its Sub-
Commissions or by the formerly named Foreign Trade Arbitration

Commission or Foreign Economic and Trade Arbitration Commission of the China Council for the Promotion of International Trade, it shall be deemed that the parties have unanimously agreed that the arbitration shall be conducted by China International Economic and Trade Arbitration Commission or by its Sub-Commissions.

208 **Article 80**

209 These Rules shall come into force as from October 1, 1995. For cases which have been taken cognizance of by the Arbitration Commission or by its Sub-Commissions before the date on which these Rules become effective, the Rules of Arbitration effective on the date when the cases were taken cognizance of shall apply. However, these Rules shall be applied if the parties so agree.

210 **Article 81**

211 The power to interpret these Rules is vested in the Arbitration Commission.

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