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SIAC Rules 2025: Innovative Features and What to Expect for Indian Parties

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In an attempt to further fortify its position as a leading arbitral institution, the Singapore International Arbitration Centre ("**SIAC**") has introduced the 7th Edition of the Arbitration Rules of the SIAC ("**Rules**"), which came into effect on 1 January 2025. Much has already been written on various aspects of the draft Rules during the consultation process (discussed here). In this post, we shine the spotlight on some lesser-discussed innovations in the Rules and consider the particular benefits of the Rules to Indian parties.

Salient Features

Streamlined Procedure and Revisions to Expedited Procedure: With a focus on low-value disputes, SIAC has introduced the Streamlined Procedure that may be adopted prior to the constitution of the tribunal by an agreement of the parties, or by default where the amount in dispute does not exceed SGD 1 million (unless the President of the SIAC Court determines otherwise). If applied, the tribunal and SIAC's fees will be capped at 50% of the maximum limit based on the amount in dispute under the SIAC Schedule of Fees (unless the Registrar determines otherwise). The final award must also be rendered within three months from the date of the tribunal's constitution. This provision complements the amendments to the Expedited Procedure provisions. The Expedited Procedure may now be adopted in three scenarios: where the amount in dispute does not exceed SGD 10 million but exceeds SGD 1 million; where the amount in dispute does not exceed SGD 1 million and the Streamlined Procedure does not apply; and where "the circumstances of the case warrant the application."

Commonality and Consequence: The possibility of "coordinated proceedings" and the ability to request a "preliminary determination" are two new innovations. An application for coordinated proceedings may be made where there are multiple arbitrations with common questions of law or facts and the parties have appointed the same tribunal in all the arbitrations. This tribunal, while keeping the arbitrations separate, may adopt procedures such as joint or concurrent hearings, or procedural orders to reduce the time and costs for all parties across all arbitrations. This procedure may be particularly useful in disputes arising from standard form contracts in the banking sector or model tender contracts in the infrastructure sector where different parties may be faced with the

same issues against a common counterparty.

Parties may also request a "preliminary" but *final* determination over certain issues that are consequential to the dispute. A tribunal may accede to this request based on either agreement by the parties, savings in time and cost to the arbitration by the preliminary determination or if the circumstances warrant a preliminary determination. A requesting party will have to weigh the competing considerations of asking for such a decision early on in the proceedings without necessarily having full sight of the evidence, or running the risk of there being no time and cost savings in later stages of the arbitration.

Transparency: Arbitral institutions have typically shied away from disclosing reasons for their procedural decisions. In doing so, institutions have mitigated the risk of delay which may arise from potential challenges to their decisions in court. While effective, this approach does not always inspire trust. Combined with a host of other factors, arbitration has been facing an increasing legitimacy crisis. As an earlier post notes, lack of information, misconceptions, and biases are foundational to the legitimacy debate.

The Rules represent a delicate balancing act in addressing issues of legitimacy while also focusing on efficiency. Two measures introduced in this regard are:

- Independent external member in the Committee of the SIAC Court: If an arbitrator, who also happens to be a member of the SIAC Court or the SIAC Board, is challenged, then the Committee of the SIAC Court appointed to decide on the challenge will comprise of a member who is not part of the SIAC Court or SIAC Board.
- Reasoned decisions: Parties are now able to *jointly* request that SIAC provide reasons for its decisions with respect to all matters relating to an arbitration. However, the provision of such reasons is at SIAC's discretion. The Rules, arguably, go further than most other major arbitral institutional rules in terms of transparency in decision making.

Changes to the Fee Schedule: SIAC has also announced a revised Schedule of Fees. This change comes after more than eight years and took effect with the Rules. The fees have generally increased across the board, with additional fees being charged for the joinder of parties.

This increase in costs should be viewed in the context of the efficiencies introduced by the Rules. An oft-cited ICC Commission Report found that the fees of the institution and arbitrators amount to 17% of the total costs in the arbitration while the legal costs and other expenses amount to 83%. It has been suggested that efficiency plays a large role in determining the costs expended (discussed here). The increased fees are reflective of the increased procedural offerings of new Rules. If used correctly, these offerings promise to substantially enhance the efficiency of arbitration proceedings. Time saved due to procedural efficiencies (albeit at a nominally increased cost of arbitration) will likely compound over time, leading to substantial legal cost savings that would otherwise be incurred in lengthy arbitrations.

Revisions to Emergency Arbitration ("EA") Procedure: The EA procedure has also been

revised to allow for the application to be made prior to the filing of the notice of arbitration. The time-period for the appointment of an emergency arbitrator by the Registrar of SIAC has also been truncated. While emergency arbitrators already had the power to issue urgent interim relief immediately upon appointment, the Rules now allow parties to seek "protective preliminary orders" ("**PPO**"), which must be determined within 24 hours of the emergency arbitrator's appointment, without notifying the counterparty. The PPO procedure may well be ahead of its time in challenging the fundamental rule of equal opportunity. However, the authors believe that the Rules contain significant safeguards to address enforceability concerns (discussed here).

What Does This Mean for Indian Parties?

Indian parties have consistently been amongst the top ten users of the SIAC Rules since 2010 (*see* SIAC Annual Reports here). An internal empirical study conducted by SIAC revealed that the Institution administered over 1,300 arbitrations involving over 2,000 Indian parties from 2011 to 2022 (and no SIAC award was set aside in India during this period). Any changes to the SIAC Rules are of great interest to Indian users. Apart from the general benefits of increased value for the costs paid, and the ability to achieve procedural efficiencies of similar cases, there are a couple of benefits that may be of particular interest to India parties:

1. *The changes to the EA procedure*: The EA procedure under the SIAC Rules 2016 has emerged as a reliable alternative to approaching national courts under Section 9 of the Indian Arbitration and Conciliation Act, 1996 ("the Act") for urgent interim relief in support of an arbitration ("Section 9 Proceedings"). Interestingly, Indian parties have been involved in the highest number of EA applications—of the 151 EA applications, Indian parties have been involved as claimants in at least 23 EA cases, and as respondents in at least 71.

Despite the EA procedure's popularity in India, an earlier blog post aptly sets out the three main limitations of this procedure as compared to a Section 9 Proceeding: (i) inability to obtain *ex-parte* orders; (ii) inability to obtain orders against third parties; and (iii) enforceability in India. The Rules makes an attempt to address at least one of these limitations, by allowing for an *ex-parte* PPO where there is a fear that notifying the counterparty would frustrate the purpose of the measure or cause the dissipation or removal of the assets which the proceeding intends to preserve. It remains to be seen if such a 'preliminary' EA order can be enforced. Indian law does not currently recognise EA awards or orders. The Indian Supreme Court has held that India-seated EA awards or orders are directly enforceable as orders of an Indian court (discussed here and here). However, the enforceability of foreign-seated EA orders or awards continues to remain uncertain (which may change with the proposed amendments to the Act, discussed here).

For now, the new procedure is likely to increase the use of SIAC EA procedures: Indian parties now have an alternative to Section 9 Proceedings for *ex-parte* interim relief and foreign parties may likewise consider seeking such relief against Indian counterparties from an emergency arbitrator appointed by an institution they are familiar with.

2. *Streamlined Procedure*: Indian users, given the INR to SGD conversion rates (with SGD 1 being about INR 65), can consider taking advantage of the 50% discount on the maximum

fees under the Streamlined Procedure for an award in three months. In other words, a dispute of about INR 6.5 crores (just under SGD 1 million) can be resolved in a SIAC administered arbitration in three months under the Streamlined Procedure with the maximum costs of arbitration being about INR 24 lakhs (around SGD 37,000).

Indian parties are no longer strangers to resolving disputes on an 'expedited' basis in six months from the constitution of the tribunal. For example, for *ad-hoc* domestic arbitration, Section 29B of the Act provides for a 'fast track' procedure to resolve disputes within six months in the event both sides consent to it (an unlikely prospect when a dispute arises). The rules of Indian arbitral institutions, such as Rule 12 of the Mumbai Centre for International Arbitration Rules 2016 and Article 23 of the International Arbitration and Mediation Centre, Hyderabad, offer procedures to complete arbitrations in an expedited manner within six months of the constitution of the tribunal.

That said, prescribing the tighter timeframe of three months is uncommon amongst Indian arbitral rules; a notable exception is the Securities and Exchange Board of India (SEBI) Model Bye-laws require stock exchange arbitrations to be concluded within three months from the date of reference to the tribunal. This makes the introduction of the Streamlined Procedure by SIAC quite lucrative to Indian users and gives them an additional option to resolve their low value commercial disputes.

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