

AIAC ARBITRATION CIRCULAR 03

CIRCULAR ON FEE AGREEMENTS IN AIAC ADMINISTERED ARBITRATION PROCEEDINGS

This Circular clarifies the scope of agreement(s) executed between the Parties and the Arbitral Tribunal on the matter of the fees and expenses of the Arbitral Tribunal in arbitrations administered by the AIAC (the "Fee Agreement"). Such Fee Agreement is contemplated and provided for under Rule 13(4) of the AIAC Arbitration Rules 2018, Rule 14(4) of the AIAC i-Arbitration Rules 2018 and Rule 24(4) of the AIAC Fast Track Arbitration Rules 2018 (collectively, the "Rules").

Under the Rules, the Parties and the Arbitral Tribunal are at liberty to agree on the fees and expenses of the Arbitral Tribunal i.e. the Fee Agreement, within a period of time set therein from the appointment of the Arbitral Tribunal.¹ Where the Arbitral Tribunal and the Parties have entered into a Fee Agreement, the Arbitral Tribunal shall inform the Director of the AIAC of the same, within the period stipulated in the Rules. If the Fee Agreement is executed after the relevant period has expired, the Fee Agreement shall be subject to approval by the Director of the AIAC.

The provisions of the Rules are tailored in a manner that safeguard the AIAC's role in dealing with the financial aspects of each proceeding, whilst allowing room for the Parties to exercise autonomy in certain respects. This ensures transparency and predictability for users while maintaining a high level of accountability and logistical ease for the Parties, the Arbitral Tribunal and the AIAC as the administering institution.

To the extent agreed upon by the Arbitral Tribunal and the Parties, for the purpose of Rule 13(4) of the AIAC Arbitration Rules 2018, Rule 14(4) of the AIAC i-Arbitration Rules 2018 and Rule 24(4) of the AIAC Fast Track Arbitration Rules 2018, a Fee Agreement may encompass one or more of the following matters:

- i) an agreement on the determination of sums attributable to the fees and expenses of the Arbitral Tribunal, which may or may not be based on or a variation of Schedule I of the Rules; and
- ii) an agreement on the stages of the interim disbursement of the Arbitral Tribunal's fees and expenses, following consultation and approval of the Director of the AIAC.

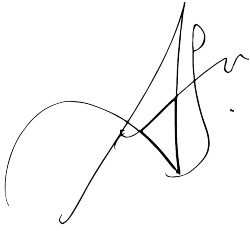
The above is applicable regardless of whether such Fee Agreement is executed within or after the period stipulated in the Rules

All deposits towards the costs of the arbitration shall, in all circumstances, be made to and remitted to an account held by the AIAC, and any interest accrued thereon shall be retained by the AIAC.

¹ 30 days under the AIAC Arbitration Rules 2018 and the AIAC i-Arbitration Rules 2018; 10 days under the AIAC Fast Track Arbitration Rules 2018.

For enquiries, please write to arbitration@aiac.world.

Dated this 26th January 2021.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a smaller 'S' and a flourish.

Tan Sri Datuk Suriyadi Bin Halim Omar
Director
Asian International Arbitration Centre