

**China International Economic and Trade Arbitration Commission**  
**CIETAC**  
**Arbitration Rules**

(Revised and Adopted by the China Council for the Promotion of International Trade /China Chamber of International Commerce on January 11, 2005. Effective as from May 1, 2005.)

Chapter I General Provisions

Article 1 The Rules

These Rules are formulated in accordance with the Arbitration Law of the People's Republic of China and the provisions of other relevant laws, as well as the "Decision" of the former Administration Council of the Central People's Government and the "Notice" and the "Official Reply" of the State Council.

Article 2 Name and Structure

1. The China International Economic and Trade Arbitration Commission (originally named the Foreign Trade Arbitration Commission of the China Council for the Promotion of International Trade, later renamed the Foreign Economic and Trade Arbitration Commission of the China Council for the Promotion of International Trade, and currently called the China International Economic and Trade Arbitration Commission, hereinafter referred to as the "CIETAC") independently and impartially resolves, by means of arbitration, disputes arising from economic and trade transactions of a contractual or non-contractual nature.

2. The CIETAC concurrently uses the "Court of Arbitration of the China Chamber of International Commerce" as its name.

3. Where an arbitration agreement or an arbitration clause contained in a contract provides for arbitration by the CIETAC or one of its Sub-Commissions or by the CIETAC using one of its prior names, the parties shall be deemed to have unanimously agreed that the arbitration shall be administered by the CIETAC or by one of its Sub-Commissions.

4. Where an arbitration agreement or an arbitration clause contained in a contract provides for arbitration by the China Council for the Promotion of International Trade/China Chamber of International Commerce or by the Arbitration Commission or the Court of Arbitration of the China Council for the Promotion of International Trade/China Chamber of International Commerce, the parties shall be deemed to have unanimously agreed that the arbitration shall be administered by the CIETAC.

5. The Chairman of the CIETAC 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.

6. The CIETAC has a Secretariat, which handles its day-to-day work under the direction of its Secretary-General.

7. The CIETAC is based in Beijing, and has a South China Sub-Commission (formerly known as Shenzhen Sub-Commission) in Shenzhen Special Economic Zone and a Shanghai Sub-Commission in Shanghai. These Sub-Commissions are integral parts of the CIETAC. The Sub-Commissions have their respective secretariats, which handle their day-to-day work under the direction of the Secretaries-General of the respective Sub-Commissions.

8. The parties may agree to have their disputes arbitrated by the CIETAC in Beijing, the South China Sub-Commission in Shenzhen or the Shanghai Sub-Commission in Shanghai. In the absence of such an agreement, the Claimant shall have the option to

submit the case for arbitration by the CIETAC in Beijing, the South China Sub-Commission in Shenzhen or the Shanghai Sub-Commission in Shanghai. When such option is exercised, the first choice by the party shall prevail. In case of any dispute, the final decision shall be made by the CIETAC.

9. The CIETAC may, in its discretion, establish arbitration centers for specific business sectors and issue arbitration rules therefor.

10. The CIETAC shall establish a Panel of Arbitrators, and may, in its discretion, establish Panels of Arbitrators for specific business sectors.

### Article 3 Jurisdiction

The CIETAC accepts cases involving:

1. international or foreign-related disputes;
2. disputes related to the Hong Kong Special Administrative Region or the Macao Special Administrative Region or the Taiwan region; and
3. domestic disputes.

### Article 4 Scope of Application

1. These Rules uniformly apply to the CIETAC and its Sub-Commissions. When arbitration proceedings are administered by a Sub-Commission, the functions and duties under these Rules allocated to the Chairman, the secretariat and the Secretary-General of the CIETAC shall be performed, respectively, by a Vice-Chairman authorized by the Chairman, a secretariat and a Secretary-General of the relevant Sub-Commission except for the power to make decisions on challenges to arbitrators.

2. The parties shall be deemed to have agreed to arbitrate in accordance with these Rules whenever they have provided for arbitration by the CIETAC. Where the parties have agreed on the application of other arbitration rules, or any modification of these Rules, the parties' agreement shall prevail except where such agreement is inoperative or in conflict with a mandatory provision of the law of the place of arbitration.

3. Where the parties agree to refer their disputes to arbitration under these Rules without providing the name of an arbitration institution, they shall be deemed to have agreed to refer the dispute to arbitration by the CIETAC.

4. Where the parties agree to refer their dispute to arbitration under the CIETAC's arbitration rules for a specific business sector or profession and the dispute falls within the scope of such rules, the parties' agreement shall prevail; otherwise, these Rules shall apply.

#### Article 5 Arbitration Agreement

1. The CIETAC shall, upon the written application of a party, 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 the CIETAC.

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

3. The arbitration agreement shall be in writing. An arbitration agreement is in writing if it is contained in a tangible form of a document such as a contract, letter, telegram, telex, facsimile, EDI, 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.

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, rescission, termination, transfer, expiry, invalidity, ineffectiveness, revocation or non-existence of the contract.

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

1. The CIETAC shall have the power to determine the existence and validity of an arbitration agreement and its jurisdiction over an arbitration case. The CIETAC may, if necessary, delegate such power to the arbitral tribunal.

2. Where the CIETAC is satisfied by prima facie evidence that an arbitration agreement providing for arbitration by the CIETAC 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 the CIETAC from making a new decision on jurisdiction based on facts and/or evidence found by the arbitral tribunal during the arbitration proceedings that are inconsistent with the prima facie evidence.

3. An objection to an arbitration agreement and/or jurisdiction over an arbitration case shall be raised in writing before the first oral hearing is 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.

4. The arbitration shall proceed notwithstanding an objection to the arbitration agreement and/or jurisdiction over the arbitration case.

5. The aforesaid objections to and/or decisions on jurisdiction by the CIETAC shall include objections to and/or decisions on a party's standing to participate in the arbitration.

## Article 7 Bona Fide Cooperation

The parties shall proceed with the arbitration in bona fide cooperation.

## Article 8 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 arbitration 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 9 Commencement of Arbitration

The arbitral proceedings shall commence on the date on which the CIETAC or one of its Sub-Commissions receives a Request for Arbitration.

## Article 10 Application for Arbitration

A party applying for arbitration under these Rules shall:

1. Submit a Request for Arbitration in writing signed by and/or affixed with the seal of the Claimant and/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, telex, fax and telegraph numbers, Email addresses 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 evidence supporting the facts on which the Claimant's claim is based.

3. Make payment of the arbitration fee in advance to the CIETAC according to its Arbitration Fee Schedule.

#### Article 11 Acceptance of a Case

1. Upon receipt of the Request for Arbitration and its attachments, if the CIETAC after examination finds the formalities required for arbitration application to be incomplete, it may request the Claimant to complete them. Where the formalities are found to be complete, the CIETAC shall send a Notice of Arbitration to both parties together with one copy each of the CIETAC Arbitration Rules, the Panel of Arbitrators and the Arbitration Fee Schedule. The Request for Arbitration and its attachments submitted by the Claimant shall be sent to the Respondent under the same cover.

2. The CIETAC or its Sub-Commission shall, after accepting a case, appoint a staff-member of its secretariat to assist the arbitral tribunal in the procedural administration of the case.

#### Article 12 Statement of Defense

1. Within forty-five (45) days from the date of receipt of the Notice of Arbitration, the Respondent shall file a Statement of Defense in writing with the Secretariat of the CIETAC or its Sub-Commission. The arbitral tribunal may extend that time period if it believes that there are justified reasons. The Statement of Defense shall be signed by

and/or affixed with the seal of the Respondent and/or its authorized representative(s), and shall, inter alia, include:

(a) the names and addresses of the Respondent, including the zip code, telephone, telex, fax and telegraph numbers, Email addresses 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 evidence supporting the defense.

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

3. Failure of the Respondent to file a Statement of Defense shall not operate to affect the arbitral proceedings.

#### Article 13 Counterclaim

1. Within forty-five (45) days from the date of receipt of the Notice of Arbitration, the Respondent shall file with the CIETAC its counterclaim in writing, if any. The arbitral tribunal may extend that time period if it believes that there are justified reasons.

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

3. When filing a counterclaim, the Respondent shall pay an arbitration fee in advance according to the Arbitration Fee Schedule of the CIETAC within a specified time period.



4. Where the formalities required for filing a counterclaim are found to be complete, the CIETAC shall send the Statement of Counterclaim and its attachments to the Claimant. The Claimant shall, within thirty (30) days from the date of receipt of the Statement of Counterclaim and the attachment, submit in writing its Statement of Defense to the Respondent's counterclaim.

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

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

#### Article 14 Amendments to the Claim or Counterclaim

The Claimant may amend its claim and the Respondent may amend its counterclaim. However, the arbitral tribunal may not permit any such amendment if it considers that the amendment is too late and may delay the arbitral proceedings.

#### Article 15 Copies of Submissions

When submitting the Request for Arbitration, the Statement of Defense, the Statement of Counterclaim, evidence and other documents, the parties shall make the submissions in quintuplicate. Where there are more than two parties, additional copies shall be provided accordingly. Where the arbitral tribunal is composed of a sole arbitrator, the number of copies submitted may be reduced by two. Where the preservation of property or protection of evidence is applied for, the party shall forward one additional copy accordingly.

#### Article 16 Representation

1. A party may be represented by its authorized representative(s) in handling matters relating to the arbitration. In such a case, a Power of Attorney shall be forwarded to the CIETAC by the party or its authorized representative(s).

2. Either Chinese or foreign citizens may be authorized by a party to act as its representative(s).

#### Article 17 Preservation of Property

When any party applies for the preservation of property, the CIETAC shall forward the party's application for a ruling to the competent court at the place where the domicile of the party against whom the preservation of property is sought is located or where the property of the said party is located.

#### Article 18 Protection of Evidence

When a party applies for the protection of evidence, the CIETAC shall forward the party's application for a ruling to the competent court at the place where the evidence is located.

### Section 2 The Arbitral Tribunal

#### Article 19 Duties of Arbitrator

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

#### Article 20 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 21 Panel of Arbitrators

1. The parties shall appoint arbitrators from the Panel of Arbitrators provided by the CIETAC.
2. Where the parties have agreed to appoint arbitrators from outside of the CIETAC's Panel of Arbitrators, the arbitrators so appointed by the parties or nominated according to the agreement of the parties may act as co-arbitrator, presiding arbitrator or sole arbitrator after the appointment has been confirmed by the Chairman of the CIETAC in accordance with the law.

## Article 22 Three Arbitrators

1. Within fifteen (15) days from the date of receipt of the Notice of Arbitration, the Claimant and the Respondent shall each appoint one arbitrator or entrust the Chairman of the CIETAC to make such appointment. Where a party fails to appoint or to entrust the Chairman of the CIETAC to appoint an arbitrator within the specified time period, the arbitrator shall be appointed by the Chairman of the CIETAC.
2. Within fifteen (15) days from the date of the Respondent's receipt of the Notice of Arbitration, the presiding arbitrator shall be jointly appointed by the parties or appointed by the Chairman of the CIETAC upon the parties' joint authorization.
3. The parties may each recommend one to three arbitrators as candidates for the presiding arbitrator and shall submit the list of recommended candidates to the CIETAC within the time period specified in paragraph 2. Where there is only one common candidate in the lists, such candidate shall be the presiding arbitrator jointly appointed by the parties. Where there are more than one common candidate in the lists, the Chairman of the CIETAC shall choose a presiding arbitrator from among the common candidates based on the specific nature and circumstances of the case, who shall act as the presiding arbitrator jointly appointed by the parties. Where there is no common

candidate in the lists, the presiding arbitrator shall be appointed by the Chairman of the CIETAC from outside of the lists of recommended candidates.

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

#### Article 23 Sole Arbitrator

Where the arbitral tribunal is composed of one arbitrator, the sole arbitrator shall be appointed pursuant to the procedure stipulated in Paragraphs 2, 3 and 4 of Article 22.

#### Article 24 Multi-Party

1. Where there are two or more Claimants and/or Respondents in an arbitration case, the Claimant side and/or the Respondent side each shall, through consultation, jointly appoint or jointly entrust the Chairman of the CIETAC to appoint one arbitrator from the CIETAC's Panel of Arbitrators.

2. Where the Claimant side and/or the Respondent side fail to jointly appoint or jointly entrust the Chairman of the CIETAC to appoint one arbitrator within fifteen (15) days from the date of receipt of the Notice of Arbitration, the arbitrator shall be appointed by the Chairman of the CIETAC.

3. The presiding arbitrator or the sole arbitrator shall be appointed in accordance with the procedure stipulated in Paragraphs 2, 3 and 4 of Article 22. When appointing the presiding arbitrator or the sole arbitrator pursuant to Paragraph 3 of Article 22, the Claimant side and/or the Respondent side each shall, through consultation, submit a list of their jointly agreed candidates to the CIETAC.

#### Article 25 Disclosure

1. An arbitrator appointed by the parties or by the Chairman of the CIETAC shall sign a Declaration and disclose to the CIETAC in writing 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 to the CIETAC.
3. The CIETAC shall communicate the Declaration and/or the disclosure of the arbitrator to the parties.

#### Article 26 Challenge of Arbitrators

1. Upon receipt of the Declaration and/or written disclosure of an arbitrator communicated by the CIETAC, a party who intends to challenge the arbitrator on the grounds of the facts or circumstances disclosed by the arbitrator shall forward the challenge in writing to the CIETAC within ten (10) days from the date of such receipt. If a party fails to file a challenge within the above time limit, it shall not challenge an arbitrator later on the basis of matters disclosed by the arbitrator .
2. A party who has justifiable doubts as to the impartiality or independence of an appointed arbitrator may make a request in writing to the CIETAC for that arbitrator's withdrawal. In the request, the facts and reasons on which the request is based shall be stated with supporting evidence.
3. A party may challenge an arbitrator in writing within fifteen (15) days from the date of its receipt of the Notice of Formation of the Arbitral Tribunal. Where a party becomes aware of the reasons for a challenge after the said receipt, the party may challenge the arbitrator in writing within fifteen (15) days after such reasons become known, but no later than the conclusion of the last oral hearing.

4. The CIETAC shall promptly communicate the challenge to the other party, the arbitrator being challenged and the 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 withdraws from his/her office, such arbitrator shall no longer be on the arbitral tribunal. Neither case implies that the challenge made by the party is sustainable.

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

7. An arbitrator who has been challenged shall continue to fulfill the functions of arbitrator until a decision on the challenge has been made by the Chairman of the CIETAC.

#### Article 27 Replacement of Arbitrator

1. In the event that an arbitrator is prevented de jure or de facto from fulfilling his/her functions, or he/she 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 the CIETAC shall have the power to decide whether the arbitrator shall be replaced. The arbitrator may also withdraw from his/her office.

2. In the event that an arbitrator is unable to fulfill his/her functions owing to his/her demise, removal from the CIETAC's Panel of Arbitrators, withdrawal, resignation or any other reasons, a substitute arbitrator shall be appointed within a time period specified by the CIETAC pursuant to the procedure applied to the appointment of the arbitrator being replaced.

3. After the replacement of the arbitrator, the arbitral tribunal shall decide whether the whole or a part of the previous proceedings of the case shall be repeated.

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

#### Article 28 Majority to Continue Arbitration

In the event that, after the conclusion of the last oral hearing, an arbitrator on a three-member arbitral tribunal is unable to participate in the deliberation and/or render the award owing to his/her demise or removal from the CIETAC's Panel of Arbitrators, the other two arbitrators may request the Chairman of the CIETAC to replace the arbitrator pursuant to Article 27. After consulting with the parties and upon the approval of the Chairman of the CIETAC, the other two arbitrators may continue the arbitration and make decisions, rulings or the award. The Secretariat of the CIETAC shall notify the parties of the above circumstances.

#### Section 3 Hearing

##### Article 29 Conduct of Hearing

1. The arbitral tribunal shall examine the case in any way that it deems appropriate unless otherwise agreed by the parties. Under any circumstance, the arbitral tribunal shall act impartially and fairly and shall afford reasonable opportunities to all parties for presentations and debates.

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

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

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

5. The arbitral tribunal may, if it considers it necessary, issue procedural directions and lists of questions, hold pre-hearing meetings and preliminary hearings, and produce terms of reference, etc., unless otherwise agreed by the parties.

#### Article 30 Notice of Oral Hearings

1. The date of the first oral hearing shall be fixed by the arbitral tribunal and notified to the parties by the Secretariat of the CIETAC at least twenty (20) days in advance of the oral hearing date. A party having justified reasons may request a postponement of the oral hearing. However, such request must be communicated to the arbitral tribunal at least ten (10) days in advance of the oral hearing date. The arbitral tribunal shall decide whether to postpone the oral hearing or not.

2. A notice of oral hearing subsequent to the first oral hearing and a notice of a postponed oral hearing shall not be subject to the twenty (20)-day time limit provided for in the foregoing paragraph.

#### Article 31 Place of Arbitration

1. Where the parties have agreed on the place of arbitration in writing, the parties' agreement shall prevail.

2. Where the parties have not agreed on the place of arbitration, the place of arbitration shall be the domicile of the CIETAC or its Sub-Commission.



3. The arbitral award shall be deemed as being made at the place of arbitration.

#### Article 32 Place of Oral Hearing

1. Where the parties have agreed on the place of oral hearings, the case shall be heard at that agreed place except for circumstances stipulated in Paragraph 3 of Article 69 of these Rules.

2. Unless the parties agree otherwise, a case accepted by the CIETAC shall be heard in Beijing, or if the arbitral tribunal considers it necessary, at other places with the approval of the Secretary-General of the CIETAC. A case accepted by a Sub-Commission of the CIETAC shall be heard at the place where the Sub-Commission is located, or if the arbitral tribunal considers it necessary, at other places with the approval of the Secretary-General of the Sub-Commission.

#### Article 33 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, their representatives, witnesses, interpreters, arbitrators, experts consulted by the arbitral tribunal and appraisers appointed by the arbitral tribunal and the relevant staff-members of the Secretariat of the CIETAC shall not disclose to any outsiders any substantive or procedural matters of the case.

#### Article 34 Default

1. If the Claimant fails to appear at an oral hearing without showing sufficient cause for such failure, or withdraws from an on-going oral hearing without the permission of the arbitral tribunal, the Claimant may be deemed to have withdrawn its Request 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 for such failure, 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 35 Record of Oral Hearing

1. During the oral hearing, the arbitral tribunal may arrange a stenographic and/or audio-visual record. The arbitral tribunal may, when it considers it necessary, take minutes stating the main points 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 minutes.

2. The stenographic and/or audio-visual record of the oral hearing shall be available for the use and reference by the arbitral tribunal.

#### Article 36 Evidence

1. Each party shall have the burden of proving the facts relied on to support its claim, defense or counterclaim.

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 beyond the period. If a party has difficulties to produce evidence within the specified time period, it may apply for an extension before the expiration of the period. The arbitral tribunal shall decide whether or not to extend the time period.

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

#### Article 37 Investigation by the Arbitral Tribunal

1. The arbitral tribunal may, on its own initiative, undertake investigations and collect evidence as it considers necessary.

2. When investigating and collecting evidence by itself, the arbitral tribunal shall promptly notify the parties to be present at such investigation if it considers it necessary. In the event that one or both parties fail to be present, the investigation and collection shall proceed without being affected.

3. The arbitral tribunal shall, through the Secretariat of the CIETAC, transmit the evidence collected by itself to the parties and afford them an opportunity to comment.

#### Article 38 Expert's Report and Appraiser's Report

1. The arbitral tribunal may consult or appoint experts and appraisers for clarification on specific issues of a case. Such an expert or appraiser may either be a Chinese or foreign organization or citizen.

2. The arbitral tribunal has the power to request the parties to deliver or produce to the expert or appraiser any relevant materials, documents, or property and goods for checking, inspection and/or appraisal. The parties shall be obliged to comply.

3. Copies of the expert's report and the appraiser's report shall be communicated to the parties, who shall be given an opportunity to comment on the report. At the request of either party and with the approval of the arbitral tribunal, the expert and appraiser may

be heard at an oral hearing where, if considered necessary and appropriate by the arbitral tribunal, they may give explanations on their reports.

#### Article 39 Examination of Evidence

1. All evidence submitted by a party shall be filed with the Secretariat of the CIETAC for transmission to the other party.

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

3. In the event that evidence is submitted after the hearing and the arbitral tribunal decides to admit the evidence without holding further hearings, the arbitral tribunal may require the parties to submit their opinions thereon in writing within a specified time period.

#### Article 40 Combination of Conciliation with Arbitration

1. Where the parties have reached a settlement agreement by themselves through negotiation or conciliation without involving the CIETAC, either party may, based on an arbitration agreement concluded between them that provides for arbitration by the CIETAC and the settlement agreement, request the CIETAC to constitute an arbitral tribunal to render an arbitral award in accordance with the terms of the settlement agreement. Unless the parties agree otherwise, the Chairman of the CIETAC shall appoint a sole arbitrator to form such arbitral tribunal, which shall examine the case in the procedure it considers appropriate and render an award in due course. The specific procedure and the time limit for rendering the award shall not be subject to other provisions of these Rules.

2. Where both parties have the desire for conciliation or one party so desires and the other party agrees when approached by the arbitral tribunal, the arbitral tribunal may conciliate the case during the course of the arbitration proceedings.
3. The arbitral tribunal may conciliate the case in the manner it considers appropriate.
4. The arbitral tribunal shall terminate the conciliation and continue the arbitration proceedings if one of the parties requests a termination of the conciliation or if the arbitral tribunal believes that further efforts to conciliate will be futile.
5. A settlement agreement reached between the parties during the course of conciliation by the arbitral tribunal but without the involvement of the arbitral tribunal shall be deemed as one reached through the conciliation by the arbitral tribunal.
6. Where settlement is reached through conciliation by the arbitral tribunal, the parties shall sign a written settlement agreement. Unless otherwise agreed by the parties, the arbitral tribunal will close the case and render an arbitral award in accordance with the terms of the settlement agreement.
7. Where conciliation fails, the arbitral tribunal shall proceed with the arbitration and render an arbitral award.
8. Where conciliation fails, 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 shall not be invoked as grounds for any claim, defense or counterclaim in the subsequent arbitration proceedings, judicial proceedings or any other proceedings.

#### Article 41 Withdrawal and Dismissal

1. A party may file a request with the CIETAC to 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. Where a case is to be dismissed before the formation of the arbitral tribunal, the decision shall be made by the Secretary-General of the CIETAC. Where the case is to be dismissed after the formation of the arbitral tribunal, the decision shall be made by the arbitral tribunal.

3. Where a party files with the CIETAC a request for arbitration for a claim which has been withdrawn, the CIETAC shall decide whether or not to accept the request anew.

### Chapter III Arbitral Award

#### Article 42 Time Limits

1. The arbitral tribunal shall render an arbitral award within six (6) months as from the date on which the arbitral tribunal is formed .

2. Upon the request of the arbitral tribunal, the Chairman of the CIETAC may extend said time period if he/she considers it truly necessary and the reasons for the extension truly justified.

#### Article 43 Making Award

1. The arbitral tribunal shall independently and impartially make its arbitral award on the basis of the facts, in accordance with the law and the terms of the contracts, with

reference to international practices and in compliance with the principle of fairness and reasonableness.

2. 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 agreed so, 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 determine in the arbitral award the specific time period for the parties to execute the award and the liabilities to be borne by a party failing to execute the award within the specified time.

3. The CIETAC's stamp shall be affixed to the award.

4. 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 docketed into the file and may be attached to the award, but it shall not form a part of the award.

5. Where the arbitral tribunal cannot reach a majority opinion, the award shall be rendered in accordance with the presiding arbitrator's opinion. The written opinion of other arbitrators shall be docketed into the file and may be attached to the award, but it shall not form a part of the award.

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

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

8. The arbitral award is final and binding upon both parties. Neither party may bring a suit before a law court or make a request to any other organization for revising the award.

#### Article 44 Interlocutory Award and Partial Award

An interlocutory arbitral award or partial award may be made by the arbitral tribunal on any issue of the case at any time during the arbitration before the final award is made if considered necessary by the arbitral tribunal, or if the parties request and the arbitral tribunal accepts. Either party's failure to perform the interlocutory award will not affect the continuation of the arbitration proceedings, nor will it prevent the arbitral tribunal from making a final award.

#### Article 45 Scrutiny of Draft Award

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

#### Article 46 Fees

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

2. The arbitral tribunal has the power to decide in the award, according to the specific circumstances of the case, that the losing party shall compensate the winning party for the expenses reasonably incurred by it in pursuing its case. In deciding whether the winning party's expenses incurred in pursuing its case are reasonable, the arbitral tribunal shall consider such factors 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 47 Correction of Award

Within thirty (30) days from its receipt of the arbitral award, either party may request in writing for a correction of any clerical, typographical, or calculation 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 a correction in writing within thirty (30) days from the date of receipt of the written request for the correction. The arbitral tribunal may likewise correct any such errors in writing on its own initiative within a reasonable time after the award is issued. Such correction in writing shall form a part of the arbitral award.

#### Article 48 Additional Award

Within thirty (30) days from the date on which the arbitral award is received, either party may request the arbitral tribunal in writing for an additional award on any claim or counterclaim which was advanced in the arbitration proceedings but was omitted from the award. If such omission does exist, the arbitral tribunal shall make an additional award within thirty (30) days from the date of receipt of the written request. The arbitral tribunal may also make an additional award on its own initiative within a reasonable period of time after the arbitral award is issued. Such additional award shall form a part of the arbitral award previously rendered.

#### Article 49 Execution of Award

1. The parties must automatically execute the arbitral award within the time period specified in the award. If no time limit is specified in the award, the parties shall execute the arbitral award immediately.

2. Where one party fails to execute the award, the other party may apply to a competent Chinese court for enforcement of the award pursuant to Chinese laws, or apply to a competent court for enforcement of the award according to the 1958 United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards or other international treaties that China has concluded or acceded to.

## Chapter IV Summary Procedure

### Article 50 Application

1. Unless otherwise agreed by the parties, this Summary Procedure shall apply to any case where the amount in dispute does not exceed RMB 500, 000 yuan, or to any case where the amount in dispute exceeds RMB 500, 000 yuan, yet one party applies for arbitration under this Summary Procedure and the other party agrees in writing.

2. Where no monetary claim is specified or the amount in dispute is not clear, the CIETAC shall determine whether or not to apply the Summary Procedure after a full consideration of such factors as the complexity of the case and the interests involved, etc.

### Article 51 Notice of Arbitration

Where a Request for Arbitration is submitted to the CIETAC and is found to be acceptable for arbitration under the Summary Procedure, the Secretariat of the CIETAC or its Sub-Commission shall send a Notice of Arbitration to the parties.

### Article 52 Formation of Arbitral Tribunal

An arbitral tribunal of a sole arbitrator shall be formed in accordance with Article 23 of these Rules to hear a case under the Summary Procedure.

### Article 53 Statement of Defense and Counterclaim

1. Within twenty (20) days from the date of receipt of the Notice of Arbitration, the Respondent shall submit its Statement of Defense and relevant evidence to the Secretariat of the CIETAC; counterclaims, if any, shall also be filed with supporting evidence within the said time period. The arbitral tribunal may extend this time period if it considers it justified.

2. Within twenty (20) days from the date of receipt of the counterclaim and its attachments, the Claimant shall file its Statement of Defense to the Respondent's counterclaim.

#### Article 54 Conduct of Hearing

The arbitral tribunal may examine the case in the manner it considers appropriate. The arbitral tribunal may in its full discretion decide to examine the case only on the basis of the written materials and evidence submitted by the parties or to hold oral hearings.

#### Article 55 Oral Hearing

1. For a case examined by way of an oral hearing, the Secretariat of the CIETAC shall, after the arbitral tribunal has fixed a date for the oral hearing, notify the parties of the date at least fifteen (15) days in advance of the oral hearing date. A party having justified reasons may request the arbitral tribunal for a postponement of the oral hearing. However, such request must be communicated to the arbitral tribunal at least seven (7) days in advance of the oral hearing date. The arbitral tribunal shall decide whether to postpone the oral hearing or not.

2. Where the arbitral tribunal decides to hear the case orally, only one oral hearing shall be held unless it is otherwise truly necessary.

3. A notice of oral hearing subsequent to the first oral hearing and a notice of a postponed oral hearing shall not be subject to the fifteen (15)-day time limit provided for in the foregoing Paragraph 1.

#### Article 56 Time Limits 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 Chairman of the CIETAC may extend the time period if he/she considers it truly necessary and the reasons for the extension truly justified.

#### Article 57 Change of Procedure

The application of 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 500,000 Yuan, the procedure of the case shall be changed from the Summary Procedure to the general procedure unless the parties have agreed to the continuous application of the Summary Procedure.

#### Article 58 Context Reference

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

### Chapter V Special Provisions for Domestic Arbitration

#### Article 59 Application

1. The provisions of this Chapter shall apply to domestic arbitration cases accepted by the CIEATC.

2. The provisions of the Summary Procedure of Chapter IV shall apply if a domestic arbitration case falls within the scope of Article 50 of these Rules.

#### Article 60 Acceptance

1. Where a Request for Arbitration is found to meet the formality requirements specified in Article 10 of these Rules, the CIETAC shall accept the Request and notify the parties accordingly within five (5) days from its receipt of the Request or immediately upon its receipt of the Request. Where a Request for Arbitration is found not in conformity with the formality requirements, the CIETAC shall notify the party in writing of its refusal of the Request with reasons stated.

2. Upon receipt of a Request for Arbitration, the CIETAC may request the party to make corrections within a specified time period if it finds the Request is not in conformity with the provisions of Article 10 of these Rules.

#### Article 61 Formation of Arbitral Tribunal

The arbitral tribunal shall be formed in accordance with the provisions of Articles 21, 22, 23 and 24 of these Rules.

#### Article 62 Statement of Defense and Counterclaim

1. Within twenty (20) days from the date of receipt of the Notice of Arbitration, the Respondent shall submit its Statement of Defense and relevant evidence to the CIETAC; counterclaims, if any, shall also be filed with supporting evidence within the said time period. The arbitral tribunal may extend this time period if it considers it justified.

2. Within twenty (20) days from the date of receipt of the counterclaim and its attachments, the Claimant shall file its Statement of Defense to the Respondent's counterclaim.

#### Article 63 Notice of Oral Hearing

1. For a case examined by way of an oral hearing, the Secretariat of the CIETAC or its Sub-Commission shall notify the parties of the date of oral hearing at least fifteen (15) days in advance of the oral hearing date. The arbitral tribunal may hold the oral hearing ahead of the schedule with consent from both parties. A party having justified reasons may request the arbitral tribunal for a postponement of the oral hearing. However, such request must be communicated to the arbitral tribunal seven (7) days in advance of the oral hearing date. The arbitral tribunal shall decide whether to postpone the oral hearing or not.

2. A notice of oral hearing subsequent to the first oral hearing and a notice of a postponed oral hearing shall not be subject to the fifteen (15)-day time limit provided in the foregoing Paragraph 1.

#### Article 64 Record of Oral Hearing

1. The arbitral tribunal shall make a brief written record of the oral hearing. Any party or participant in the arbitration may apply for a correction of the record if any omission or mistake is found in the record regarding its own statement. If the application is refused by the arbitral tribunal, it shall nevertheless be recorded into the file.

2. The written record shall be signed or sealed by the arbitrator(s), the recorder, the parties, and other participants in the arbitration, if any.

#### Article 65 Time Limits for Rendering Award

1. The arbitral tribunal shall render an award within four (4) months from the date on which the arbitral tribunal is formed.
2. Upon the request of the arbitral tribunal, the Chairman of the CIETAC may extend this time period if he/she considers it truly necessary and the reasons truly justified.

#### Article 66 Context Reference

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

#### Chapter VI Supplementary Provisions

##### Article 67 Language

1. Where the parties have agreed on the arbitration language, their agreement shall prevail. Absent such agreement, the Chinese language shall be the official language to be used in the arbitration proceedings.
2. At an oral hearing, if a party or its representative(s) or witness requires language interpretation, the Secretariat of the CIETAC or its Sub-Commission may provide an interpreter, or the party may bring its own interpreter.
3. The arbitral tribunal and/or the Secretariat of the CIETAC or its Sub-Commission may, if it considers necessary, request the parties to submit a corresponding version of the documents and evidence by the parties in Chinese or in other languages.

##### Article 68 Service of Documents

1. All documents, notices and written materials in relation to the arbitration may be sent to the parties and/or their representatives in person, or by registered mail or express

mail, facsimile, telex, cable, or by any other means considered proper by the Secretariat of the CIETAC or its Sub-Commission.

2. Any written correspondence to a party and/or its representative(s) shall be deemed to have been properly served on the party if delivered to the addressee or delivered at his 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 written correspondence is sent by the Secretariat of the CIETAC or its Sub-Commission to the addressee's last known place of business, registered address, domicile, habitual residence or mailing address by registered mail or by any other means that provides a record of the attempt of delivery.

#### Article 69 Arbitration Fees and Actual Expenses

1. Apart from charging arbitration fees to the parties according to the Fee Schedule of the CIETAC, the CIETAC may collect from the parties other extra, reasonable and actual expenses including arbitrators' special remuneration and their travel and accommodation expenses incurred in dealing with the case, as well as the costs and expenses of experts, appraisers and interpreters appointed by the arbitral tribunal, etc.

2. Where a party has appointed an arbitrator who will incur extra expenses, such as travel and accommodation expenses, and fails to pay in advance as a deposit within a time period specified by the CIETAC, the party shall be deemed not to have appointed the arbitrator. In such event, the Chairman of the CIETAC may appoint an arbitrator for the party pursuant to Article 22 or Article 23 of these Rules.

3. Where the parties have agreed to hold an oral hearing at a place other than the CIETAC's domicile, extra expenses including travel and accommodation expenses incurred thereby shall be paid in advance as a deposit by the parties. In the event that the parties fail to do so, the oral hearing shall be held at the domicile of the CIETAC.



## Article 70 Interpretation

1. The headings of the articles in these Rules shall not serve as interpretations of the contents of the provisions contained herein.
2. These Rules shall be interpreted by the CIETAC.

## Article 71 Coming into Force

These Rules shall be effective as from May 1st, 2005. For cases accepted by the CIETAC or by its Sub-Commissions before these Rules become effective, the Arbitration Rules effective at the time of acceptance shall apply, or these Rules shall apply where both parties agree.