

China - Maritime Arbitration Commission Arbitration Rules, 1995

China Maritime Arbitration Commission

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

Chapter I - General Provisions 2

Section 1 - Jurisdiction 3

Article 1 4

These Rules are formulated in accordance with the Arbitration Law and the provisions of 5
the relevant laws of the People's Republic of China (PRC) and pursuant to the `Decision',
the `Notice' and `Official Reply' of the State Council of the PRC.

Article 2 6

China Maritime Arbitration Commission (formerly known as Maritime Arbitration Commis- 7
sion of the China Council for the Promotion of International Trade, and hereinafter referred
to as the `Arbitration Commission') independently and impartially resolves, by means of
arbitration, contractual or non-contractual maritime disputes arising from, or in the process
of , transportation, production and navigation by or at sea, in coastal waters and other
waters connected with sea, in order to protect the legitimate rights and interests of the
parties and promote the development of the domestic and international shipping industry
and economy and trade.

The Arbitration Commission shall take cognizance of cases of following maritime dis- 8
putes:

(1) dispute arising from salvage and general average; 9

(2) dispute arising from collision between vessels, or from damage caused by a vessel to 10
the structure and installation on the sea, waterways connected with sea, in the harbor as
well as the submarine or underwater installation;

(3) dispute arising from management, operation, chartering, mortgage, agency, towage, 11
raising, sale, repair, building, demolition, of sea-going/river vessel, as well as carriage by
sea in virtue of contracts of affreightment, bill of lading or other documents, and marine
insurance;

(4) dispute regarding the utilization of the marine resources and pollution damages to the 12
marine environment;

(5) dispute arising from contract of freight forwarding, supply of ship's stores, employment 13
of seaman aboard a foreign vessel, fishery production and fishing;

(6) other maritime dispute submitted for arbitration by agreement between the parties. 14

Article 3 15

The Arbitration Commission takes cognizance of cases in accordance with an arbitration agreement between the parties concluded before or after the occurrence of the disputes to refer their dispute to the Arbitration Commission for arbitration and upon the written application by one of the parties. 16

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. 17

Article 4 18

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. 19

Article 5 20

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 contract. 21

Article 6 22

Any objections to an arbitration agreement and/or jurisdiction over an arbitration case should be raised before the first hearing conducted 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. 23

Article 7 24

Once the parties agree to submit their dispute to the Arbitration Commission for arbitration, they shall be deemed to have agreed to conduct the arbitration under these Rules. 25

Section 2 - Organization 26

Article 8 27

The Arbitration Commission shall have one honorary Chairman and several advisers. 28

Article 9 29

The Arbitration Commission is composed of one Chairman, several 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 functions and duties with the Chairman's authorization. 30

The Arbitration Commission shall have a secretariat to handle its day-to-day work under the leadership of the secretary-general of the Arbitration Commission. 31

Article 10 32

The Arbitration Commission shall maintain a Panel of Arbitrators. The arbitrators shall be selected and appointed by the Arbitration Commission from among Chinese and foreign personages with special knowledge and practical experience in the fields of navigation, carriage by sea, foreign trade, insurance and law and other fields. 33

Article 11 34

The Arbitration Commission is located in Beijing. The Arbitration Commission may, according to the requirement of development of arbitration business, set up its Sub-Commissions in other places within China's territory. 35

Chapter II - Arbitration Proceedings 36

Section 1 - Application for Arbitration, Defense and Counter-claim 37

Article 12 38

The arbitration proceedings shall commence from the date on which the Notice of Arbitration is issued. 39

Article 13

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The Claimant shall satisfy the following requirements when submitting his Application for Arbitration:

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

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(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;

43

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

44

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

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

46

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

47

(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.

48

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

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Article 14

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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 completed 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 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.

51

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.

52

Article 15

53

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.

54

Article 16

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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.

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Article 17

57

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.

58

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 counterclaim is based, and attach to his counterclaim the relevant documentary evidence.

59

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

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Article 18

61

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.

62

Article 19

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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 the parties exceeds two, additional copies shall be submitted accordingly; if the number of arbitrator composing the arbitration tribunal is one, two copies may be reduced.

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Article 20

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The arbitration proceedings shall not be affected in case the Respondent fails to file his defense in writing or the Claimant fails to submit his written defense against the Respondent's counterclaim.

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Article 21

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

68

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

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Article 22

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When a party applies for property preservative measures, the Arbitration Commission shall submit the party's application for a ruling to the Maritime 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.

71

When a party applies for interim measures of protection of evidence, the Arbitration Commission shall submit his application for a ruling to the maritime Court in the place where the evidence is located.

72

Section 2 - Formation of Arbitration Tribunal

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Article 23

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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.

75

In case the parties fail to jointly appoint or 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.

76

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

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Article 24

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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.

79

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 an appointment.

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Article 25

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If the Claimant or the Respondent fails to appoint or authorize the Chairman of the Arbitration Commission to appoint an arbitrator according to Article 15 of these Rules, the Chairman of the Arbitration Commission shall appoint an arbitrator on his behalf.

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Article 26

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When there are two or more Claimants and/or Respondents in an arbitration case, the Claimants' side and 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.

84

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 Respondent's side receives the Notice of Arbitration, the appointment shall be made by the Chairman of the Arbitration Commission.

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Article 27

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

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Article 28

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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 must be given.

89

A challenge against an arbitrator for 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

90

known after the first oral hearing, the challenge may be raised after the first hearing but before the end of the last hearing.

Article 29 91

The Chairman of the Arbitration Commission shall decide on the challenge. 92

Article 30 93

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. 94

After the appointment of the substitute arbitrator, the arbitration tribunal has discretion to decide whether or not the whole or part of the previous hearings shall be repeated. 95

Section 3 - Hearing 96

Article 31 97

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. 98

Article 32 99

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 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. 100

Article 33 101

The notice of the date of hearing subsequent to the first hearing is not subject to the 30-day time limit. 102

Article 34

103

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.

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Article 35

105

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.

106

Article 36

107

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.

108

Article 37

109

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

110

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 38

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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 and appraiser can be an organization or a citizen, Chinese or foreign.

113

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.

114

Article 39

115

The expert's report and the appraiser's report shall be copied to the parties so that they may have the opportunity to give their opinions thereon. 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.

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Article 40

117

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.

118

Article 41

119

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.

120

Article 42

121

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.

122

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

123

Article 43

124

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 case if the request is made before the formation of the arbitration tribunal and the arbitration tribunal shall decide on the request if the request is put forward after the formation of the arbitration tribunal.

125

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.

126

Article 44 127

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. 128

Article 45 129

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. 130

Article 46 131

The arbitration tribunal may conciliate cases in the manner it deems appropriate. 132

Article 47 133

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. 134

Article 48 135

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. 136

Article 49 137

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. 138

Article 50 139

Should conciliation fail, any statement, opinion, view and proposal which has been made, 140

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

141

Article 51

142

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.

143

Article 52

144

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.

145

Article 53

146

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.

147

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

148

Article 54

149

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 arbitration 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 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.

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Article 55

151

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.

152

The arbitrators shall submit his draft arbitral award to the Arbitration Commission before signing the award. The Arbitration Commission may remind the arbitrators of the issues related to the form of the arbitral award on condition that the arbitrators' independence of decision is not affected.

153

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

154

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

155

Article 56

156

The arbitration tribunal may, if it deems it necessary or the parties so request and the arbitration tribunal agrees, make an interlocutory 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.

157

Article 57

158

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

159

Article 58

160

The arbitration tribunal has the power to decide in the arbitral award that the losing party shall pay the winning party as compensation an apportion 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.

161

Article 59

162

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

163

Article 60

164

Either party may request in writing that a correction be made to the writing, 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 from the date of which the arbitral award is issued. The correction in writing forms a part of the arbitral award.

165

Article 61

166

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.

167

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 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.

168

Article 62

169

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.

170

In case one party fails to execute the arbitral award, the other party may apply to the Chinese court for the 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 .

171

Chapter III - Summary Procedure

172

Article 63

173

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.

174

Article 64

175

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

176

Unless both parties have jointly selected 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. When the parties fail to make such appointment or entrustment, the Chairman of the Arbitration Commission shall immediately appoint one sole arbitrator to form an arbitration tribunal to hear the case.

177

Article 65

178

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; counterclaim, if any, shall be lodged together with documentary evidence within the said time limit.

179

Article 66

180

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.

181

Article 67

182

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.

183

Article 68

184

For a case which needs an oral bearing, 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.

185

Article 69 186

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. 187

Article 70 188

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. 189

Article 71 190

The conduct of the proceedings shall not be affected by any amendment of the claim or by the lodging of a counterclaim. 191

Article 72 192

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 oral hearing is to be held, or from the date or 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 justifiable. 193

Article 73 194

For matters not covered in this Chapter, the relevant provisions in the other Chapters of these Rules shall apply. 195

Chapter IV - Supplementary Provisions 196

Article 74 197

The Chinese language is the official language of the Arbitration Commission. If the parties have agreed otherwise, their agreement shall prevail. 198

At the hearing, if the parties or their attorneys or witnesses request language interpretation, 199

the secretariat of the Arbitration Commission may provide an interpreter for them or the parties may bring with them their own interpreters.

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.

Article 75

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

Article 76

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 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 77

Apart from charging arbitration fees from the parties according to the Arbitration Fee Schedule of the Arbitration Commission, the Arbitration Commission may collect from the parties other extra, reasonable and actual expenses including arbitrator's special remuneration 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 themselves 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 incurred by the Arbitration Commission.

Article 78

Where a arbitration agreement or an arbitration clause contained in the contract provides

for the arbitration to be conducted by China Maritime Arbitration Commission or by its former named Maritime Arbitration Commission of the China Council for the Promotion of International Trade, the parties shall be deemed to have unanimously agreed that the arbitration shall be conducted by China Maritime Arbitration Commission.

Article 79

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

211

Article 80

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

213

Appendix

214

CHINA MARITIME ARBITRATION COMMISSION

215

ARBITRATION FEE SCHEDULE

216

(Effective as from April 1, 1995)

217

Amount of Claim (RMB) Amount of Claim (RMB) Amount of Fee (RMB)

218

1,000,000 Yuan or less 4% of the Claiming Amount, minimum 20,000 Yuan

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1,000,000 Yuan to 5,000,000 Yuan 40,000 Yuan Plus 3% of the excess over 1,000,000 Yuan

220

5,000,000 Yuan to 10,000,000 Yuan 160,000 Yuan Plus 2% of the excess over 5,000,000 Yuan

221

10,000,000 Yuan to 50,000,000 Yuan 26,000 Yuan Plus 1% of the excess over 10,000,000 Yuan

222

50,000,000 Yuan or more 660,000 Yuan Plus 0.5% of the excess over 50,000,000 Yuan

223

When applying for arbitration, each case shall be charged an additional RMB 10,000 Yuan as a Registration Fee in order to cover the expenses in examining the application for arbitration, filing the case, computer management, and placing the documents on file.

224

Where the amount of the claim is not specified at the time of submitting the Application

225

for Arbitration, the amount of arbitration fee shall be determined by the secretariat of the Arbitration Commission.

If the arbitration fee is charged in foreign currency, an amount of foreign currency equivalent to the corresponding RMB value specified in this Schedule shall be paid. 226

Apart from charging arbitration fee according to the above-mentioned Arbitration Fee Schedule, the Arbitration Commission may collect other extra, reasonable and actual expenses pursuant to the relevant provisions of the Arbitration Rules. 227

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