

## **China Maritime Arbitration Commission (CMAC)**

### **Model Arbitration Clause**

Any dispute arising from or in connection with this Contract shall be submitted to China Maritime Arbitration Commission (CMAC) for arbitration which shall be conducted in accordance with the CMAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties.



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# **China Maritime Arbitration Commission**

## **(CMAC)**

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# **China Maritime Arbitration Commission (CMAC)**

## **Arbitration Rules**

### **Chapter I General Provisions**

#### **Article 1 The Arbitration Commission**

1. The China Maritime Arbitration Commission (“CMAC”), originally named the Maritime Arbitration Commission of the China Council for the Promotion of International Trade.
2. Where an arbitration agreement provides for arbitration by the Maritime Arbitration Commission of China Council for the Promotion of International Trade/China Chamber of International Commerce, or refers to CMAC’s previous name, it shall be deemed that the parties have agreed to arbitration by CMAC.

#### **Article 2 Structure and Duties**

1. The Chairman of CMAC shall perform the functions and duties vested in him/her by these Rules while a Vice Chairman may perform the Chairman’s functions and duties with the Chairman’s authorization.
2. CMAC has an Arbitration Court (the “Arbitration Court”), which performs its functions in accordance with these Rules under the direction of the authorized Vice Chairman and the President of the Arbitration Court.
3. CMAC is based in Beijing. CMAC has its Shanghai Headquarters in Shanghai, sub-commissions or arbitration centers in eligible cities (Appendix I). The Shanghai Headquarters/sub-commissions/arbitration centers are CMAC’s branches, which accept arbitration applications and administer arbitration cases with

CMAC's authorization.

4. The Shanghai Headquarters/a sub-commission/arbitration center has an arbitration court, which performs the functions of the Arbitration Court in accordance with these Rules under the direction of the president of the arbitration court of the sub-commission/arbitration center.

5. Where a case is administered by the Shanghai Headquarters/a sub-commission/arbitration center, the functions and duties vested in the President of the Arbitration Court under these Rules may, by his/her authorization, be performed by the president of the arbitration court of the Shanghai Headquarters/the relevant sub-commission/arbitration center.

6. Where the parties have agreed to submit their disputes to CMAC, according to the choice of the Claimant, the Arbitration Court or the arbitration court of the Shanghai Headquarters/the sub-commission/arbitration center shall accept the arbitration application and administer the case. Where both parties file arbitration applications, the first application shall prevail. Where both parties have agreed to submit their disputes to CMAC for arbitration in Beijing/Shanghai or where both parties have agreed to submit their disputes at the sub-commission/ arbitration center or at its domicile, the Arbitration Court or the arbitration court of the Shanghai Headquarters/the sub-commission/arbitration center shall accept the arbitration application and administer the case. Where the Shanghai Headquarters/the sub-commission/arbitration center agreed upon by the parties does not exist or where the agreement is ambiguous, the Arbitration Court shall accept the arbitration application and administer the case. In the event of any dispute, a decision shall be made by CMAC.

### **Article 3 Jurisdiction**

1. CMAC accepts cases based on the agreement of the parties,

including:

- (a) disputes arising from admiralty, maritime;
- (b) related disputes arising from aviation, railways, highways, etc.;
- (c) other commercial disputes arising from trade, investment, finance, insurance, construction, etc.;
- (d) other cases where the parties have agreed to refer their disputes to CMAC for arbitration.

2. The preceding cases include:

- (a) international or foreign-related disputes;
- (b) disputes related to the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan region; and
- (c) domestic disputes.

#### **Article 4 Scope of Application**

1. These Rules uniformly apply to CMAC and its Shanghai Headquarters/sub-commissions/ arbitration centers.

2. Where the parties have agreed to refer their dispute to CMAC for arbitration, they shall be deemed to have agreed to arbitration in accordance with these Rules.

3. Where the parties agree to refer their dispute to CMAC for arbitration but have agreed on a modification of these Rules or have agreed on the application of other arbitration rules, the parties' agreement shall prevail unless such agreement is inoperative or in conflict with a mandatory provision of the law applicable to the arbitral proceedings. Where the parties have agreed on the application of other arbitration rules, CMAC shall perform the relevant administrative duties.

4. Where the parties agree to refer their dispute to arbitration

under these Rules without providing the name of the arbitration institution, they shall be deemed to have agreed to refer the dispute to arbitration by CMAC.

5. Where the parties agree to refer their disputes to arbitration under CMAC's customized arbitration rules for a specific trade or profession, the parties' agreement shall prevail. However, if the dispute falls outside the scope of the specific rules, these Rules shall apply.

## **Article 5 Arbitration Agreement**

1. An arbitration agreement means an arbitration clause in a contract or any other form of a written agreement concluded between the parties providing for the settlement of disputes by arbitration.

2. The arbitration agreement shall be in writing. An arbitration agreement is in writing if it is contained in the tangible form of a document such as a contract, letter, telegram, telex, fax, electronic data interchange, or email. An arbitration agreement shall be deemed to exist where its existence is asserted by one party and not denied by the other during the exchange of the Request for Arbitration and the Statement of Defense.

3. Where the law applicable to an arbitration agreement has different provisions as to the form and validity of the arbitration agreement, those provisions shall prevail.

4. An arbitration clause contained in a contract shall be treated as a clause independent and separate from all other clauses of the contract, and an arbitration agreement attached to a contract shall also be treated as independent and separate from all other clauses of the contract. The validity of an arbitration clause or an arbitration agreement shall not be affected by any modification, cancellation, termination, transfer, expiry, invalidity, ineffectiveness, rescission or non-existence of the contract.

## **Article 6 Objection to Arbitration Agreement and/or Jurisdiction**

1. CMAC has the power to determine the existence and validity of an arbitration agreement and its jurisdiction over an arbitration case. CMAC may, where necessary, delegate such power to the arbitral tribunal.
2. Where CMAC is satisfied by *prima facie* evidence that a valid arbitration agreement exists, it may make a decision based on such evidence that it has jurisdiction over the arbitration case, and the arbitration shall proceed. Such a decision shall not prevent CMAC from making a new decision on jurisdiction based on facts and/or evidence found by the arbitral tribunal during the arbitral proceedings that are inconsistent with the *prima facie* evidence.
3. Where CMAC has delegated the power to determine jurisdiction to the arbitral tribunal, the arbitral tribunal may either make a separate decision on jurisdiction during the arbitral proceedings or incorporate the decision in the final arbitral award.
4. An objection to an arbitration agreement and/or the jurisdiction over an arbitration case shall be raised in writing before the first oral hearing held by the arbitral tribunal. Where a case is to be decided on the basis of documents only, such an objection shall be raised before the submission of the first substantive defense.
5. The arbitration shall proceed notwithstanding an objection to the arbitration agreement and/or jurisdiction over the arbitration case.
6. The aforesaid objections to and/or decisions on jurisdiction by CMAC shall include objections to and/or decisions on a party's standing to participate in the arbitration.
7. CMAC or its authorized arbitral tribunal shall decide to dismiss the case upon finding that CMAC has no jurisdiction over an arbitration case. Where a case is to be dismissed before

the formation of the arbitral tribunal, the decision shall be made by the President of the Arbitration Court. Where the case is to be dismissed after the formation of the arbitral tribunal, the decision shall be made by the arbitral tribunal.

### **Article 7 Place of Arbitration**

1. Where the parties have agreed on the place of arbitration, the parties' agreement shall prevail.
2. Where the parties have not agreed on the place of arbitration or their agreement is ambiguous, the place of arbitration shall be the domicile of CMAC or its Shanghai Headquarters/sub-commission/center administering the case. CMAC may also determine the place of arbitration to be another location having regard to the circumstances of the case.
3. The arbitral award shall be deemed as having been made at the place of arbitration.

### **Article 8 Service of Documents and Periods of Time**

1. All documents, notices and written materials in relation to the arbitration may be delivered in person or sent by registered mail or express mail, fax, or by any other means considered proper by the Arbitration Court or the arbitral tribunal.
2. The arbitration documents referred to in the preceding Paragraph 1 shall be sent to the address provided by the party itself or by its representative(s), or to an address agreed by the parties. Where a party or its representative(s) has not provided an address or the parties have not agreed on an address, the arbitration documents shall be sent to such party's address as provided by the other party or its representative(s).
3. Any arbitration correspondence to a party or its representative(s) shall be deemed to have been properly served on the party if delivered to the addressee or sent to the addressee's place of business,

registration, domicile, habitual residence or mailing address, or where, after reasonable inquiries by the other party, none of the aforesaid addresses can be found, the arbitration correspondence is sent by the Arbitration Court to the addressee's last known place of business, registration, domicile, habitual residence or mailing address by registered or express mail, or by any other means that can provide a record of the attempt at delivery, including but not limited to service by public notary, entrustment or retention.

4. The periods of time specified in these Rules shall begin on the day following the day when the party receives or should have received the arbitration correspondence, notices or written materials sent by the Arbitration Court.

### **Article 9 Good Faith**

Arbitration participants shall proceed with the arbitration in good faith.

### **Article 10 Waiver of Right to Object**

A party shall be deemed to have waived its right to object where it knows or should have known that any provision of, or requirement under, these Rules has not been complied with and yet participates in or proceeds with the arbitral proceedings without promptly and explicitly submitting its objection in writing to such non-compliance.

## **Chapter II Arbitral Proceedings**

### **Section 1 Request for Arbitration, Defense and Counterclaim**

#### **Article 11 Commencement of Arbitration**

The arbitral proceedings shall commence on the day on which the Arbitration Court receives a Request for Arbitration.

#### **Article 12 Application for Arbitration**

A party applying for arbitration under these Rules shall:

1. Submit a Request for Arbitration in writing signed and/or sealed by the Claimant or its authorized representative(s), which shall, inter alia, include:

- (a) the names and addresses of the Claimant and the Respondent, including the zip code, telephone, fax, email, or any other means of electronic telecommunications;
- (b) a reference to the arbitration agreement that is invoked;
- (c) a statement of the facts of the case and the main issues in dispute;
- (d) the claim of the Claimant; and
- (e) the facts and grounds on which the claim is based.

2. Attach to the Request for Arbitration the relevant documentary and other evidence on which the Claimant's claim is based.

3. Pay the arbitration fee in advance to CMAC in accordance with its Arbitration Fee Schedule.

#### **Article 13 Acceptance of a Case**

1. Upon the written application of a party, CMAC shall accept

a case in accordance with an arbitration agreement concluded between the parties either before or after the occurrence of the dispute, in which it is provided that disputes are to be referred to arbitration by CMAC.

2. Upon receipt of a Request for Arbitration and its attachments, where after examination the Arbitration Court finds the formalities required for arbitration application to be complete, it shall send a Notice of Arbitration to both parties together with one copy each of these Rules and CMAC's Panel of Arbitrators. The Request for Arbitration and its attachments submitted by the Claimant shall be sent to the Respondent under the same cover.

3. Where after examination the Arbitration Court finds the formalities required for the arbitration application to be incomplete, it may request the Claimant to complete them within a specified time period.

4. After CMAC accepts a case, the Arbitration Court shall designate a case manager to assist with the procedural administration of the case.

### **Article 14 Multiple Contracts**

The Claimant may initiate a single arbitration concerning disputes arising out of or in connection with multiple contracts, provided that:

(a) such contracts consist of the principal contract and its ancillary contract(s), or such contracts involve the same parties as well as legal relationships of the same nature;

(b) the disputes arise out of the same transaction or the same series of transactions; and

(c) the arbitration agreements in such contracts are identical or compatible.

### **Article 15 Statement of Defense**

1. The Respondent shall file a Statement of Defense in writing within thirty (30) days from the date of its receipt of the Notice of Arbitration. If the Respondent has justified reasons to request an extension of the time period, the arbitral tribunal shall decide whether to grant an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the extension of the time period shall be made by the Arbitration Court.

2. The Statement of Defense shall be signed and/or sealed by the Respondent or its authorized representative(s), and shall, inter alia, include the following contents and attachments:

(a) the name and address of the Respondent, including the zip code, telephone, fax, email, or any other means of electronic telecommunications;

(b) the defense to the Request for Arbitration setting forth the facts and grounds on which the defense is based; and

(c) the relevant documentary and other evidence on which the defense is based.

3. The arbitral tribunal has the power to decide whether to accept a Statement of Defense submitted after the expiration of the above time period.

4. Failure by the Respondent to file a Statement of Defense shall not affect the conduct of the arbitral proceedings.

## **Article 16 Counterclaim**

1. The Respondent shall file a counterclaim, if any, in writing within thirty (30) days from the date of its receipt of the Notice of Arbitration. If the Respondent has justified reasons to request an extension of the time period, the arbitral tribunal shall decide whether to grant an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the extension of the time period shall be made by the Arbitration Court.

2. When filing the counterclaim, the Respondent shall specify the counterclaim in its Statement of Counterclaim and state the facts and grounds on which the counterclaim is based with the relevant documentary and other evidence attached thereto.

3. When filing the counterclaim, the Respondent shall pay an arbitration fee in advance according to the Arbitration Fee Schedule of CMAC within a specified time period, failing which the Respondent shall be deemed not to have filed any counterclaim.

4. Where the formalities required for filing a counterclaim are found to be complete, the Arbitration Court shall send a Notice of Acceptance of Counterclaim to the parties. The Claimant shall submit its Statement of Defense in writing within thirty (30) days from the date of its receipt of the Notice. If the Claimant has justified reasons to request an extension of the time period, the arbitral tribunal shall decide whether to grant such an extension. Where the arbitral tribunal has not yet been formed, the decision on whether to grant the extension of the time period shall be made by the Arbitration Court.

5. The arbitral tribunal has the power to decide whether to accept a counterclaim or a Statement of Defense submitted after the expiration of the above time period.

6. Failure of the Claimant to file a Statement of Defense to the Respondent's counterclaim shall not affect the conduct of the arbitral proceedings.

### **Article 17 Amendment to Claim or Counterclaim**

The Claimant may apply to amend its claim and the Respondent may apply to amend its counterclaim. However, the arbitral tribunal may refuse any such amendment if it considers that the amendment is too late and may delay the arbitral proceedings.

### **Article 18 Joinder of Additional Parties**

1. During the arbitral proceedings, a party wishing to join an additional party to the arbitration may file the Request for joinder with CMAC, based on the arbitration agreement invoked in the arbitration that *prima facie* binds the additional party. Where the Request for Joinder is filed after the formation of the arbitral tribunal, a decision shall be made by CMAC after the arbitral tribunal hears from all parties including the additional party if arbitral tribunal considers the joinder necessary.

The date on which the Arbitration Court receives the Request for Joinder shall be deemed to be the date of the commencement of arbitration against the additional party.

2. The Request for Joinder shall contain the case number of the existing arbitration; the name, address and other means of communication of each of the parties, including the additional party; the arbitration agreement invoked to join the additional party as well as the facts and grounds the request relies upon; and the claim.

The relevant documentary and other evidence on which the request is based shall be attached to the Request for Joinder.

3. Where any party objects to the arbitration agreement and/or jurisdiction over the arbitration with respect to the joinder proceeding, CMAC has the power to decide on its jurisdiction based on the arbitration agreement and relevant evidence.

4. After the joinder proceeding commences, the conduct of the arbitral proceedings shall be decided by the Arbitration Court if the arbitral tribunal is not formed, or shall be decided by the arbitral tribunal if it has been formed.

5. Where the joinder takes place prior to the formation of the arbitral tribunal, the relevant provisions on party's nominating or entrusting of the Chairman of CMAC to appoint arbitrator under these Rules shall apply to the additional party. The arbitral tribunal

shall be formed in accordance with Article 33 of these Rules.

Where the joinder takes place after the formation of the arbitral tribunal, the arbitral tribunal shall hear from the additional party on the past arbitral proceedings including the formation of the arbitral tribunal. If the additional party requests to nominate or entrust the Chairman of CMAC to appoint an arbitrator, both parties shall nominate or entrust the Chairman of CMAC to appoint arbitrators again. The arbitral tribunal shall be formed in accordance with Article 33 of these Rules.

6. The relevant provisions on the submission of the Statement of Defense and Counterclaim under these Rules shall apply to the additional party. The time period for the additional party to submit its Statement of Defense and Counterclaim shall begin from the date of its receipt of the Notice of Joinder.

7. CMAC shall have the power to decide not to join the additional party where the additional party is *prima facie* not bound by the arbitration agreement invoked in the arbitration, or where any other circumstance exists that makes the joinder inappropriate.

## **Article 19 Consolidation of Arbitrations**

1. At the request of a party, CMAC may consolidate two or more arbitrations pending under these Rules into a single arbitration if:

(a) all of the claims in the arbitrations are made under the same arbitration agreement; or

(b) the claims in the arbitrations are made under multiple arbitration agreements that are identical or compatible and the arbitrations involve the same parties as well as legal relationships of the same nature;

(c) the claims in the arbitrations are made under multiple arbitration agreements that are identical or compatible and the multiple contracts involved consist of the principal contract and the

ancillary contract(s); or

(d) all the parties to the arbitrations have agreed to consolidation.

2. In deciding whether to consolidate the arbitrations in accordance with the preceding Paragraph 1, CMAC shall take into account the opinions of all parties and other relevant factors such as the correlation between the arbitrations concerned, including the nomination and appointment of arbitrators in the separate arbitrations.

3. Unless otherwise agreed by all the parties, the arbitrations shall be consolidated into the arbitration that was first commenced.

4. After the consolidation of arbitrations, the conduct of the arbitral proceedings shall be decided by the Arbitration Court if the arbitral tribunal is not formed, or shall be decided by the arbitral tribunal if it has been formed.

## **Article 20 Submissions and Exchange of Arbitration Documents**

1. All arbitration documents from the parties shall be submitted to the Arbitration Court.

2. All arbitration documents to be exchanged during the arbitral proceedings shall be exchanged among the arbitral tribunal and the parties by the Arbitration Court unless otherwise agreed by the parties and with the consent of the arbitral tribunal or otherwise decided by the arbitral tribunal.

## **Article 21 Copies of Arbitration Documents**

When submitting the Request for Arbitration, the Statement of Defense, the Statement of Counterclaim, evidence, and other arbitration documents, the parties shall make their submissions in quintuplicate. Where there are multiple parties, additional copies shall be provided accordingly. Where the party applies for preservation of property or protection of evidence, it shall also

provide additional copies accordingly. Where the arbitral tribunal is composed of a sole arbitrator, the number of copies submitted may be reduced by two.

## **Article 22 Representation**

A party may be represented by its authorized Chinese and/or foreign representative(s) in handling matters relating to the arbitration. In such a case, a Power of Attorney shall be forwarded to the Arbitration Court by the party or its authorized representative(s).

## **Section 2 Conservatory and Interim Measures**

### **Article 23 Preservation of Maritime Claim**

When a party applies for preservation of maritime claim or preservation of other property, CMAC shall submit the party's application to the maritime court or other people's court at the place of the Respondent's domicile or at the place of the property. Where a party applies for preservation of maritime claim or preservation of other property before the commencement of arbitral proceedings, it shall, according to the provisions of Maritime Procedure Law of the People's Republic of China or other provisions concerned, submit its application directly to the maritime court or other people's court at the place of the property subject to preservation.

### **Article 24 Preservation of Evidence**

When a party applies for preservation of evidence, CMAC shall submit the party's application to the maritime court or other people's court at the place where the evidence to be preserved is located. Where a party applies for preservation of evidence before the commencement of arbitral proceedings, it shall, according to the provisions of Maritime Procedure Law of the People's Republic of China or other provisions concerned, submit its application directly to the maritime court or other people's court at the place

where the evidence to be preserved is located.

### **Article 25 Maritime Injunction**

When a party applies for a maritime injunction, CMAC shall submit the party's application to the maritime court at the place where the maritime dispute arises. Where a party applies for a maritime injunction before the commencement of the arbitral proceedings, it shall, according to the provisions of Maritime Procedure Law of the People's Republic of China, submit its application directly to the maritime court at the place where the maritime dispute arises.

### **Article 26 Limitation Fund for Maritime Claim**

When a party applies for establishment of a limitation fund for maritime claims, CMAC shall submit the party's application to the maritime court at the place of accident, the place of performance of the contract or the place of ship arrest. Where a party applies for establishment of a limitation fund for maritime claims before the commencement of the arbitral proceedings, it shall, according to the provisions of Maritime Procedure Law of the People's Republic of China, submit its application directly to the maritime court at the place of the accident, the place of performance of the contract or the place of ship arrest.

### **Article 27 Interim Measures**

1. In accordance with the applicable law or the agreement of the parties, a party may apply to the Arbitration Court for emergency relief pursuant to the CMAC Emergency Arbitrator Procedures (Appendix III). The emergency arbitrator may decide to order or award necessary or appropriate emergency measures. The decision of the emergency arbitrator shall be binding upon both parties..

2. At the request of a party, the arbitral tribunal may decide to order or award any interim measure it deems necessary or proper in accordance with the applicable law or the agreement of the

parties and may require the requesting party to provide appropriate security in connection with the measure.

## **Section 3 Arbitrators and the Arbitral Tribunal**

### **Article 28 Duties of Arbitrator**

An arbitrator shall not represent either party, and shall be and remain independent of the parties and treat them equally.

### **Article 29 Number of Arbitrators**

1. The arbitral tribunal shall be composed of one or three arbitrators.
2. Unless otherwise agreed by the parties or provided by these Rules, the arbitral tribunal shall be composed of three arbitrators.

### **Article 30 Nomination or Appointment of Arbitrator**

1. CMAC maintains a Panel of Arbitrators which uniformly applies to itself, the Shanghai Headquarters and all CMAC's sub-commissions/arbitration centers. The parties shall nominate arbitrators from the Panel of Arbitrators provided by CMAC.
2. Where the parties have agreed to nominate arbitrators from outside CMAC's Panel of Arbitrators, an arbitrator so nominated by the parties or nominated according to the agreement of the parties may act as arbitrator subject to the confirmation by the Chairman of CMAC.

### **Article 31 Three-Arbitrator Tribunal**

1. Within fifteen (15) days from the date of receipt of the Notice of Arbitration, the Claimant and the Respondent shall each nominate, or entrust the Chairman of CMAC to appoint, an arbitrator, failing which the arbitrator shall be appointed by the Chairman of CMAC.
2. Within fifteen (15) days from the date of the Respondent's receipt of the Notice of Arbitration, the parties shall jointly

nominate, or entrust the Chairman of CMAC to appoint, the third arbitrator, who shall act as the presiding arbitrator.

3. The parties may each recommend one to five arbitrators as candidates for the presiding arbitrator and shall each submit a list of recommended candidates within the time period specified in the preceding Paragraph 2. Where there is only one common candidate on the lists, such candidate shall be the presiding arbitrator jointly nominated by the parties. Where there is more than one common candidate on the lists, the Chairman of CMAC shall choose the presiding arbitrator from among the common candidates having regard to the circumstances of the case, and he/she shall act as the presiding arbitrator jointly nominated by the parties. Where there is no common candidate on the lists, the presiding arbitrator shall be appointed by the Chairman of CMAC.

4. Where the parties have failed to jointly nominate the presiding arbitrator according to the above provisions, the presiding arbitrator shall be appointed by the Chairman of CMAC.

### **Article 32 Sole-Arbitrator Tribunal**

Where the arbitral tribunal is composed of one arbitrator, the sole arbitrator shall be nominated pursuant to the procedures stipulated in Paragraphs 2, 3 and 4 of Article 31 of these Rules.

### **Article 33 Multiple-Party Tribunal**

1. Where there are two or more Claimants and/or Respondents in an arbitration case, the Claimant side and/or the Respondent side, following discussion, shall each jointly nominate or jointly entrust the Chairman of CMAC to appoint one arbitrator.

2. The presiding arbitrator or the sole arbitrator shall be nominated in accordance with the procedures stipulated in Paragraphs 2, 3 and 4 of Article 31 of these Rules. When making such nomination pursuant to Paragraph 3 of Article 31 of these Rules, the Claimant side and/or the Respondent side, following discussion, shall each

submit a list of their jointly agreed candidates.

3. Where either the Claimant side or the Respondent side fails to jointly nominate or jointly entrust the Chairman of CMAC to appoint one arbitrator within fifteen (15) days from the date of its receipt of the Notice of Arbitration, the Chairman of CMAC shall appoint all three members of the arbitral tribunal and designate one of them to act as the presiding arbitrator.

### **Article 34 Considerations in Appointing Arbitrators**

When appointing arbitrators pursuant to these Rules, the Chairman of CMAC shall take into consideration the law applicable to the dispute, the place of arbitration, the language of arbitration, the nationalities of the parties, and any other factor(s) the Chairman considers relevant.

### **Article 35 Disclosure**

1. An arbitrator nominated by the parties or appointed by the Chairman of CMAC shall sign a Declaration and disclose any facts or circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence.

2. If circumstances that need to be disclosed arise during the arbitral proceedings, the arbitrator shall promptly disclose such circumstances in writing.

3. The Declaration and/or the disclosure of the arbitrator shall be submitted to the Arbitration Court to be forwarded to the parties.

### **Article 36 Challenge to Arbitrator**

1. Upon receipt of the Declaration and/or the written disclosure of an arbitrator, a party wishing to challenge the arbitrator on the grounds of the disclosed facts or circumstances shall forward the challenge in writing within ten (10) days from the date of such receipt. If a party fails to file a challenge within the above time period, it may not subsequently challenge the arbitrator on the basis

of the matters disclosed by the arbitrator.

2. A party having justifiable doubts as to the impartiality or independence of an arbitrator may challenge that arbitrator in writing and shall state the facts and reasons on which the challenge is based with supporting evidence.

3. A party may challenge an arbitrator in writing within fifteen (15) days from the date it receives the Notice of Formation of the Arbitral Tribunal. Where a party becomes aware of a reason for a challenge after such receipt, the party may challenge the arbitrator in writing within fifteen (15) days after such reason has become known to it, but no later than the conclusion of the last oral hearing.

4. The challenge by one party shall be promptly communicated to the other party, the arbitrator being challenged and other members of the arbitral tribunal.

5. Where an arbitrator is challenged by one party and the other party agrees to the challenge, or the arbitrator being challenged voluntarily withdraws from his/her office, such arbitrator shall no longer be a member of the arbitral tribunal. However, in neither case shall it be implied that the reasons for the challenge are sustained.

6. In circumstances other than those specified in the preceding Paragraph 5, the Chairman of CMAC shall make a final decision on the challenge with or without stating the reasons.

7. An arbitrator who has been challenged shall continue to serve on the arbitral tribunal until a final decision on the challenge has been made by the Chairman of CMAC.

### **Article 37 Replacement of Arbitrator**

1. In the event that an arbitrator is prevented *de jure* or *de facto* from fulfilling his/her functions, or fails to fulfill his/her functions

in accordance with the requirements of these Rules or within the time period specified in these Rules, the Chairman of CMAC shall have the power to decide to replace the arbitrator. Such arbitrator may also voluntarily withdraw from his/her office.

2. The Chairman of CMAC shall make a final decision on whether or not an arbitrator should be replaced with or without stating the reasons.

3. In the event that an arbitrator is unable to fulfill his/her functions due to challenge or replacement, a substitute arbitrator shall be nominated or appointed within the time period specified by the Arbitration Court according to the same procedure that applied to the nomination or appointment of the arbitrator being challenged or replaced. If a party fails to nominate or appoint a substitute arbitrator accordingly, the substitute arbitrator shall be appointed by the Chairman of CMAC.

4. After the replacement of an arbitrator, the arbitral tribunal shall decide whether and to what extent the previous proceedings in the case shall be repeated.

### **Article 38 Continuation of Arbitration by Majority**

After the conclusion of the last oral hearing, if an arbitrator on a three-member tribunal is unable to participate in the deliberations and/or to render the award owing to his/her demise or to his/her removal from CMAC's Panel of Arbitrators, or for any other reason, the other two arbitrators may request the Chairman of CMAC to replace that arbitrator pursuant to Article 37 of these Rules. After consulting with the parties and upon the approval of the Chairman of CMAC, the other two arbitrators may also continue the arbitral proceedings and make decisions, rulings, or render the award. The Arbitration Court shall notify the parties of the above circumstances.

## **Section 4 Hearing**

## **Article 39 Conduct of Hearing**

1. The arbitral tribunal shall examine the case in any way it deems appropriate unless otherwise agreed by the parties. Under all circumstances, the arbitral tribunal shall act impartially and fairly and shall afford a reasonable opportunity to both parties to present their case.

2. The arbitral tribunal shall hold oral hearings when examining the case. However, the arbitral tribunal may examine the case on the basis of documents only if the parties so agree and the arbitral tribunal consents or the arbitral tribunal deems that oral hearings are unnecessary and the parties so agree.

3. Unless otherwise agreed by the parties, the arbitral tribunal may adopt an inquisitorial or adversarial approach in hearing the case having regard to the circumstances of the case.

4. The arbitral tribunal may hold deliberations at any place or in any manner that it considers appropriate.

5. Unless otherwise agreed by the parties, the arbitral tribunal may, if it considers it necessary, issue procedural orders or question lists, produce terms of reference, or hold pre-hearing conferences, etc. With the authorization of the other members of the arbitral tribunal, the presiding arbitrator may decide on the procedure arrangements for the arbitral proceedings at his/her own discretion.

## **Article 40 Place of Oral Hearing**

1. Where the parties have agreed on the place of an oral hearing, the case shall be heard at that agreed place except in the circumstances stipulated in Paragraph 3 of Article 79 of these Rules.

2. Unless otherwise agreed by the parties, the place of oral hearings shall be in Beijing for a case administered by the Arbitration Court or at the domicile of the Shanghai Headquarters/the sub-commission/arbitration center administrating the case, or if the

arbitral tribunal considers it necessary and with the approval of the President of the Arbitration Court, at another location.

### **Article 41 Notice of Oral Hearing**

1. Where a case is to be examined by way of an oral hearing, the parties shall be notified of the date of the first oral hearing at least twenty (20) days in advance of the oral hearing. A party having justified reasons may request a postponement of the oral hearing. However, the party shall communicate such request in writing to the arbitral tribunal within five (5) days of its receipt of the notice of the oral hearing. The arbitral tribunal shall decide whether or not to postpone the oral hearing.

2. Where a party has justified reasons for its failure to submit a request for a postponement of the oral hearing in accordance with the preceding Paragraph 1, the arbitral tribunal shall decide whether or not to accept the request.

3. A notice of a subsequent oral hearing, a notice of a postponed oral hearing, as well as a request for postponement of such an oral hearing, shall not be subject to the time periods specified in the preceding Paragraph 1.

### **Article 42 Confidentiality**

1. Hearings shall be held in camera. Where both parties request an open hearing, the arbitral tribunal shall make a decision.

2. For cases heard in camera, the parties and their representatives, the arbitrators, the witnesses, the interpreters, the experts consulted by the arbitral tribunal, the appraisers appointed by the arbitral tribunal and other relevant persons shall not disclose to any outsider any substantive or procedural matters relating to the case.

### **Article 43 Default**

1. If the Claimant fails to appear at an oral hearing without showing sufficient cause, or withdraws from an on-going oral hearing

without the permission of the arbitral tribunal, the Claimant may be deemed to have withdrawn its application for arbitration. In such a case, if the Respondent has filed a counterclaim, the arbitral tribunal shall proceed with the hearing of the counterclaim and make a default award.

2. If the Respondent fails to appear at an oral hearing without showing sufficient cause, or withdraws from an on-going oral hearing without the permission of the arbitral tribunal, the arbitral tribunal may proceed with the arbitration and make a default award. In such a case, if the Respondent has filed a counterclaim, the Respondent may be deemed to have withdrawn its counterclaim.

#### **Article 44 Record of Oral Hearing**

1. The arbitral tribunal may arrange for a written and/or an audio-visual record to be made of an oral hearing. The arbitral tribunal may, if it considers it necessary, take minutes of the oral hearing and request the parties and/or their representatives, witnesses and/or other persons involved to sign and/or affix their seals to the written record or the minutes.

2. The written record, the minutes and the audio-visual record of an oral hearing shall be available for use and reference by the arbitral tribunal.

3. At the request of a party, the Arbitration Court may, having regard to the specific circumstances of the arbitration decide to engage a stenographer to make a stenographic record of an oral hearing, the cost of which shall be advanced by the parties.

#### **Article 45 Evidence**

1. Each party shall bear the burden of proving the facts on which it relies to support its claim, defense or counterclaim and provide the basis for its opinions, arguments and counter-arguments.

2. The arbitral tribunal may specify a time period for the parties to produce evidence and the parties shall produce evidence within the specified time period. The arbitral tribunal may refuse to admit any evidence produced after that time period. If a party experiences difficulties in producing evidence within the specified time period, it may apply for an extension before the end of the period. The arbitral tribunal shall decide whether or not to extend the time period.

3. If a party bearing the burden of proof fails to produce evidence within the specified time period, or if the produced evidence is not sufficient to support its claim or counterclaim, it shall bear the consequences thereof.

#### **Article 46 Examination of Evidence**

1. Where a case is examined by way of an oral hearing, the evidence shall be produced at the hearing and may be examined by the parties.

2. Where a case is to be decided on the basis of documents only, or where the evidence is submitted after the hearing and both parties have agreed to examine the evidence by means of writing, the parties may examine the evidence in writing. In such circumstances, the parties shall submit their written submissions on the evidence within the time period specified by the arbitral tribunal.

#### **Article 47 Investigation and Evidence Collection by the Arbitral Tribunal**

1. The arbitral tribunal may undertake investigation and collect evidence as it considers necessary.

2. When investigating and collecting evidence, the arbitral tribunal may notify the parties to be present. In the event that one or both parties fail to be present after being notified, the investigation and collection of evidence shall proceed without being affected.

3. Evidence collected by the arbitral tribunal through its investigation shall be forwarded to the parties for their comments.

### **Article 48 Expert's Report and Appraiser's Report**

1. The arbitral tribunal may consult experts or appoint appraisers for clarification on specific issues of the case. Such an expert or appraiser may be a Chinese or foreign institution or natural person.

2. The arbitral tribunal has the power to request the parties, and the parties are also obliged, to deliver or produce to the expert or appraiser any relevant materials, documents, property, or physical objects for examination, inspection or appraisal by the expert or appraiser.

3. Copies of the expert's report and the appraiser's report shall be forwarded to the parties for their comments. At the request of either party and with the approval of the arbitral tribunal, the expert or appraiser shall participate in an oral hearing and give explanations on the report when the arbitral tribunal considers it necessary.

### **Article 49 Consolidation of Oral Hearings**

For the achievement of a fair, economic and efficient arbitration, if two or more cases on arbitration involve same issues *de jure* or *de facto*, after inquires of parties, the arbitral tribunal in consultation with CMAC may decide to consolidate the oral hearing of the cases, and may also decide:

(a) that the documents submitted by the parties in one case may be forwarded to the parties in other case(s);

(b) that the evidence produced in one case may be accepted and adopted in other case(s), provided that all parties have been offered sufficient opportunities to comment on the evidence.

### **Article 50 Suspension of the Arbitral Proceedings**

1. Where both parties jointly or separately request a suspension of the arbitral proceedings, or under circumstances where such

suspension is necessary, the arbitral proceedings may be suspended.

2. The arbitral proceedings shall resume as soon as the reason for the suspension disappears or the suspension period ends.

3. The arbitral tribunal shall decide whether to suspend or resume the arbitral proceedings. Where the arbitral tribunal has not yet been formed, the decision shall be made by the President of the Arbitration Court.

### **Article 51 Withdrawal and Dismissal**

1. A party may withdraw its claim or counterclaim in its entirety. In the event that the Claimant withdraws its claim in its entirety, the arbitral tribunal shall proceed with its examination of the counterclaim and render an arbitral award thereon. In the event that the Respondent withdraws its counterclaim in its entirety, the arbitral tribunal shall proceed with the examination of the claim and render an arbitral award thereon.

2. A party may be deemed to have withdrawn its claim or counterclaim if the arbitral proceedings cannot proceed for reasons attributable to that party.

3. A case may be dismissed if the claim and counterclaim have been withdrawn in their entirety. Where a case is to be dismissed prior to the formation of the arbitral tribunal, the President of the Arbitration Court shall make a decision on the dismissal. Where a case is to be dismissed after the formation of the arbitral tribunal, the arbitral tribunal shall make the decision.

4. The seal of CMAC shall be affixed to the dismissal decision referred to in the preceding Paragraph 3 and Paragraph 7 of Article 6 of these Rules.

### **Article 52 Combination of Conciliation with Arbitration**

1. Where both parties wish to conciliate, or where one party wishes to conciliate and the other party's consent has been obtained by the

arbitral tribunal, the arbitral tribunal may conciliate the dispute during the arbitral proceedings. The parties may also settle their dispute by themselves.

2. With the consent of both parties, the arbitral tribunal may conciliate the case in a manner it considers appropriate.

3. During the process of conciliation, the arbitral tribunal shall terminate the conciliation proceedings if either party so requests or if the arbitral tribunal considers that further conciliation efforts shall be futile.

4. The parties shall sign a settlement agreement where they have reached settlement through conciliation by the arbitral tribunal or by themselves.

5. Where the parties have reached a settlement agreement through conciliation by the arbitral tribunal or by themselves, they may withdraw their claim or counterclaim, or request the arbitral tribunal to render an arbitral award or a conciliation statement in accordance with the terms of the settlement agreement.

6. Where the parties request for a conciliation statement, the conciliation statement shall clearly set forth the claims of the parties and the terms of the settlement agreement. It shall be signed by the arbitrators, sealed by CMAC and served upon both parties.

7. Where conciliation is not successful, the arbitral tribunal shall resume the arbitral proceedings and render an arbitral award.

8. Where the parties wish to conciliate their dispute but do not wish to have conciliation conducted by the arbitral tribunal, CMAC may, with the consent of both parties, assist the parties to conciliate the dispute in a manner and procedure it considers appropriate.

9. Where conciliation is not successful, neither party may invoke any opinion, view or statement, and any proposal or proposition expressing acceptance or opposition by either party or by the

arbitral tribunal in the process of conciliation as grounds for any claim, defense or counterclaim in the subsequent arbitral proceedings, judicial proceedings, or any other proceedings.

10. Where the parties have reached a settlement agreement by themselves through negotiation or conciliation before the commencement of an arbitration, either party may, based on an arbitration agreement concluded between them that provides for arbitration by CMAC and the settlement agreement, request CMAC to constitute an arbitral tribunal to render an arbitral award in accordance with the terms of the settlement agreement. Unless otherwise agreed by the parties, the Chairman of CMAC shall appoint a sole arbitrator to form such an arbitral tribunal, which shall examine the case in a procedure it considers appropriate and render an award in due course. The specific procedure and time period for rendering the award shall not be subject to other provisions of these Rules.

## Chapter III Arbitral Award

### Article 53 Time Period for Rendering Award

1. The arbitral tribunal shall render an arbitral award within six (6) months from the date on which the arbitral tribunal is formed.
2. Upon the request of the arbitral tribunal, the President of the Arbitration Court may extend the time period if he/she considers it truly necessary and the reasons for the extension truly justified.
3. Any suspension period shall be excluded when calculating the time period in the preceding Paragraph 1.

### Article 54 Making of Award

1. The arbitral tribunal shall independently and impartially render a fair and reasonable arbitral award based on the facts of the case and the terms of the contract, in accordance with the law and with reference to international practices.
2. Where the parties have agreed on the law applicable to the merits of their dispute, the parties' agreement shall prevail. In the absence of such an agreement or where such agreement is in conflict with a mandatory provision of the law, the arbitral tribunal shall determine the law applicable to the merits of the dispute.
3. The arbitral tribunal shall state in the award the claims, the facts of the dispute, the reasons on which the award is based, the result of the award, the allocation of the arbitration costs, and the date on which and the place at which the award is made. The facts of the dispute and the reasons on which the award is based may not be stated in the award if the parties have so agreed, or if the award is made in accordance with the terms of a settlement agreement between the parties. The arbitral tribunal has the power to fix in the award the specific time period for the parties to perform the award

and the liabilities for failure to do so within the specified time period.

4. The seal of CMAC shall be affixed to the arbitral award.

5. Where a case is examined by an arbitral tribunal composed of three arbitrators, the award shall be rendered by all three arbitrators or a majority of the arbitrators. A written dissenting opinion shall be kept with the file and may be appended to the award. Such dissenting opinion shall not form a part of the award.

6. Where the arbitral tribunal cannot reach a majority opinion, the arbitral award shall be rendered in accordance with the presiding arbitrator's opinion. The written opinions of the other arbitrators shall be kept with the file and may be appended to the award. Such written opinions shall not form a part of the award.

7. Unless the arbitral award is made in accordance with the opinion of the presiding arbitrator or the sole arbitrator and signed by the same, the arbitral award shall be signed by a majority of the arbitrators. An arbitrator who has a dissenting opinion may or may not sign his/her name on the award.

8. The date on which the award is made shall be the date on which the award comes into legal effect.

9. The arbitral award is final and binding upon both parties. Neither party may bring a lawsuit before a court or make a request to any other organization for revision of the award.

#### **Article 55 Partial Award**

1. Where the arbitral tribunal considers it necessary, or where a party so requests and the arbitral tribunal agrees, the arbitral tribunal may first render a partial award on any part of the claim before rendering the final award. A partial award is final and binding upon both parties.

2. Failure of either party to perform a partial award shall neither

affect the arbitral proceedings nor prevent the arbitral tribunal from making the final award.

### **Article 56 Scrutiny of Draft Award**

The arbitral tribunal shall submit its draft award to CMAC for scrutiny before signing the award. CMAC may bring to the attention of the arbitral tribunal issues addressed in the award on the condition that the arbitral tribunal's independence in rendering the award is not affected.

### **Article 57 Allocation of Fees**

1. The arbitral tribunal has the power to determine in the arbitral award the arbitration fees and other expenses to be paid by the parties to CMAC.

2. The arbitral tribunal has the power to decide in the arbitral award, having regard to the circumstances of the case, that the losing party shall compensate the winning party for the expenses reasonably incurred by it in pursuing the case. In deciding whether or not the winning party's expenses incurred in pursuing the case are reasonable, the arbitral tribunal shall take into consideration various factors such as the outcome and complexity of the case, the workload of the winning party and/or its representative(s), and the amount in dispute, etc.

### **Article 58 Correction of Award**

1. Within a reasonable time after the award is made, the arbitral tribunal may, on its own initiative, make corrections in writing of any clerical, typographical or computational errors, or any errors of a similar nature contained in the award.

2. Within thirty (30) days from its receipt of the arbitral award, either party may request the arbitral tribunal in writing for a correction of any clerical, typographical or computational errors, or any errors of a similar nature contained in the award. If such an

error does exist in the award, the arbitral tribunal shall make the correction in writing within thirty (30) days of its receipt of the written request for the correction.

3. The above written correction shall form a part of the arbitral award and shall be subject to the provisions in Paragraphs 4 to 9 of Article 54 of these Rules.

### **Article 59 Additional Award**

1. Where any matter which should have been decided by the arbitral tribunal was omitted from the arbitral award, the arbitral tribunal may, on its own initiative, make an additional award within a reasonable time after the award is made.

2. Either party may, within thirty (30) days from its receipt of the arbitral award, request the arbitral tribunal in writing for an additional award on any claim or counterclaim which was advanced in the arbitral proceedings but was omitted from the award. If such an omission does exist, the arbitral tribunal shall make an additional award within thirty (30) days of receipt of the written request.

3. Such additional award shall form a part of the arbitral award and shall be subject to the provisions in Paragraphs 4 to 9 of Article 54 of these Rules.

### **Article 60 Performance of Award**

1. The parties shall perform the arbitral award within the time period specified in the award. If no time period is specified in the award, the parties shall perform the award immediately.

2. Where one party fails to perform the award, the other party may apply to a competent court for enforcement of the award in accordance with the law.

## **Chapter IV Summary Procedure**

### **Article 61 Application**

1. Unless otherwise agreed by the parties, the Summary Procedure shall apply to any case where the amount in dispute does not exceed RMB 2,000,000 or where the amount in dispute exceeds RMB 2,000,000, yet one party applies for arbitration under the Summary Procedure and the other party agrees in writing, or where both parties have agreed to apply the Summary Procedure.
2. Where there is no monetary claim or the amount in dispute is not clear, CMAC shall determine whether or not to apply the Summary Procedure after full consideration of relevant factors, including but not limited to the complexity of the case and the interests involved.

### **Article 62 Notice of Arbitration**

Where after examination the Claimant's arbitration application is accepted for arbitration under the Summary Procedure, the Arbitration Court shall send a Notice of Arbitration to both parties.

### **Article 63 Formation of the Arbitral Tribunal**

Unless otherwise agreed by the parties, a sole-arbitrator tribunal shall be formed in accordance with Article 32 of these Rules to hear a case under Summary Procedure.

### **Article 64 Defense and Counterclaim**

1. The Respondent shall submit its Statement of Defense, evidence and other supporting documents within twenty (20) days of receipt of the Notice of Arbitration; counterclaim, if any, shall also be filed with evidence and supporting documents within the time period.
2. The Claimant shall file its Statement of Defense to the

Respondent's counterclaim within twenty (20) days of receipt of the counterclaim and its attachments.

3. If a party has justified reasons to request an extension of the time period, the arbitral tribunal shall decide whether to grant such extension. Where the arbitral tribunal has not yet been formed, such decision shall be made by the Arbitration Court.

### **Article 65 Conduct of Hearing**

The arbitral tribunal may examine the case in the manner it considers appropriate. The arbitral tribunal may decide whether to examine the case solely on the basis of the written materials and evidence submitted by the parties or to hold an oral hearing.

### **Article 66 Notice of Oral Hearing**

1. For a case examined by way of an oral hearing, after the arbitral tribunal has fixed a date for the first oral hearing, the parties shall be notified of the date at least fifteen (15) days in advance of the oral hearing. A party having justified reasons may request a postponement of the oral hearing. However, the party shall communicate such request in writing to the arbitral tribunal within three (3) days of its receipt of the notice of the oral hearing. The arbitral tribunal shall decide whether or not to postpone the oral hearing.

2. If a party has justified reasons for failure to submit a request for a postponement of the oral hearing in accordance with the preceding Paragraph 1, the arbitral tribunal shall decide whether to accept such a request.

3. A notice of a subsequent oral hearing, a notice of a postponed oral hearing, as well as a request for postponement of such oral hearing, shall not be subject to the time periods specified in the preceding Paragraph 1.

### **Article 67 Time Period for Rendering Award**

1. The arbitral tribunal shall render an arbitral award within three (3) months from the date on which the arbitral tribunal is formed.
2. Upon the request of the arbitral tribunal, the President of the Arbitration Court may extend the time period if he/she considers it truly necessary and the reasons for the extension truly justified.
3. Any suspension period shall be excluded when calculating the time period in the preceding Paragraph 1.

### **Article 68 Change of Procedure**

The Summary Procedure shall not be affected by any amendment to the claim or by the filing of a counterclaim. Where the amount in dispute of the amended claim or that of the counterclaim exceeds RMB 2,000,000, the Summary Procedure shall continue to apply unless the parties agree or the arbitral tribunal decides that a change to the general procedure is necessary.

### **Article 69 Context Reference**

The relevant provisions in the other Chapters of these Rules shall apply to matters not covered in this Chapter.

## **Chapter V Special Provisions for Hong Kong Arbitration**

### **Article 70 Application**

1. CMAC has established the CMAC Hong Kong Arbitration Center in the Hong Kong Special Administrative Region. The provisions of this Chapter shall apply to arbitration cases accepted and administered by the CMAC Hong Kong Arbitration Center.

2. Where the parties have agreed to submit their disputes to the CMAC Hong Kong Arbitration Center for arbitration or to CMAC for arbitration in Hong Kong, the CMAC Hong Kong Arbitration Center shall accept the arbitration application and administer the case.

### **Article 71 Place of Arbitration and Law Applicable to the Arbitral Proceedings**

Unless otherwise agreed by the parties, for an arbitration administered by the CMAC Hong Kong Arbitration Center, the place of arbitration shall be Hong Kong, the law applicable to the arbitral proceedings shall be the arbitration law of Hong Kong, and the arbitral award shall be a Hong Kong award.

### **Article 72 Decision on Jurisdiction**

An objection to an arbitration agreement and/or the jurisdiction over an arbitration case shall be raised in writing no later than the submission of the first substantive defense.

The arbitral tribunal shall have the power to determine the existence and validity of the arbitration agreement and its jurisdiction over the arbitration case.

### **Article 73 Nomination or Appointment of Arbitrator**

The CMAC Panel of Arbitrators in effect shall be recommended in arbitration cases administered by the CMAC Hong Kong Arbitration Center. The parties may nominate arbitrators from outside the CMAC's Panel of Arbitrators. An arbitrator so nominated shall be subject to the confirmation of the Chairman of CMAC.

#### **Article 74 Interim Measures and Emergency Relief**

1. Unless otherwise agreed by the parties, the arbitral tribunal has the power to order appropriate interim measures at the request of a party.
2. Where the arbitral tribunal has not yet been formed, a party may apply for emergency interim relief pursuant to the CMAC Emergency Arbitrator Procedures (Appendix III).

#### **Article 75 Seal on the Award**

The seal of the CMAC Hong Kong Arbitration Center shall be affixed to the arbitral award.

#### **Article 76 Arbitration Fees**

The CMAC Arbitration Fee Schedule II (Appendix II) shall apply to the arbitration cases accepted and administered in accordance with this Chapter.

#### **Article 77 Context Reference**

The relevant provisions in the other Chapters of these Rules shall apply to matters not covered in this Chapter.

## **Chapter VI Supplementary Provisions**

### **Article 78 Language**

1. Where the parties have agreed on the language of arbitration, their agreement shall prevail. In the absence of such agreement, the language of arbitration to be used in the proceedings shall be Chinese. CMAC may also designate another language as the language of arbitration having regard to the circumstances of the case.

2. If a party or its representative(s) or witness(es) requires interpretation at an oral hearing, an interpreter may be provided either by the Arbitration Court or by the party.

3. The arbitral tribunal or the Arbitration Court may, if it considers it necessary, require the parties to submit a corresponding translation of their documents and evidence into Chinese or other languages.

### **Article 79 Arbitration Fees and Costs**

1. Apart from the arbitration fees charged in accordance with its Arbitration Fee Schedule, CMAC may charge the parties for any other additional and reasonable actual costs, including but not limited to arbitrators' special remuneration, their travel and accommodation expenses incurred in dealing with the case, engagement fees of stenographers, as well as the costs and expenses of experts, appraisers or interpreters appointed by the arbitral tribunal. The Arbitration Court shall, after hearing from the arbitrator and the party concerned, determine the arbitrator's special remuneration with reference to the standards of arbitrators' fees and expenses set forth in the CMAC Arbitration Fee Schedule II (Appendix II).

2. Where a party has nominated an arbitrator but fails to advance a deposit for such actual costs as the special remuneration, travel and accommodation expenses of the nominated arbitrator within the time period specified by CMAC, the party shall be deemed not to have nominated the arbitrator.

3. Where the parties have agreed to hold an oral hearing at a place other than the domicile of CMAC or its Shanghai Headquarters/sub-commission/arbitration center, they shall advance a deposit for the actual costs such as travel and accommodation expenses incurred thereby. In the event that the parties fail to do so within the time period specified by CMAC, the oral hearing shall be held at the domicile of CMAC or its Shanghai Headquarters/sub-commission/arbitration center.

4. Where the parties have agreed to use two or more than two languages as the languages of arbitration, or where the parties have agreed on a three-arbitrator tribunal in a case where the Summary Procedure shall apply in accordance with Article 61 of these Rules, CMAC may charge the parties for any additional and reasonable costs.

### **Article 80 Interpretation**

1. The headings of the articles in these Rules shall not be construed as interpretations of the contents of the provisions contained therein.

2. These Rules shall be interpreted by CMAC.

### **Article 81 Coming into Force**

These Rules shall be effective as of October 1, 2018. For cases administered by CMAC or its Shanghai Headquarters/sub-commissions/arbitration centers before these Rules come into force, the Arbitration Rules effective at the time of acceptance shall apply, or where both parties agree, these Rules shall apply.

## Appendix I

### **Directory of China Maritime Arbitration Commission and its Shanghai Headquarters/ Sub-Commissions/Arbitration Centers**

#### **China Maritime Arbitration Commission (CMAC)**

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Add: 16/F, CCOIC Building, No.2 Huapichang Hutong,

Xicheng District, Beijing, 100035, P.R.China

Tel: 86 10 82217900, 82217767/7923

Fax: 86 10 82217966

E-mail: [cmac@cmac.org.cn](mailto:cmac@cmac.org.cn)

Website: <http://www.cmac.org.cn>

#### **CMAC Shanghai Headquarters**

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Add: Room 1301,1314, Tomson Commercial Building,

710 Dongfang Road, Pudong New Area,

Shanghai, 200122, P.R.China

Tel: 86 21 58200329, 50810729

Fax: 86 21 50810965

E-mail: [cmac-sh@cmac-sh.org](mailto:cmac-sh@cmac-sh.org)

#### **CMAC Tianjin Maritime Arbitration Center**

##### **(Tianjin Sub-Commission)**

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Add: 1803/1804,18F,Wanhai Building, Tianjin Wanda Center,

the Intersection of Six weft Road and No.8 Dazhigu Road,

Hedong District, Tianjin, 300170, P.R.China

Tel: 86 22 66285688

Fax: 86 22 66285678

E-mail: [tianjin@cietac.org](mailto:tianjin@cietac.org)

### **CMAC Southwest Sub-Commission**

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Add: 15F, No.1 Lifan Center, Juxiyan Plaza, Jiangbei District,  
Chongqing, 400024, P.R.China

Tel: 86 23 67860011

Fax: 86 23 67860022

E-mail: [cietac-sw@cietac.org](mailto:cietac-sw@cietac.org)

### **CMAC Hong Kong Arbitration Center**

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Add: Unit 4705, 47th Floor, Far East Finance Center,  
No.16 Harcourt Road, Hong Kong

Tel: 852 25298066

Fax: 852 25298266

Email: [hk@cietac.org](mailto:hk@cietac.org)

### **CMAC Fujian Sub-Commission**

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Add: Unit 1602, 16/F, Time Plaza Yango, 357 Xiangban Street,  
CBD, North Minjiang, Taijiang District, Fuzhou City,  
Fujian Province, 350002, P. R. China

Tel: 86 591 87600275

Fax: 86 591 87600330

Website: <http://www.cietacfj.org>

### **CMAC South China Sub-Commission**

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Add: 14A01, Anlian Plaza, No. 4018, Jintian Road,  
Futian District, Shenzhen, 518026, P.R.China

Tel: 86 755 82796739

Fax: 86 755 23964130

Email: [infosz@cietac.org](mailto:infosz@cietac.org)

## **CMAC (Zhejiang) Pilot Free Trade Zone Arbitration Center**

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Add: No. 619 Dingshen Road, Lincheng, Zhoushan city,

Zhejiang Province, 316000, P.R.China

(Block A, Ganghang International Building of Zhoushan)

Tel: 86 580 2027765

Fax: 86 580 2027765

Email: [cmaczj@cmac.org.cn](mailto:cmaczj@cmac.org.cn)

## Appendix II

### China Maritime Arbitration Commission Arbitration Fee Schedule I

This fee schedule applies to arbitration cases administered by CMAC and its Shanghai Headquarters/sub-commissions/arbitration centers with the exception that the parties agree to apply CMAC Arbitration Fee Schedule II and the cases administered by CMAC Hong Kong Arbitration Center.

#### 1. Registration Fee

Amount of Claim (RMB)	Amount of Registration Fee (RMB)
Up to 1,000	Not less than 100
From 1,001 to 50,000	100+5% of the amount over 1,000
From 50,001 to 100,000	2,550+4% of the amount over 50,000
From 100,001 to 200,000	4,550+3% of the amount over 100,000
From 200,001 to 500,000	7,550+2% of the amount over 200,000
From 500,001 to 1,000,000	13,550+1% of the amount over 500,000
Over 1,000,001	18,550+0.4% of the amount over 1,000,000

## 2. Handling Fee

Amount of Claim (RMB)	Amount of Handling Fee (RMB)
Up to 200,000	Not less than 6,000
From 200,001 to 500,000	6,000+2% of the amount over 200,000
From 500,001 to 1,000,000	12,000+1.5% of the amount over 500,000
From 1,000,001 to 2,000,000	19,500+0.5% of the amount over 1,000,000
From 2,000,001 to 5,000,000	24,500+0.45% of the amount over 2,000,000
From 5,000,001 to 10,000,000	38,000+0.4% of the amount over 5,000,000
From 10,000,001 to 20,000,000	58,000+0.3% of the amount over 10,000,000
From 20,000,001 to 40,000,000	88,000+0.2% of the amount over 20,000,000
From 40,000,001 to 100,000,000	128,000+0.15% of the amount over 40,000,000
From 100,000,001 to 500,000,000	218,000+0.13% of the amount over 100,000,000
Over 500,000,001	738,000+0.12% of the amount over 500,000,000

The amount in dispute referred to in the Arbitration Fee Schedule shall be based on the sum of money claimed by the Claimant or counterclaimed by the Respondent. If the amount claimed is different from the actual amount in dispute, the actual amount in dispute shall be the basis for calculation.

Where the amount of claim is not ascertained at the time of applying for arbitration, or where special circumstances exist, the amount of arbitration fee shall be determined by CMAC.

Where the arbitration fee is to be charged in foreign currency, the amount in the foreign currency shall be equivalent to corresponding amount in RMB specified in this schedule.

Apart from charging arbitration fee according to the Arbitration Fee Schedule, CMAC and/or its Shanghai Headquarters/sub-commissions/arbitration centers may also collect other additional and reasonable actual expenses pursuant to the relevant provisions of the Arbitration Rules.

# China Maritime Arbitration Commission

## Arbitration Fee Schedule II

This fee schedule applies to arbitration cases administered by the CMAC Hong Kong Arbitration Center under Chapter V of the Arbitration Rules and to arbitration cases where the parties explicitly agree to apply this schedule.

### I. Registration Fee

When submitting a Request for Arbitration to CMAC and/or its Shanghai Headquarters/sub-commissions/arbitration centers, the Claimant shall pay a registration fee of HKD 8,000, which shall include the expenses for examining the application for arbitration, initiating the arbitral proceedings, computerizing management, filing documents and labor costs. The registration fee is not refundable.

### II. Administrative Fee

#### 1. Administrative Fee Table

Amount in Dispute (HKD)	Administrative Fee (HKD)
Up to 500,000	16,000
From 500,001 to 1,000,000	16,000 + 0.78% of the amount over 500,000
From 1,000,001 to 5,000,000	19,900 + 0.65% of the amount over 1,000,000
From 5,000,001 to 10,000,000	45,900 + 0.38% of the amount over 5,000,000
From 10,000,001 to 20,000,000	64,900 + 0.22% of the amount over 10,000,000
From 20,000,001 to 40,000,000	86,900 + 0.15% of the amount over 20,000,000
From 40,000,001 to 80,000,000	116,900 + 0.08% of the amount over 40,000,000
From 80,000,001 to 200,000,000	148,900 + 0.052% of the amount over 80,000,000
From 200,000,001 to 400,000,000	211,300 + 0.04% of the amount over 200,000,000
Over 400,000,001	291,300

2. The administrative fee includes the remuneration of the case manager and the costs of using oral hearing rooms of CMAC and/or its Shanghai Headquarters/sub-commissions/arbitration centers.

3. Claims and counterclaims are aggregated for the determination of the amount in dispute. Where the amount in dispute is not ascertained at the time of applying for arbitration, or where special circumstances exist, the amount of the administrative fee shall be determined by CMAC taking into account the circumstances of the case.

4. Apart from charging the administrative fee according to this Table, CMAC may also collect other additional and reasonable actual expenses pursuant to the relevant provisions of the Arbitration Rules, including but not limited to translation fees, written record fees, and the costs of using oral hearing rooms other than those of CMAC and/or its Shanghai Headquarters/sub-commissions/arbitration centers.

5. Where the registration fee and the administrative fee are to be charged in a currency other than HKD, CMAC shall charge an amount of RMB or the foreign currency equivalent to the corresponding amount in HKD as specified in this Table.

### **III. Arbitrator's Fees and Expenses**

#### **A. Arbitrator's Fees and Expenses (Based on the Amount in Dispute)**

##### **1. Arbitrator's Fees Table**

Amount in Dispute	Arbitrator's Fees (HKD, per arbitrator)	
	(HKD)	Minimum
Up to 500,000	15,000	60,000
From 500,001 to 1,000,000	15,000 + 2.30% of the amount over 500,000	60,000 + 8.50% of the amount over 500,000
From 1,000,001 to 5,000,000	26,500 + 0.80% of the amount over 1,000,000	102,500 + 4.3% of the amount over 1,000,000
From 5,000,001 to 10,000,000	58,500 + 0.60% of the amount over 5,000,000	274,500 + 2.30% of the amount over 5,000,000
From 10,000,001 to 20,000,000	88,500 + 0.35% of the amount over 10,000,000	389,500 + 1.00% of the amount over 10,000,000
From 20,000,001 to 40,000,000	123,500 + 0.20% of the amount over 20,000,000	489,500 + 0.65% of the amount over 20,000,000
From 40,000,001 to 80,000,000	163,500 + 0.07% of the amount over 40,000,000	619,500 + 0.35% of the amount over 40,000,000
From 80,000,001 to 200,000,000	191,500 + 0.05% of the amount over 80,000,000	759,500 + 0.25% of the amount over 80,000,000
From 200,000,001 to 400,000,000	251,500 + 0.03% of the amount over 200,000,000	1,059,500 + 0.15% of the amount over 200,000,000
From 400,000,001 to 600,000,000	311,500 + 0.02% of the amount over 400,000,000	1,359,500 + 0.12% of the amount over 400,000,000
From 600,000,001 to 750,000,000	351,500 + 0.01% of the amount over 600,000,000	1,599,500 + 0.10% of the amount over 600,000,000
Over 750,000,001	366,500 + 0.008% of the amount over 750,000,000	1,749,500 + 0.06% of the amount over 750,000,000

2. Unless otherwise stipulated in this Schedule, the arbitrator's fees shall be determined by CMAC in accordance with the above Table taking into account the circumstances of the case. The arbitrator's expenses shall include all reasonable actual expenses incurred from the arbitrator's arbitration activities.

3. The arbitrator's fees may exceed the corresponding maximum amount listed in the Table provided that the parties so agree in writing or CMAC so determines under exceptional circumstances.

4. The parties shall advance the payment of the arbitrator's fees and expenses determined by CMAC Subject to the approval of CMAC, the parties may pay the arbitrator's fees and expenses in installments. The parties shall be jointly and severally liable for the payment of the arbitrator's fees and expenses.

5. Claims and counterclaims are aggregated for the determination of the amount in dispute. Where the amount in dispute is not ascertainable or where special circumstances exist, the amount of the arbitrator's fees shall be determined by CMAC taking into account the circumstances of the case.

#### B. Arbitrator's Fees and Expenses (Based on an Hourly Rate)

1. Where the parties have agreed in writing that the arbitrator's fees and expenses are to be based on an hourly rate, their agreement shall prevail. The arbitrator is entitled to fees based on an hourly rate for all the reasonable efforts devoted in the arbitration. The arbitrator's expenses shall include all reasonable actual expenses incurred from the arbitrator's arbitration activities.

2. Where a party applies for the Emergency Arbitrator Procedures, the emergency arbitrator's fees shall be based on an hourly rate.

3. The hourly rate for each co-arbitrator shall be the rate agreed upon by that co-arbitrator and the nominating party. The hourly rate for a sole or presiding arbitrator shall be the rate agreed upon by that arbitrator and both parties. Where the hourly rate cannot be agreed upon or the arbitrator is appointed by the Chairman of CMAC, the hourly rate of the arbitrator shall be determined by CMAC. The hourly rate for the emergency arbitrator shall be determined by CMAC.

4. An agreed or determined hourly rate shall not exceed the

maximum rate fixed by CMAC as provided on the website of CMAC on the date of the submission of the Request for Arbitration. The arbitrator's fees may exceed the fixed maximum rate provided that the parties so agree in writing or CMAC so determines under exceptional circumstances.

5. The parties shall advance the payment of the arbitrator's fees and expenses to CMAC, which amount shall be fixed by the latter. The parties shall be jointly and severally liable for the payment of the arbitrator's fees and expenses.

### C. Miscellaneous

1. In accordance with the decision of the arbitral tribunal, the CMAC Arbitration Court shall have a lien over the award rendered by the tribunal so as to secure the payment of the outstanding fees for the arbitrators and all the expenses due. After all such fees and expenses have been paid in full jointly or by one of the parties, the CMAC Arbitration Court shall release such award to the parties according to the decision of the arbitral tribunal.

2. Where the arbitrator's fees and expenses are to be charged in a currency other than HKD, CMAC shall charge an amount of RMB or the foreign currency equivalent to the corresponding amount in HKD as specified in this Schedule.

## Appendix III

### **China Maritime Arbitration Commission Emergency Arbitrator Procedures**

#### **Article 1 Application for the Emergency Arbitrator Procedures**

1. A party requiring emergency relief may apply for the Emergency Arbitrator Procedures based upon the applicable law or the agreement of the parties.

2. The party applying for the Emergency Arbitrator Procedures (the “Applicant”) shall submit its Application for the Emergency Arbitrator Procedures to the Arbitration Court or the arbitration court of the Shanghai Headquarters/the sub-commission/arbitration center of CMAC administering the case prior to the formation of the arbitral tribunal.

3. The Application for the Emergency Arbitrator Procedures shall include the following information:

(a) the names and other basic information of the parties involved in the Application;

(b) a description of the underlying dispute giving rise to the Application and the reasons why emergency relief is required;

(c) a statement of the emergency measures sought and the reasons why the applicant is entitled to such emergency relief;

(d) other necessary information required to apply for the emergency relief; and

(e) comments on the applicable law and the language of the Emergency Arbitrator Procedures.

When submitting its Application, the Applicant shall attach the relevant documentary and other evidence on which the Application is based, including but not limited to the arbitration agreement and

any other agreements giving rise to the underlying dispute.

The Application, evidence and other documents shall be submitted in triplicate. Where there are multiple parties, additional copies shall be provided accordingly.

4. The Applicant shall advance the costs for the Emergency Arbitrator Procedures.

5. Where the parties have agreed on the language of arbitration, such language shall be the language of the Emergency Arbitrator Procedures. In the absence of such agreement, the language of the Procedures shall be determined by the Arbitration Court.

## **Article 2 Acceptance of Application and Appointment of the Emergency Arbitrator**

1. After a preliminary review on the basis of the Application, the arbitration agreement and relevant evidence submitted by the Applicant, the Arbitration Court shall decide whether the Emergency Arbitrator Procedures shall apply. If the Arbitration Court decides to apply the Emergency Arbitrator Procedures, the President of the Arbitration Court shall appoint an emergency arbitrator within one (1) day from his/her receipt of both the Application and the advance payment of the costs for the Emergency Arbitrator Procedures.

2. Once the emergency arbitrator has been appointed by the President of the Arbitration Court, the Arbitration Court shall promptly transmit the Notice of Acceptance and the Applicant's application file to the appointed emergency arbitrator and the party against whom the emergency measures are sought, meanwhile copying the Notice of Acceptance to each of the other parties to the arbitration and the Chairman of CMAC.

## **Article 3 Disclosure and Challenge of the Emergency Arbitrator**

1. An emergency arbitrator shall not represent either party, and shall be and remain independent of the parties and treat them equally.
2. Upon acceptance of the appointment, an emergency arbitrator shall sign a Declaration and disclose to the Arbitration Court any facts or circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence. If circumstances that need to be disclosed arise during the Emergency Arbitrator Procedures, the emergency arbitrator shall promptly disclose such circumstances in writing.
3. The Declaration and/or the disclosure of the emergency arbitrator shall be communicated to the parties by the Arbitration Court.
4. Upon receipt of the Declaration and/or the written disclosure of an emergency arbitrator, a party wishing to challenge the arbitrator on the grounds of the facts or circumstances disclosed by the emergency arbitrator shall forward the challenge in writing within two (2) days from the date of such receipt. If a party fails to file a challenge within the above time period, it may not subsequently challenge the emergency arbitrator on the basis of the matters disclosed by the emergency arbitrator.
5. A party which has justifiable doubts as to the impartiality or independence of the appointed emergency arbitrator may challenge that emergency arbitrator in writing and shall state the facts and reasons on which the challenge is based with supporting evidence.
6. A party may challenge an emergency arbitrator in writing within two (2) days from the date of its receipt of the Notice of Acceptance. Where a party becomes aware of a reason for a challenge after such receipt, the party may challenge the emergency arbitrator in writing within two (2) days after such reason has become known, but no later than the formation of the arbitral tribunal.

7. The President of the Arbitration Court shall make a final decision on the challenge of the emergency arbitrator. If the challenge is accepted, the President of the Arbitration Court shall reappoint an emergency arbitrator within one (1) day from the date of the decision confirming the challenge, and copy the decision to the Chairman of CMAC. The emergency arbitrator who has been challenged shall continue to perform his/her functions until a final decision on the challenge has been made.

The disclosure and challenge proceedings shall apply equally to the reappointed emergency arbitrator.

8. Unless otherwise agreed by the parties, the emergency arbitrator shall not accept nomination or appointment to act as a member of the arbitral tribunal in any arbitration relating to the underlying dispute.

#### **Article 4 Place of the Emergency Arbitrator Proceedings**

Unless otherwise agreed by the parties, the place of the emergency arbitrator proceedings shall be the place of arbitration, which is determined in accordance with Article 7 of the Arbitration Rules.

#### **Article 5 The Emergency Arbitrator Proceedings**

1. The emergency arbitrator shall establish a procedural timetable for the emergency arbitrator proceedings within a time as short as possible, best within two (2) days from his/her acceptance of the appointment. The emergency arbitrator shall conduct the proceedings in the manner the emergency arbitrator considers to be appropriate, taking into account the nature and the urgency of the emergency relief, and shall ensure that each party has a reasonable opportunity to present its case.

2. The emergency arbitrator may order the provision of appropriate security by the party seeking the emergency relief as the precondition of taking emergency measures.

3. The power of the emergency arbitrator and the emergency arbitrator proceedings shall cease on the date of the formation of the arbitral tribunal.

4. The emergency arbitrator proceedings shall not affect the right of the parties to seek interim measures from a competent court pursuant to the applicable law.

### **Article 6 Decision of the Emergency Arbitrator**

1. The emergency arbitrator has the power to make a decision to order or award necessary emergency relief, and shall make every reasonable effort to ensure that the decision is valid.

2. The decision of the emergency arbitrator shall be made within fifteen (15) days from the date of that arbitrator's acceptance of the appointment. The President of the Arbitration Court may extend the time period upon the request of the emergency arbitrator only if the President of the Arbitration Court considers it reasonable.

3. The decision of the emergency arbitrator shall state the reasons for taking the emergency measures, be signed by the emergency arbitrator and stamped with the seal of the Arbitration Court or the arbitration court of its Shanghai Headquarters/sub-commission/arbitration center.

4. The decision of the emergency arbitrator shall be binding upon both parties. A party may seek enforcement of the decision from a competent court pursuant to the relevant law provisions of the enforcing state or region. Upon a reasoned request of a party, the emergency arbitrator or the arbitral tribunal to be formed may modify, suspend or terminate the decision.

5. The emergency arbitrator may decide to dismiss the application of the Applicant and terminate the emergency arbitrator proceedings, if that arbitrator considers that circumstances exist where emergency measures are unnecessary or unable to be taken for various reasons.

6. The decision of the emergency arbitrator shall cease to be binding:

(a) if the emergency arbitrator or the arbitral tribunal terminates the decision of the emergency arbitrator;

(b) if the President of the Arbitration Court decides to accept a challenge against the emergency arbitrator;

(c) upon the rendering of a final award by the arbitral tribunal, unless the arbitral tribunal decides that the decision of the emergency arbitrator shall continue to be effective;

(d) upon the Applicant's withdrawal of all claims before the rendering of a final award;

(e) if the arbitral tribunal is not formed within ninety (90) days from the date of the decision of the emergency arbitrator. This period of time may be extended by agreement of the parties or by the Arbitration Court under circumstances it considers appropriate; or

(f) if the arbitration proceedings have been suspended for sixty (60) consecutive days after the formation of the arbitral tribunal.

### **Article 7 Costs of the Emergency Arbitrator Proceedings**

1. The Applicant shall advance an amount of RMB 30,000 as the costs of the emergency arbitrator proceedings, consisting of the remuneration of the emergency arbitrator and the administrative fee of CMAC. The Arbitration Court may require the Applicant to advance any other additional and reasonable actual costs.

A party applying to the CMAC Hong Kong Arbitration Center for emergency relief shall advance the costs of the emergency arbitrator proceedings in accordance with the CMAC Arbitration Fee Schedule II (Appendix II).

2. The emergency arbitrator shall determine in its decision in what proportion the costs of the emergency arbitrator proceedings shall

be borne by the parties, subject to the power of the arbitral tribunal to finally determine the allocation of such costs at the request of a party.

3. The Arbitration Court may fix the amount of the costs of the emergency arbitrator proceedings refundable to the Applicant if such proceedings terminate before the emergency arbitrator has made a decision.

### **Article 8 Miscellaneous**

These rules for the Emergency Arbitrator Procedures shall be interpreted by CMAC.

# **DECISION OF THE STATE COUNCIL OF THE PEOPLE'S REPUBLIC OF CHINA CONCERNING THE ESTABLISHMENT OF A MARITIME ARBITRATION COMMISSION WITHIN THE CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE**

(Adopted on November 21, 1958 at the 82<sup>nd</sup> plenary session of the  
State Council)

With a view to settling by way of arbitration any admiralty dispute, it is necessary to set up a maritime arbitral body within a related social organization. It is hereby decided as follows:

1. There shall be established within the China Council for the Promotion of International Trade a Maritime Arbitration Commission to settle such disputes concerning:

a) reward arising from mutual salvage of marine ships, or salvage between marine and inland ships;

b) collision of marine ships, collision between marine and inland ships or damage of port's constructions or facilities caused by marine ships;

c) marine ship chartering business, marine ship's agency business and transport by sea business and marine insurance applied in accordance with transport contract, bill of lading or any other transport documents.

2. Maritime Arbitration Commission accepts cases of admiralty disputes based on the relevant contracts, agreements and/or other documents concluded between the parties before or after the

occurrence of disputes.

Maritime Arbitration Commission may conciliate the disputes that under its jurisdiction.

3. Maritime Arbitration Commission shall be composed of 21 to 31 members to be selected and appointed by the China Council for the Promotion of International Trade for a term of two years from among persons having special knowledge in navigation, transport by sea, foreign trade, insurance and other related matters as well as in law.

4. Maritime Arbitration Commission shall elect a Chairman and one to three Deputy Chairmen from among its members.

5. When a case of dispute is submitted for arbitration, the disputing parties shall each choose an arbitrator from among the members of Maritime Arbitration Commission. The arbitrators so chosen shall also select the presiding arbitrator within the time limit fixed by Maritime Arbitration Commission. If one of the parties fails to choose an arbitrator within the prescribed time limit, the Chairman of Maritime Arbitration Commission shall, upon the request of the other party, appoint the arbitrator on the former's behalf. In case the arbitrators so chosen or appointed cannot agree upon the choice of the presiding arbitrator within the prescribed time limit, the Chairman of Maritime Arbitration Commission shall select a presiding arbitrator for them.

6. Either of the parties in dispute may authorize Maritime Arbitration Commission to choose for him an arbitrator who shall, jointly with the arbitrator chosen by the other party, select a presiding arbitrator to arbitrate the disputed case through deliberations in association with the arbitrators. If, by mutual agreement, both parties jointly delegate the choice of arbitrators to Maritime Arbitration Commission, the Chairman of Maritime Arbitration Commission may appoint a sole arbitrator to form the

tribunal and conduct the proceedings singly.

7. The disputing parties may appoint attorneys to defend their interests during the proceedings of a case before Maritime Arbitration Commission.

Such attorneys may be citizens of the People's Republic of China or foreign citizens.

8. For cases under the jurisdiction of Maritime Arbitration Commission, the chairman may decide to order the preservation, as well as the amount and method.

Such decisions shall be enforced in accordance with law, upon the request of one of the parties by the People's Courts of the People's Republic of China.

9. Maritime Arbitration Commission may collect a fee not exceeding two percent of the amount of the claim.

10. The award given by Maritime Arbitration Commission is final and neither party shall bring an appeal for revision before a court of law or any other organization.

11. The award of Maritime Arbitration Commission shall be executed by the parties themselves within the time limit fixed by the award. In case an award is not executed after the expiration of the fixed time limit, the People's Courts of the People's Republic of China shall, upon the request of one of the parties, enforce it in accordance with law.

12. Rules concerning the procedure of arbitration shall be made by the China Council for the Promotion of International Trade.

**THE STATE COUNCIL'S OFFICIAL  
REPLY CONCERNING THE  
RENAMING OF THE MARITIME  
ARBITRATION COMMISSION AS THE  
CHINA MARITIME ARBITRATION  
COMMISSION AND THE AMENDMENT  
OF ITS ARBITRATION RULES**

June 21, 1988

**China Council for the Promotion of International Trade:**

The State Council approves the renaming of the Maritime Arbitration Commission of your Council as the China Maritime Arbitration Commission. The existing relationship of its subordination remains unchanged.

The Arbitration Rules of the China Maritime Arbitration Commission shall be amended by your Council in accordance with China's laws and the international treaties concluded or acceded to by China and with reference to international practice, and then promulgated for implementation after adoption by your Council. Hereafter, any amendments to the Arbitration Rules shall be made by your Council's own decision.

State Council of the People's Republic of China