

Kluwer Arbitration Blog

The CIETAC Arbitration Rules 2024 Comes Into Force

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On 1 January 2024, the new version of the China International Economic and Trade Arbitration Commission (CIETAC) Arbitration Rules ([2024 Rules](#)) came into force. The 2024 Rules apply to CIETAC arbitrations commenced on or after this date.

Compared with the [2015 Rules](#), the 2024 Rules have expanded from 84 provisions to 88 provisions and incorporated recent developments in international arbitration, such as third-party funding (Article 48) and early dismissal (Article 50). It also reflects CIETAC's experience accumulated in handling more than 60,000 cases since its establishment in 1956. With more than 30 provisions improved in the 2024 Rules, which constitute the 10th edition of CIETAC's arbitration rules, CIETAC is striving to provide parties and arbitral tribunals with more flexibility, efficiency, and transparency throughout arbitration proceedings.

This article will present an overview of the key amendments and new updates to the 2024 Rules.

International Trends Reflected in the 2024 Rules

Third-Party Funding

Article 48 of the 2024 Rules requires that any funded party disclose to the CIETAC Arbitration Court, without delay, the existence of the third-party funding arrangement, the financial interest therein, the name and address of the third-party funder, and other relevant information. Under Article 48.2 of the new rules, the tribunal may consider the existence of third-party funding and the parties' compliance with the disclosure requirement when deciding on arbitration costs or any other fees.

This continues CIETAC's past efforts to regulate third-party funding. In September 2017, CIETAC issued the [Guidelines for Third-Party Funding](#) and incorporated relevant rules into the [CIETAC International Investment Arbitration Rules](#). In 2022, CIETAC's practice of third-party funding was recognized in judicial review by PRC courts for the first time (see prior [post](#)). Called upon to review a CIETAC award rendered in third-party-funded arbitral proceedings, PRC courts held that the involvement of third-party funding did not necessarily violate the principle of confidentiality in arbitration. The courts also found that the third-party funding had been disclosed to the tribunal, and it did not hamper the impartiality of the tribunal. The 2024 Rules mark CIETAC's further step in regulating third-party funding in CIETAC arbitration cases, which is anticipated to become more

common in the future.

Early Dismissal

In July 2023, the United Nations Commission on International Trade Law adopted a [guidance text on early dismissal and preliminary determination](#). The 2024 Rules also introduce rules on early dismissal.

To provide a fair and efficient process and avoid any unnecessary delay or expense, Article 50 of the 2024 Rules provides that a party may request the early dismissal of a claim or counterclaim where the claim or counterclaim is manifestly without legal merits or beyond the jurisdiction of the tribunal. As a safeguard against unmeritorious requests for early dismissal, the tribunal has the discretion to instruct the requesting party to submit justifiable grounds for its request and decide whether to accept the request. Pursuant to Article 50.5, if the tribunal decides to accept the request, the tribunal shall render a decision or an award on the request for early dismissal with reasons stated within 60 days from the date on which such request is made, unless the time limit is extended by the President of the CIETAC Court.

Conservatory and Interim Measures

Conservatory and interim measures are deemed to be among the most useful tools for parties to safeguard their rights in the arbitration process. The 2024 Rules retain the provision in the previous rules that explicitly provides for the arbitral tribunal's power to grant interim measures (Article 23.3).

While Articles 28, 46, and 68 of the [Chinese Arbitration Law 1995](#) require arbitration institutions to forward applications for interim measures to the PRC courts, the 2024 Rules further expand the scope of domestic courts to which CIETAC can forward such applications, to include courts outside of Mainland China. Article 23.1 of the 2024 Rules offers the parties, always the Claimant, the option of requesting CIETAC to send an application for interim measures to the competent court in advance of the service of the notice of arbitration.

Innovations Reflected in the 2024 Rules

Jurisdiction

Under the Chinese Arbitration Law 1995, only the arbitration commission or the court has the power to determine the tribunal's jurisdiction when an objection to the arbitration agreement or the jurisdiction of the tribunal is raised. This is different from the internationally recognized doctrine of *Kompetenz-Kompetenz*. To bridge the gap, the previous CIETAC Arbitration Rules innovatively introduced a rule delegating such power to the arbitral tribunal when necessary. This pioneering rule has been followed by other major Chinese arbitration commissions. Article 6.1 of the 2024 Rules expands the scope of the practice, providing that the power to determine jurisdiction shall be delegated to the tribunal after its constitution.

Another novel addition to the 2024 Rules is Article 12.2, which addresses the issue of pre-arbitration procedure or multi-tiered dispute resolution clauses. It stipulates that a failure to negotiate or mediate as required by the arbitration agreement shall not affect CIETAC's acceptance of the arbitration case unless the law applicable to the arbitral proceedings or the arbitration agreement expressly requires otherwise.

Multi-Contracts and Consolidation of Arbitrations

Given the increasing complexity of international investment and trade, CIETAC expands the scope of the multi-contract clause (Article 14) in the 2024 Rules to facilitate parties in saving time and costs when dealing with two or more contracts. The previous rules allow disputes arising out of or in connection with multiple contracts consisting of a principal contract and its ancillary contract(s), disputes involving the same parties as well as legal relationships of the same nature, or disputes arising out of the same transaction or the same series of transactions to be resolved in one case. The new rules encompass the scenario where such contracts involve related subject matters. Similarly, Article 19 of the 2024 Rules expanded the scope of consolidation to include multiple contracts involving related subject matters.

Furthermore, Article 14.2 of the 2024 Rules allows the Claimant to apply to join additional contracts after the commencement of a case.

Those modifications will greatly enhance efficiency and flexibility in resolving complex international disputes in CIETAC arbitrations.

Digital Tools

Nowadays, arbitration practices are being reshaped by technological acceleration, making it essential for arbitration rules to meet challenges and demands in the new digital era. The 2024 Rules embrace the development of digital tools and introduce the primacy of electronic communication and submissions in Article 8.2, aiming to reduce unnecessary printing and be more eco-friendly.

CIETAC initiated the virtual hearing system at the beginning of COVID-19 for parties who could not attend hearings physically due to health and travel restrictions. Over the past three years, nearly 3,000 hearings have been held remotely and remote hearings have become increasingly welcomed by parties due to low travel costs and time-saving. Pursuant to Article 37.5 of the 2024 Rules, the tribunal has the discretion to decide to hold a hearing by physical attendance, remotely by videoconference, or via other appropriate means of communication after consulting with the parties.

Justice and Efficiency

With a focus on due process and justice, Article 26.4 of the 2024 Rules empowers CIETAC to override the parties' agreement on the tribunal's formation and determine the procedure for

forming the tribunal or appointing any member of the tribunal when the parties' agreement is manifestly unfair or unjust, or if a party abuses its rights in a way that results in undue delay.

Under Article 22.2, the president of the CIETAC Arbitration Court has the power to exclude new counsel from joining the proceedings or take any other appropriate measure to avoid conflicts of interest. This new rule is aimed at preventing conflicts of interest that are created on purpose to threaten the independence and impartiality of the tribunal.

Conclusion

After two years of consultation with arbitrators, legal counsel, and business representatives, with input and significant support from the internal working group, CIETAC has presented the 2024 Rules with the aim of providing more competitive, low-cost, and efficient institutional service. The 2024 Rules demonstrate CIETAC's commitment to respecting party autonomy and due process, safeguarding arbitral tribunals' impartiality, and enhancing the efficiency of arbitration.

As one of the five most preferred arbitration institutions in the world according to the [2021 International Arbitration Survey](#) published by the Queen Mary University of London and White & Case LLP, CIETAC has nearly 70 years of experience in handling arbitration cases involving parties from 152 countries and regions, with its awards recognized and enforced worldwide. Such extensive case administration experience enables CIETAC to draw from a wealth of cases to establish best practices. With the entry into effect of the 2024 Rules, CIETAC is poised to continue playing a significant role in resolving commercial disputes within the PRC and all around the world.

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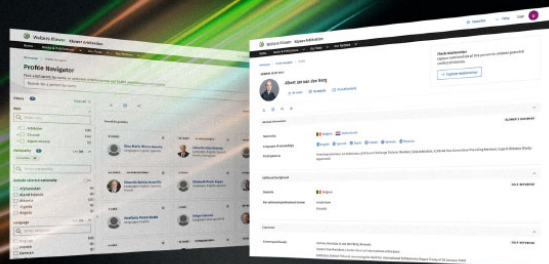
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