

On 2 March 2022, the Dubai International Arbitration Center (“DIAC”) issued new arbitration rules (“DIAC Rules 2022”) which came into effect on 21st March 2022. The DIAC Rules 2022 were issued in aftermath of Decree No. 34 of 2021 (“Decree”), which abolished the Emirates Maritime Arbitration Centre (EMAC) and the DIFC Arbitration Institute (DAI), which in turn effectively led to the dissolution of DIFC-LCIA, another arbitration center, in favor of a consolidated and standalone arbitration center: DIAC. The DIAC Rules 2022 abolished the earlier rules (Rules 2007) and embraced several of the modern features of arbitration to strengthen the center’s position as one of the leading global arbitration centers. A brief summary of the changes brought about by DIAC Rules 2022 and their effect on arbitration proceedings will be discussed in this legal briefing.

I. Introduction

The DIAC Rules 2022 have replaced the earlier rules of 2007 and constitute a significant departure from the previous arbitration framework. The DIAC Rules 2022 have adopted and introduced several modern global arbitration elements to DIAC arbitration proceedings in order to increase efficiency and flexibility of such proceedings.

II. Notable Changes

The most notable changes include provisions related to default seat of arbitration, joinder of parties, consolidation of claims, recovery of legal fees, expedited proceedings and emergency arbitrator appointment.

a) Default Seat of Arbitration

In line with the Article 4 of the Decree, the Dubai International Financial Centre (“DIFC”) has been set as the default seat

of arbitration under the DIAC Rules 2022. As per Article 20 of the DIAC Rules 2022, the parties may agree in writing on the seat of arbitration. If they have not agreed to a seat, but have agreed to a location, such a location will be the seat of arbitration, unless otherwise agreed. Where there is no agreement regarding the seat, the default seat of arbitration will be DIFC. However, it is to be noted that the arbitral tribunal does have the power to determine another seat other than DIFC.

b) Joinder

Departing from the earlier position under the 2007 Rules, where there was no similar mechanism for the joinder of parties, Article 9 of the DIAC Rules 2022 now expressly regulates joinders of additional parties to the arbitration. The Article allows for enjoining of additional parties through an application to the arbitration court (newly established court to supervise the arbitrations—similar to LCIA court) subject to the

consent of all the parties or prima facie satisfaction of the arbitration court that party being joined can be a party to the arbitration agreement referred in the request. Additionally, joinders may also be allowed pursuant to the constitution of arbitral tribunal subject to satisfaction of additional conditions e.g., consent of the joining party to the proceedings.

c) Multiple Contracts and Consolidation

Taking a leaf out of the LCIA Arbitration Rules and now defunct DIFC-LCIA Arbitration Rules, DIAC has now introduced the consolidation of multiple claims and arbitrations under one request. As per Article 8, where there are multiple claims arising from more than one agreement, the party may submit a single request in respect of the multiple claims. However, certain requirements need to be satisfied for the court to allow the consolidation, such as the arbitration having to involve the same parties, compatibility of agreements to arbitrate, and the claims must be arising out of the same transaction or a series of related transactions.

d) Recovery of Legal Fees

The cost of arbitration not only includes registration fees, administration fees, fees of the tribunal and experts, but it also includes the fees of legal representatives which could be recovered. This can be found under Article 36 of the DIAC Rules 2022. This provides the much-needed clarification regarding the award of legal fees by the tribunal.

e) Expedited Proceedings

In order to ensure the efficiency and effectiveness of the DIAC arbitrations,

the DIAC Rules 2022 have now laid down expedited procedure rules. As per Article 32 of the DIAC Rules 2022, expedited proceedings shall take place if the total sum claimed and counterclaimed is below AED 1,000,000, unless the parties agree otherwise or if the parties agree in writing or in exceptional urgent cases which shall be determined by the arbitration court after the submission of an application by the parties. In cases of expedited proceedings, the court shall pass the award within a period of 3 months.

f) Exceptional Procedures

Under Appendix 2 of the DIAC Arbitration Rules 2022, exceptional procedures have been laid down which include provisions for interim measures and emergency arbitrator appointments. Before the constitution of the arbitral tribunal, and with the filing of, or after the filing of a request for arbitration, where there is a need for an emergency interim relief, an application can be submitted to the DIAC for the same. In such a situation, the emergency arbitrator will issue its order as soon as possible.

III. Conclusion

The changes brought about by the DIAC Rules provide flexibility and cost-effectiveness in the arbitration proceedings allowing parties a greater freedom of choice. Several significant and remarkable amendments have been made to the DIAC Rules with a view to promote DIAC and differentiate it from other arbitration centers around the world. The amendments brought to the DIAC Rules 2022 puts DIAC at the forefront with the leading arbitration centers in the world however, it is yet to be seen that how these changes will be

implemented in practice. Nevertheless, it is safe to say that DIAC is all set to carry the baton for Dubai's plans as a leading international arbitration hub, globally.

For more information, please contact your usual contact person at SCHLÜTER GRAF or send an email to dubai@schlueter-graf.com.

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