# THE SIAC RULES 2016: NEW FEATURES

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**Abstract**

*The revised rules of arbitration of the Singapore International Arbitration Centre came into effect on August 1, 2016. Among the notable revisions are the expanded joinder provisions, the new provisions on consolidation and multiple contracts, and the introduction of an early dismissal procedure. Some of the revised provisions share similarities with the latest version of the ICC Rules and HKIAC Rules, while other revisions go well beyond. In this article, the authors address the main new features of the 2016 Rules and compare them to other rules of arbitration.*

## I. Introduction

The Singapore International Arbitration Centre ["**SIAC**"] published its revised rules of arbitration ["**2016 Rules**"] on July 1, 2016. The 2016 Rules came into effect on August 1, 2016.[1]

The commencement of the revision was first announced on August 20, 2015, and was anticipated to "*take into account recent developments in international arbitration practice and procedure, and is aimed at better serving the needs of the businesses, financial institutions and governments that use SIAC*".[2] A draft of the 2016 Rules was released on January 18, 2016 for public consultation ["**Public Consultation Draft**"].[3] Following the public consultation process, the Public Consultation Draft was revised extensively to reflect the feedback received by the SIAC.

The 2016 Rules expanded and supplemented the provisions with regard to multi-party and multi-contract arbitrations. Specifically, the SIAC expanded its joinder provisions and adopted new provisions on consolidation and multiple contracts.[4] These are procedures which have gained momentum in other institutions as well over the past few years.

Further, the 2016 Rules introduced an early dismissal procedure similar to the Rules of Procedure for Arbitration Proceedings of the International Centre for Settlement of Investment Disputes ["**ICSID Rules**"] and the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (January 1, 2017) ["**SCC Rules**"].[5] To the best of our knowledge, the SIAC was the first arbitral institution other than the International Centre for Settlement of Investment Disputes ["**ICSID**"] to adopt an early dismissal procedure.

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[1] Singapore International Arbitration Centre, SIAC Announces the Official Release of the 2016 Rules, *available at* http://www.siac.org.sg/113-resources/press-releases/press-release-2016/492-siac-announces-the-official-release-of-the-siac-rules-2016.

[2] Singapore International Arbitration Centre, SIAC Announces Commencement of Revisions for SIAC Arbitration Rules, *available at* http://www.siac.org.sg/69-siac-news/436-siac-announces-commencement-of-revisions-for-siac-arbitration-rules.

[3] Singapore International Arbitration Centre, Public Consultation of Draft SIAC Arbitration Rules, *available at* http://www.siac.org.sg/113-resources/press-releases/press-release-2016/465-public-consultation-on-draft-siac-arbitration-rules (The Arbitration Rules of the Singapore International Arbitration Centre (Draft for Public Consultation)[*hereinafter* "Public Consultation Draft"].

[4] Arbitration Rules of the Singapore International Arbitration Centre r. 8 (6th ed., Aug. 1, 2016) [*hereinafter* "SIAC Rules"].

[5] SIAC Rules 2016, r. 29; *see also* ICSID Rules of Procedure for Arbitration Proceedings, ICSID/15/Rev. 1 (Jan. 2003) r. 41(5) and 41(6); Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (Jan. 2017), art. 39.

As a result of the revisions, overall, the SIAC has taken on a larger role in deciding procedural matters.

Some of the revised provisions share similarities with the latest version of the Rules of Arbitration of the International Chamber of Commerce[6] ["**ICC Rules**"] and Administered Arbitration Rules of the Hong Kong International Arbitration Centre[7] ["**HKIAC Rules**"] among others, while other revisions go beyond. In this article, the authors address the main new features of the 2016 Rules, and compare them to the rules of other institutions. In Section II, the authors discuss the new and expanded multi-party and multi-contract provisions (*i.e.*, joinder, consolidation, and multiple contracts). In Section III, the authors discuss the new early dismissal provision. In Section IV, the authors discuss some of the existing provisions which have been refined and enhanced.

## II. Multi-Party and Multi-Contract Provisions

The SIAC supplemented its existing rule on joinder[8] to allow joining of additional parties to arbitrations prior to the constitution of the tribunal. Provisions on consolidation and multiple contracts are entirely new additions. This is a significant enhancement as multi-party and multi-contract disputes are increasingly common.

The sections below discuss the provisions regarding (A) joinder; (B) consolidation; and (C) multiple contracts.

### A. Joinder

Rule 7 of the 2016 Rules sets out the procedure for joining an additional party ["**Joinder Rules**"]. In practice, joinder is used where there is a pending arbitration, and one of the parties wishes to add a new party to the existing arbitration instead of commencing a new arbitration, or a third party wishes to be joined to the existing arbitration. A party may apply to join an additional party, or a non-party may apply to join the arbitration by: (1) making an application to SIAC before the constitution of a tribunal; and/ or (2) making an application to the tribunal after it is constituted.

Under the SIAC Rules 2013, joinder was only addressed as a subcategory of Rule 24 on Additional Powers of the Tribunal, and was limited to post-tribunal joinder. The innovation in the 2016 Rules is two-fold: the 2016 Rules contain a stand-alone Rule 7 on joinder, and provide for both joinder by the tribunal as well as joinder by the SIAC prior to the constitution of the tribunal.

#### *i. Pre-Tribunal Joinder*

Under Rule 7, if the tribunal is not yet constituted, an application for joinder may be made to the SIAC. A party or a non-party may file an application with the Registrar for one or more additional parties to be joined as either a claimant or a respondent. An application filed with the Registrar must set out the basic information of the arbitration, including the case reference number, the contact details of all parties, any nominated or appointed arbitrator, reference to the

[6] Rules of Arbitration of the International Chamber of Commerce (Jan. 1, 2012) [*hereinafter* "ICC Rules"].

[7] Administered Arbitration Rules of the Hong Kong International Arbitration Centre (Nov. 1, 2013) [*hereinafter* "HKIAC Rules"].

[8] *See* Arbitration Rules of the Singapore International Arbitration Centre (5th ed., April 1, 2013) r. 24.1(b).

arbitration agreement and contract. The application must also specify: (1) whether the additional party is to be joined as a claimant or a respondent; (2) any agreement between the parties and the additional party consenting to the joinder (if the application is being made under Rule 7.1(b)); and (3) a brief statement of facts and legal basis supporting the application.[9] All parties to the arbitration and the additional party must be notified of the application for joinder. The party or non-party making the application to the Registrar shall, concurrently with the filing, send a copy of the application to all parties, including the additional party to be joined.[10] The body within SIAC which decides the party's application is the Court of Arbitration [the "**Court**"].[11] The Court shall, after considering the views of all parties, decide whether to grant the application for joinder. The Court may grant the application in whole (*i.e.*, all parties named in the application for joinder are joined) or in part (*i.e.*, only some of the parties named in the application for joinder are joined).[12]A non-party may apply to be joined to the arbitration on its own motion.[13] The procedure and criteria to be met are the same as when a party to the arbitration applies for a non-party to be joined.

One of the following alternative criteria must be satisfied for an application for joinder to succeed: either (1) the additional party to be joined is *prima facie* bound by the arbitration agreement; or (2) all parties, including the additional party to be joined, have consented to the joinder of the additional party.[14] Importantly, the Court may grant the application even in the absence of agreement of all parties to joinder, provided that the additional party is *prima facie* bound by the arbitration agreement.[15] This is a departure from Rule 24.1(b) of the SIAC Rules 2013 which conditioned a joinder upon the "*the written consent of such third party*".

In deciding on an application for joinder, the Court shall "*[have] regard to the circumstances of the case*".[16] That is, even if one of the two abovementioned criteria are met, which is a necessary prerequisite, the Court retains broad discretion in deciding whether or not to grant the application for joinder. The Court's decision to grant an application for joinder is "*without prejudice to the Tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision*", and its decision to reject an application for joinder is "*without prejudice to any party's or non-party's right to apply to the Tribunal for joinder pursuant to Rule 7.8*".[17] Therefore, an unsuccessful joinder application made to the SIAC does not prevent the same application from being made again to the tribunal once constituted. Further, a successful application does not take away the tribunal's ability to decide on any challenges to its jurisdiction. In other words, after the additional party is joined by the Court, a tribunal may still decide that it does not have jurisdiction over the additional party and/or any claims brought by or against it.

9 SIAC Rules, r. 7.2.
10 *Id.* r. 7.3.
11 *Id.* r. 1.3 (the Court may include a committee of the Court. A committee may be formed by two or more members of the Court and is appointed by the President).
12 *Id.* r. 7.4.
13 *Id.*
14 *Id.* r. 7.1.
15 *Id.*
16 *Id.* r. 7.10.
17 *Id.*

Rule 7 contains a number of provisions addressing the thorny question of the constitution of the tribunal in a joinder situation. The salient features are that: where an application for joinder is granted by the Court, the Court may revoke the appointment of any arbitrators appointed prior to the decision on joinder, even if the appointment is made pursuant to a party nomination;[18] and that any party who has not nominated an arbitrator or otherwise participated in the constitution of the tribunal shall be deemed to have waived its right to nominate an arbitrator or otherwise participate in the constitution of the tribunal.[19]

The wording of the provisions of Rule 7 on the constitution of the arbitral tribunal, however, contains a number of ambiguities.

Rule 7.6 provides that:

*Where an application for joinder is granted under Rule 7.4, the Court may revoke the appointment of any arbitrators appointed prior to the decision on joinder. Unless otherwise agreed by all parties, including the additional party joined, Rule 9 to Rule 12 shall apply as appropriate, and the respective timelines thereunder shall run from the date of receipt of the Court's decision under Rule 7.4.*

The first part of Rule 7.6 allows but does not mandate (by the use of the word "*may*") the Court to revoke the appointment of an arbitrator. Although not specified expressly, one has to read the second sentence of Rule 7.6 as referring to the scenario where the Court has revoked one or more arbitrators under the first sentence of Rule 7.6 and therefore arbitrators are still to be appointed, or one or more arbitrators otherwise had not yet been appointed. The appointment(s) of arbitrators already made and not revoked by the Court should not be revisited. Any other reading would create a possible incompatibility with Rule 12, which, in a multiparty situation, mandates ("*shall*") that co-claimants (or co-respondents) jointly nominate their arbitrator. There could indeed be a situation where a claimant has nominated an arbitrator, and a co-claimant is subsequently joined, which can no longer jointly nominate an arbitrator with the first claimant, in contravention of Rule 12. The words "*as appropriate*" in the second sentence of Rule 12 ("*Rule 9 to Rule 12 shall apply as appropriate*") confirm the reading that Rule 9 to Rule 12 should only come into play regarding arbitrator(s) who remain to be appointed in a joinder situation, but would not apply to jeopardise an appointment already made and not revoked by the Court. The same conclusion applies to the similarly drafted provision on pre-tribunal consolidation at Rule 8.6.

Another ambiguity arises from the text of Rule 7.12, which reads:

*Where an application for joinder is granted under Rule 7.4 or Rule 7.10, any party who has not nominated an arbitrator or otherwise participated in the constitution of the Tribunal shall be deemed to have waived its right to nominate an arbitrator or otherwise participate in the constitution of the Tribunal, without prejudice to the right of such party to challenge an arbitrator pursuant to Rule 14.*

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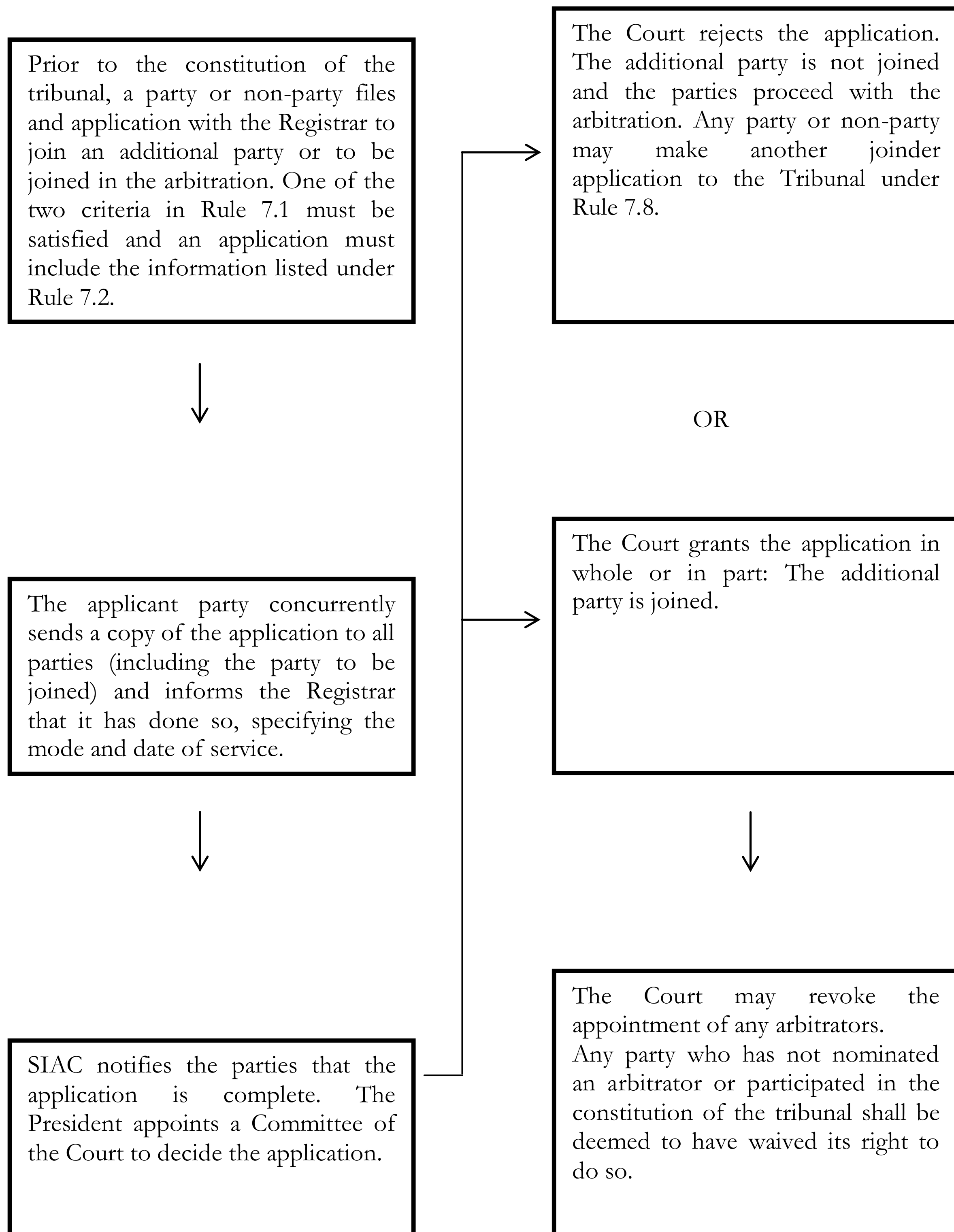
[18] *Id.* r. 7.6; *see also* SIAC Rules, r. 7.7 ("The Court's decision to revoke the appointment of any arbitrator under Rule 7.6 is without prejudice to the validity of any act done or order or Award made by the arbitrator before his appointment was revoked". This provision does not seem to have a practical effect concerning pre-tribunal joinder as by definition the tribunal has not been appointed yet and has not issued any order or award).

[19] SIAC Rules, r. 7.12.

Rule 7.12 refers to Rule 7.4, namely the situation where an application for joinder is granted by the Court prior to the constitution of the tribunal. It is not fully clear how Rule 7.12 articulates with Rule 7.6 on the constitution of the tribunal further to the Court granting a joinder application. Under a plain reading, Rule 7.12 could mean that a party loses its right to nominate an arbitrator where it would still be possible for it to exercise such a right. Take for instance, the scenario where a claimant has nominated its arbitrator, the Court granted a non-party application to join the arbitration prior to the respondent nominating its arbitrator. Rule 7.12 could lead to the conclusion that this respondent has waived its right to nominate or participate in the nomination of its arbitrator or the third arbitrator, which would create an imbalance between the parties. It is not clear either if one follows that reading what fall-back mechanism there would be for the appointment of the remaining arbitrators. Presumably the mechanism would be the ones in Rule 9 to Rule 12, *i.e.* the President makes the appointment.

A more likely and more practical reading of Rule 7.12 in a pre-tribunal joinder situation (Rule 7.4) is that only the joined party waives its right to nominate an arbitrator, when this right can no longer be exercised because the arbitrator has already been nominated by its co-claimant or co-respondent. As regards the waiver of the right to "*otherwise participate in the constitution of the Tribunal*", for example, there may be a situation where a party is joined after the original claimant and respondent have jointly nominated an arbitrator, but the arbitrator has not yet been appointed by the President. The additional party would not be able to agree or object to the nomination. Another example would be the possibility to comment on the other side's nominee and to negotiate an alternative procedure for the constitution of the tribunal. It would further be logical for Rule 7.12 to not apply where the Court has revoked one or more arbitrators, as in such a situation Rule 7.6 calls for the application of Rules 9 to 12 to the appointment of arbitrators. The same conclusion applies to the similarly drafted provision on pre-tribunal consolidation at Rule 8.12.

**Flow Chart 1: Summary of Procedure of Filing a Joinder Application to the SIAC**




*ii. Joinder by Tribunal*

After the constitution of the tribunal, any joinder application must be made to the tribunal. A party or non-party to the arbitration may apply to the tribunal for one or more additional parties to be joined in an arbitration, provided that (1) the additional party to be joined is *prima facie*

bound by the arbitration agreement; or (2) all parties, including the additional party to be joined, have consented to the joinder of the additional party.[20]

Where the non-party is applying to intervene, it may not have access to the tribunal to file an application. In such a situation, it may be necessary to file the application with the Registrar for it to then be transmitted to the tribunal.[21]

Upon receiving the application, the tribunal must give all parties, including the additional party to be joined, an opportunity to be heard.[22] The tribunal may then decide whether to grant, in whole or in part, the application for joinder. The only jurisdictional screening for joinder at this stage is the *prima facie* existence of an arbitration agreement or the consent of all parties. If the tribunal decides to grant an application for joinder, it does not compromise its power to subsequently decide any question as to its jurisdiction arising from such a decision.[23]

A potential procedural issue arises from Rule 7.11. Rule 7.11 provides "*[w]here an application for joinder is granted under Rule 7.10, the date of receipt by the Tribunal or the Registrar, as the case may be, of the complete application for joinder shall be deemed to be the date of commencement of the arbitration in respect of the additional party*".[24] This potentially creates two commencement dates, which could result in procedural issues such as which schedule of fees would be applicable for that party,[25] or even (in rare cases) which version of the rules would be applicable.[26]

Where an application for joinder is granted by the tribunal, any party who has not nominated an arbitrator or otherwise participated in the constitution of the tribunal shall be deemed to have waived its right to nominate an arbitrator or otherwise participate in the constitution of the tribunal.[27] The application of Rule 7.12 is more straightforward here than in the pre-tribunal joinder situation (Rule 7.4) discussed earlier as it is more readily concerned with the party joined (in most situations, the original claimant and respondent would have nominated an arbitrator and participated in the constitution of the tribunal).

*iii. Comparison between the SIAC Rules 2013 and Rules of Other Arbitral Institutions*

While the SIAC Rules 2013 do allow for joinder of additional parties, the scope is much more limited. Rule 24.1(b) of the SIAC Rules 2013 simply provides that, upon application by a party to the tribunal, a third party may be joined provided that such person "*is a party to the arbitration agreement, with the written consent of such third party, and thereafter make a single final award or separate awards in respect of all parties*".[28] That is, joinder is not possible without the written consent from the third party, and only the tribunal, not the SIAC, can decide on joinder applications. In our

20 SIAC Rules, r. 7.8.

21 *Id.*

22 *Id.* r. 7.10.

23 *Id.*

24 *Id.* r. 7.11.

25 SIAC Schedule of Fees generally provides that "This Schedule of Fees is effective as of [date] and is applicable to all arbitrations commenced on or after [date]".

26 SIAC Rules, r. 1.2 ("These Rules shall come into force on August 1, 2016 and, unless otherwise agreed by the parties, shall apply to any arbitration which is commenced on or after that date". The applicable rules are generally the ones currently in force at the time of commencement of the arbitration.)

27 SIAC Rules, r. 7.12.

28 Arbitration Rules of the Singapore International Arbitration Centre SIAC Rules (5th ed., April 1, 2013), r. 24.1(b).

experience, joinder under the SIAC Rules 2013 has been rarely used. The 2016 Rules are broader in that they do not require consent from the party to be joined provided that it is *prima facie* bound by the arbitration agreement, and they open the possibility of joinder by the SIAC before the constitution of the tribunal. The SIAC's Joinder Rules are very similar to the HKIAC's joinder rules. The HKIAC also decides on the request for joinder before the tribunal is confirmed,[29] and the decision is deferred to the tribunal after its appointment.[30] The request for joinder must also include basic information about the arbitration.[31] The decision on joinder is without prejudice to the tribunal's decision on jurisdiction.[32] The HKIAC may agree to join a party provided it is bound by an arbitration agreement giving rise to the arbitration.[33] The written consent of the third party to the joinder is not required.

The only significant difference may be that HKIAC's rules have requirements on answers to the request for joinder. Article 27.5 of the HKIAC Rules requires the additional party to submit an Answer to the request for joinder within fifteen days, and the answer shall include, *inter alia*, any plea that the tribunal has been improperly constituted or lacks jurisdiction over the additional party, the additional party's comments on the particulars set forth in the request for joinder, the additional party's answer to the relief or remedy sought in the request for joinder, and details of any claims by the additional party against any other party to the arbitration.[34]

Below is a chart comparing the joinder provisions in the 2016 Rules and the HKIAC Rules 2013:

**Table 1: Comparison of Joinder Rules between the SIAC and the HKIAC**

| | **SIAC Rules 2016** | **HKIAC Rules 2013** |
|---|---|---|
| Joinder by Institution | Yes (Rules 7.1 to Rule 7.7, and Rule 7.12) | Yes (Art. 27.8) |
| Joinder by Tribunal | Yes (Rules 7.8 to Rule 7.12) | Yes (Art. 27.1) |
| Possible revocation of appointment of arbitrator by institution | Yes (Rules 7.6) | Yes (Art. 27.11) |
| Joinder possible without written consent of third party joined | Yes (Rules 7.1 and 7.8) | Yes (Art. 27.1 and Art. 27.8) |
| Deemed later commencement date for additional party | Yes (Rules 7.5 and 7.11) | Yes (Art. 27.10) |
| Requirements for Answer to joinder application/request by the additional party | No | Yes (Art. 27.5 and Art. 27.7) |

29 HKIAC Rules, art. 27.8.
30 *Id.* art. 27.1.
31 *Id.* art. 27.4.
32 *Id.* art. 27.2.
33 *Id.* art. 27.8.
34 *Id.* art. 27.5; *See also* HKIAC Rules, art. 27.7 (it requires the parties to submit their comments on the request for joinder to the HKIAC).

In contrast, the ICC Rules are more restrictive. They only allow a request for joinder to be made to the ICC prior to the appointment of any arbitrator (unless all parties agree otherwise),[35] and do not provide for joinder by the tribunal. The LCIA, on the other hand, only allows a request for joinder to be made to the tribunal and the additional party must have consented to the joinder.[36]

### B. Consolidation

Rule 8 of the 2016 Rules introduces a procedure which allows a party to file an application to consolidate two or more pending arbitrations ["**Consolidation Rules**"]. These rules are entirely new additions in the 2016 Rules. Consolidation is used where a party wishes to combine two or more separate but substantially similar arbitrations to save time and costs, and to avoid divergent decisions on related claims. Similar to the Joinder Rules, the Consolidation Rules have two main procedural components: prior to the constitution of the tribunal, the SIAC decides, upon application by a party, whether or not to consolidate the arbitrations. After the constitution of a tribunal in any of the arbitrations, the decision whether or not to consolidate lies with the tribunal.

#### *i. Pre-Tribunal Consolidation*

Prior to the constitution of *any* tribunal in the arbitrations sought to be consolidated, a party may file an application with the Registrar to consolidate two or more arbitrations into a single arbitration.[37] Where a tribunal has already been constituted, the application should not be made to the SIAC, but to that tribunal.[38]

An application for consolidation shall include basic information regarding the arbitration, the arbitration agreement, as well as a brief statement of the facts and the legal basis supporting the application.[39]

The Court is the body which decides on the consolidation application. One of the following alternative criteria must be satisfied for consolidation to be granted by the Court:

(a) all parties have agreed to the consolidation; or
(b) all the claims in the arbitrations are made under the same arbitration agreement; or
(c) the arbitration agreements are compatible, and (i) the disputes arise out of the same legal relationship(s); or (ii) the disputes arise out of contracts consisting of a principal contract and its ancillary contract(s); or (iii) the disputes arise out of the same transaction or series of transactions.[40]

There is no requirement that all parties to the contracts or the arbitrations must be the same.

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35 Rules of Arbitration of the International Chamber of Commerce (Jan. 1, 2012), art. 7.1; *see also* JASON FRY ET AL., THE SECRETARIAT'S GUIDE TO ICC ARBITRATION 96 (2012).
36 LCIA Rules, art. 22.1(viii).
37 SIAC Rules, r. 8.1.
38 *Id.* r. 8.7.
39 *Id.* r. 8.2.
40 SIAC Rules, r. 8.1.

In deciding on an application for consolidation, the Court shall "*[have] regard to the circumstances of the case*".[41] That is, even if one of the above three criteria is met, which is a necessary prerequisite, the Court retains broad discretion in deciding whether to grant the application for consolidation or not.

After considering the views of all parties, the Court shall decide whether to grant, in whole or in part, any application for consolidation. Where an application is granted in part, some arbitrations would be consolidated, while the other(s) would proceed as separate arbitrations.[42]

The Court's decision to grant an application is without prejudice to the tribunal's power to subsequently decide any question as to its jurisdiction arising from such decision. In other words, where two arbitrations are consolidated by the Court, the tribunal could still decide that it does not have jurisdiction over the claims or parties to the second arbitration.[43]

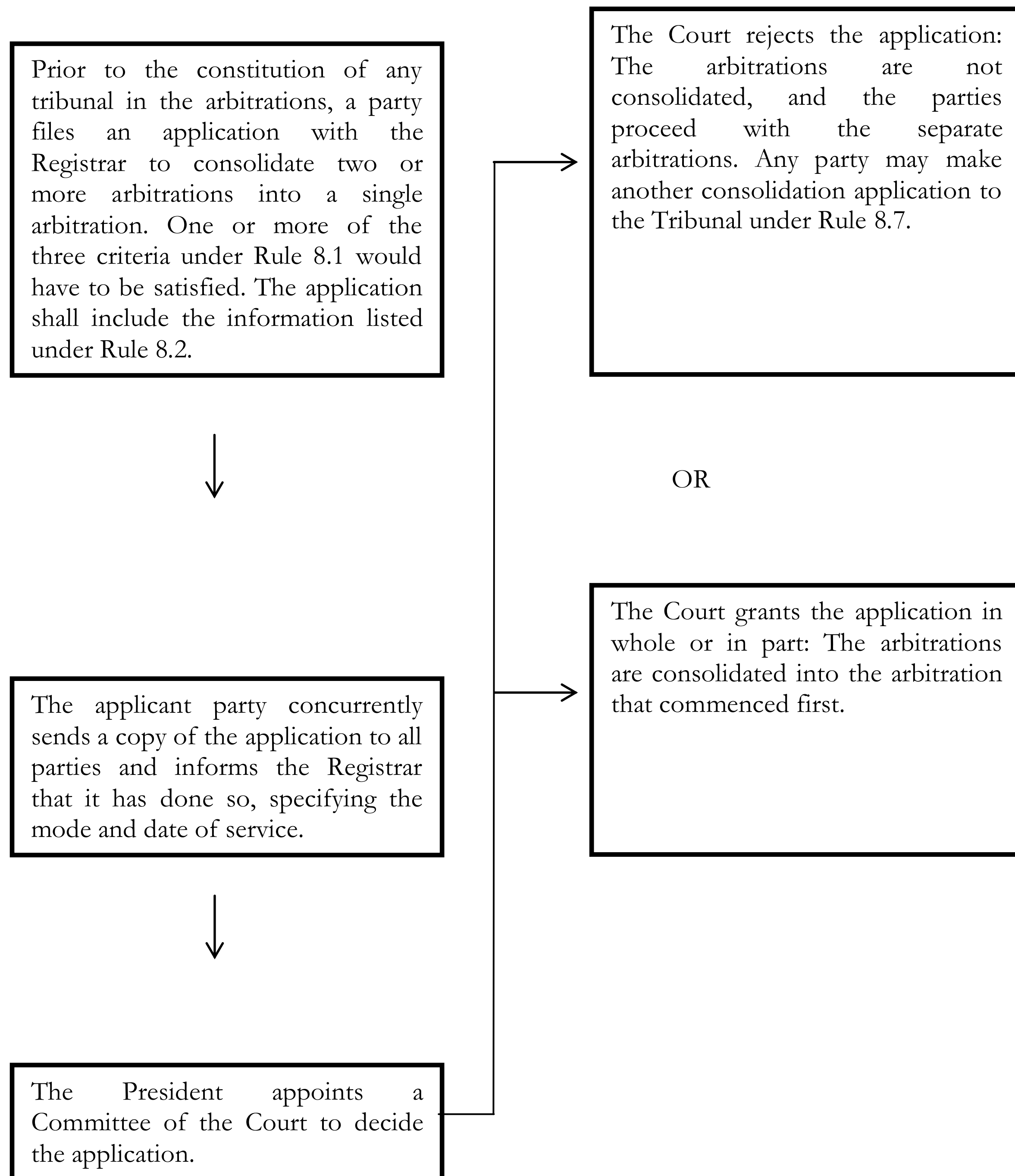
The Court's decision to reject an application for consolidation is without prejudice to any party's right to apply to the tribunal for consolidation. Any arbitrations that are not consolidated shall continue as separate arbitrations.[44]

Where an application for consolidation is granted by the Court, the Court may revoke the appointment of any arbitrators appointed prior to the decision on consolidation, and Rule 9 to Rule 12 on the appointment of arbitrators apply as appropriate.[45] The wording of Rule 8.6 calls for the same comments as the corresponding provision on joinder, Rule 7.6, which was discussed earlier.

Where an application for consolidation is granted by the Court, any party who has not nominated an arbitrator or otherwise participated in the constitution of the tribunal shall be deemed to have waived its right to nominate an arbitrator or otherwise participate in the constitution of the tribunal.[46] The wording of Rule 8.12 calls for the same comments as the corresponding provision on joinder, Rule 7.12, which was discussed earlier. However, the practical relevance of the ambiguity is greater in consolidation as pre-tribunal consolidation is likely to be more utilised than pre-tribunal joinder, especially considering the interaction of the Consolidation Rules with Rule 6 on multiple contract arbitration (as discussed later).

41 *Id.* r. 8.4.
42 *Id.* r. 8.4.
43 *Id.* r. 8.4.
44 *Id.* r. 8.4.
45 *Id.* r. 8.6.
46 *Id.* r. 8.12.

**Flow Chart 2: Summary of the Procedure for Filing a Consolidation Application to the SIAC**




*ii.* *Consolidation by Tribunal*

Pursuant to Rule 8.7, after the constitution of any tribunal in the arbitrations sought to be consolidated, the application must be made to that tribunal.

A party may apply to the tribunal to consolidate two or more arbitrations into a single arbitration, provided that any of the following alternative criteria is satisfied:

a) all parties have agreed to the consolidation; or

b) all the claims in the arbitrations are made under the same arbitration agreement, and the same tribunal has been constituted in each of the arbitrations or no tribunal has been constituted in the other arbitration(s); or
c) arbitration agreements are compatible, the same tribunal has been constituted in each of the arbitrations or no tribunal has been constituted in the other arbitration(s), and: (i) the disputes arise out of the same legal relationship(s); (ii) the disputes arise out of contracts consisting of a principal contract and its ancillary contract(s); or (iii) the disputes arise out of the same transaction or series of transactions.[47]

The second and third criteria are in part specific to consolidation after the constitution of a tribunal. An application made under Rule 8.7(b) and (c) needs to satisfy the requirement that "*the same Tribunal has been constituted in each of the arbitrations or no Tribunal has been constituted in the other arbitration(s)*".[48] This is to avoid a situation where an application was made to one tribunal to consolidate, but a different tribunal has already been constituted in the other arbitration. If different tribunals have been constituted in both arbitrations, consolidation would in practice require the parties to agree to revoke the tribunal in one of the arbitrations, in order to have the same tribunal in both. This would fall under Rule 8.7(a).

After giving all parties the opportunity to be heard, and having regard to the circumstances of the case, the tribunal may grant, in whole or in part, the application for consolidation. The tribunal's decision to grant an application for consolidation is without prejudice to its power to subsequently decide any question as to its jurisdiction arising from such decision.[49] In other words, the tribunal may grant consolidation, but later deny jurisdiction over parties and/or claims.

Where an application for consolidation is granted by the tribunal, the Court may revoke the appointment of any arbitrators appointed prior to the decision on consolidation.[50] This would cover the situation where arbitrators have been appointed but the entire tribunal has not been constituted yet in the arbitration(s) being consolidated (other than the one in which the tribunal has already been constituted and decides on consolidation). The reading that Rule 8.10 should not apply to the tribunal already constituted is supported by the fact that Rule 8.10 does not contain any reference to Rules 9 to 12 on the mechanism for the appointment of arbitrators (in contrast with Rule 8.6).

Further, where an application for consolidation is granted by the tribunal, any party who has not nominated an arbitrator or otherwise participated in the constitution of the tribunal shall be deemed to have waived its right to nominate an arbitrator or otherwise participate in the constitution of the tribunal.[51] Presumably, this provision aims at the situation where the consolidated arbitrations have different parties, so that a party to the second arbitration being consolidated may not have nominated or participated in the constitution of the tribunal in the first arbitration, in which the tribunal is already in place.

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47 SIAC Rules, r. 8.7.
48 *Id.*
49 *Id.* r. 8.9.
50 *Id.* r. 8.10.
51 *Id.* r. 8.12.

*iii. Comparison between the SIAC Rules 2013 and the Rules of Other Arbitral Institutions*

The SIAC Rules 2013 do not have provisions with regard to consolidation. The Consolidation Rules constitute a new feature of the 2016 Rules. Before the 2016 Rules, if a party wished to consolidate arbitrations, it had to make an application to the tribunal. In our experience, the tribunal would refrain from consolidating arbitrations unless all the parties agreed to it.

Under both the ICC and HKIAC Rules,[52] the consolidation application may only be made to the institution, not to the tribunal. In the case of the LCIA, a consolidation request is made to the tribunal (with the approval of the LCIA Court),[53] and in the case of the ICDR, consolidation is decided by a consolidation arbitrator.[54] Under the ICC Rules,[55] consolidation of arbitrations under several arbitration agreements may only occur if they are between the same parties, a restriction not found in the SIAC Rules which effectively allow in Rule 8.7 for consolidation of multiparty arbitrations.

The benefit of SIAC's approach is that it offers a choice and flexibility to the parties in either applying to the institution early in the proceedings, or at a later stage to the tribunal, and to allow for the consolidation of arbitrations with different parties (provided the requirements of Rules 8.1 and 8.7 are otherwise met). The potential downside of the SIAC's approach is that a party may effectively make the same application twice, thereby making the process more cumbersome.

**Table 2: Consolidation under Institutional Rules**

| Arbitration Rules | Body which Decides on Consolidation |
|---|---|
| **SIAC Rules 2016** (Rule 8) | SIAC (Court of Arbitration) and/or Tribunal |
| **ICC Rules, 2012** (Article 10) | ICC (Court of Arbitration) |
| **HKIAC Rules, 2013** (Article 28) | HKIAC |
| **LCIA Rules, 2014** (Articles 22 (ix) and (x)) | The Arbitral Tribunal (with the approval of the LCIA Court) |
| **SCC Rules, 2017** (Article 15) | SCC (Board of Directors) |
| **ICDR Rules, 2014** (Article 8) | The Consolidation Arbitrator appointed by ICDR |

The criteria for consolidation in various arbitration rules are generally similar. In essence, in the absence of agreement by the parties to consolidation, it is to determine whether the arbitrations are sufficiently related and whether the arbitration agreements are compatible to justify the consolidation of two cases to be run as one.[56]

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52 ICC Rules, art. 10; HKIAC Rules, art. 28; *See also* Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (Jan. 2017), art. 15.

53 LCIA Rules, art. 10.

54 International Centre for Dispute Resolution, International Dispute Resolution Procedures (Including Mediation and Arbitration Rules) (June 1, 2014), art. 8.

55 ICC Rules, art. 10.

56 *See* ICC Rules, art. 10(c); HKIAC Rules, art. 28.

### C. Multiple Contracts

Rule 6 of the 2016 Rules allows a claimant to file a single arbitration under multiple contracts (which may each contain separate arbitration agreements). Rule 6 addresses arbitration under multiple contracts through the angle of consolidation.

The rule allows the claimant to file arbitrations under more than one contract – either in a single notice of arbitration or in several notices for each arbitration, and to apply for consolidation concurrently with the filing of these notice(s) of arbitration.[57] This is done either by submitting a separate application to consolidate, or by simply stating how the criteria under Rule 8.1 on consolidation are satisfied, in the notice of arbitration.[58] Where the Court rejects the consolidation application, the arbitrations proceed separately.[59]

This is a substantial departure from the Public Consultation Draft, which provided as follows:[60]

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

*a. the parties to the contracts consent to a single arbitration to be conducted and administered in accordance with these Rules; or*
*b. the contracts contain arbitration agreements referring such disputes to arbitration to be conducted and administered in accordance with these Rules, the arbitration agreements are compatible and:*

*i. the disputes in the arbitrations arise out of the same legal relationship(s); or*
*ii. such contracts consist of a principal contract and its ancillary contract(s); or*
*iii. the disputes arise out of the same transaction or series of transactions.*

*4.2 Should a party object to the commencement of the arbitration under Rule 4.1 read with Rule 3, the party may do so under Rule 27.1.*

The above draft rule had language similar to the HKIAC Rules and the ICC Rules.[61] Under the Public Consultation Draft, the claimant was allowed to file a single arbitration under multiple contracts without having to obtain the approval of the SIAC and to go through the consolidation process.[62] It was up to the Respondent to make an objection to the Court.[63] Under the 2016 Rules, any attempt to file multi-contract arbitrations has to go through the consolidation process. This specificity of the SIAC Rules provides the institution, the SIAC, with more control over which arbitrations may be run as one and an early screening.

57 SIAC Rules, r. 6.1(a).
58 *Id.* r. 6.1(b).
59 *Id.* r. 6.2 and 6.3.
60 Singapore International Arbitration Centre, Public Consultation of Draft SIAC Arbitration Rules, r. 4, *available at* http://www.siac.org.sg/113-resources/press-releases/press-release-2016/465-public-consultation-on-draft-siac-arbitration-rules.
61 HKIAC Rules, art. 29; *see also* ICC Rules, art. 9 ("Subject to the provisions of articles 6(3)–6(7) and 23(4), claims arising out of or in connection with more than one contract may be made in a single arbitration, irrespective of whether such claims are made under one or more than one arbitration agreement under the Rules").
62 *Id.*
63 *Id.*

## III. Early Dismissal

The 2016 Rules introduce an early dismissal procedure similar to the ICSID Rules and the SCC Rules. This new provision is ground breaking, making SIAC the first institution handling commercial arbitration to introduce it.

Rule 29 of the 2016 Rules provides as follows:

*Rule 29: Early Dismissal of Claims and Defences*
*29.1 A party may apply to the Tribunal for the early dismissal of a claim or defence on the basis that:*

*a. a claim or defence is manifestly without legal merit; or*
*b. a claim or defence is manifestly outside the jurisdiction of the Tribunal.*

*29.2 An application for the early dismissal of a claim or defence under Rule 29.1 shall state in detail the facts and legal basis supporting the application. The party applying for early dismissal shall, at the same time as it files the application with the Tribunal, send a copy of the application to the other party, and shall notify the Tribunal that it has done so, specifying the mode of service employed and the date of service.*

*29.3 The Tribunal may, in its discretion, allow the application for the early dismissal of a claim or defence under Rule 29.1 to proceed. If the application is allowed to proceed, the Tribunal shall, after giving the parties the opportunity to be heard, decide whether to grant, in whole or in part, the application for early dismissal under Rule 29.1.*

*29.4 If the application is allowed to proceed, the Tribunal shall make an order or Award on the application, with reasons, which may be in summary form. The order or Award shall be made within 60 days of the date of filing of the application, unless, in exceptional circumstances, the Registrar extends the time.*[64]

Rule 29 drew its inspiration from Rule 41(5) and 41(6) of the ICSID Rules 2006, which provide as follows:

*(5) Unless the parties have agreed to another expedited procedure for making preliminary objections, a party may, no later than 30 days after the constitution of the Tribunal, and in any event before the first session of the Tribunal, file an objection that a claim is manifestly without legal merit. The party shall specify as precisely as possible the basis for the objection. The Tribunal, after giving the parties the opportunity to present their observations on the objection, shall, at its first session or promptly thereafter, notify the parties of its decision on the objection. The decision of the Tribunal shall be without prejudice to the right of a party to file an objection pursuant to paragraph (1) or to object, in the course of the proceeding, that a claim lacks legal merit.*

*(6) If the Tribunal decides that the dispute is not within the jurisdiction of the Centre or not within its own competence, or that all claims are manifestly without legal merit, it shall render an award to that effect.*[65]

Under Rule 41(5) of the ICSID Rules, a party may, no later than 30 days after the constitution of the tribunal, file an objection that a claim is manifestly without legal merit. The tribunal shall, at its first session or promptly thereafter, notify the parties of its decision regarding the objection. The decision of the tribunal shall be without prejudice to the right of a party to file an objection

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[64] SIAC Rules, r. 29.
[65] ICSID Convention Arbitration Rules r. 41(5) and 41(6) (2006).

to jurisdiction, or to object later in the proceedings that a claim lacks legal merit. If the tribunal decides that all claims are manifestly without legal merit, it shall render an award to that effect.

The objection that the claim is manifestly without legal merit has been used scarcely in ICSID arbitration.[66] There have been only nine decisions or awards on a Rule 41(5) application since the introduction of that early dismissal procedure in the ICSID Rules in 2006.[67] This is likely due to the parties' awareness of the high threshold to be met. In short, ICSID tribunals have interpreted Rule 41(5) as follows:

1. As regards the "*manifestly without legal merit*" threshold, the objecting party must "*establish its objection clearly and obviously, with relative ease and despatch*", and the "*standard is thus set high*".[68]
2. "*[T]he rule is directed only at clear and obvious cases*";[69]
3. "*[A]n objection under Article 41(5): (a) may go either to jurisdiction or the merits; (b) must raise a legal impediment to a claim, not a factual one; and (c) must be established clearly and obviously, with relative ease and dispatch*";[70]
4. "*There is no dispute between the Parties that the standard is a high one, and that must be right. The Rule, as introduced in 2006, plainly envisages a claim that is so obviously defective from a legal point of view that it can properly be dismissed outright*".[71]

Under Rule 29 of the 2016 Rules, a party may, at any time after the constitution of the tribunal, file an application to the tribunal for the early dismissal of a claim on the ground that (i) the

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66 *The ICSID Caseload – Statistics (Issue 2016-2)*, International Centre for Settlement of Investment Disputes (2016) *available at* https://icsid.worldbank.org/en/Pages/resources/ICSID-Caseload-Statistics.aspx.

67 Trans-Global Petroleum, Inc. v. Hashemite Kingdom of Jordan, ICSID Case No. ARB/07/25, Decision on the Respondent's Objection Under Rule 41(5) of the ICSID Arbitration Rules (May 12, 2008) [*hereinafter* "Trans-Global Petroleum"]; Global Trading Resource Corp. and Globex International, Inc. v. Ukraine, ICSID Case No. ARB/09/11, Award (Dec. 1, 2010) [*hereinafter* "Global Trading"]; MOL Hungarian Oil and Gas Company Plc v. Republic of Croatia, ICSID Case No. ARB/13/32 [*hereinafter* "MOL"]; Álvarez y Marín Corporación S.A. and others v. Republic of Panama, ICSID Case No. ARB/15/14, Decision on Respondent Preliminary Objections pursuant to ICSID Arbitration r. 41(5) (April 4, 2016).

68 *See* Brandes Investment Partners, LP v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/08/3, Decision on the Respondent's Objection Under Rule 41(5) of the ICSID Arbitration Rules (Feb. 2, 2009); RSM Production Corporation and others v. Grenada [II], ICSID Case No. ARB/10/6, Award (Dec. 10, 2010); Global Trading, ICSID Case No. ARB/09/11, Award (Dec. 1, 2010), ¶ 35; Accession Mezzanine Capital L.P. and Danubius Kereskedohaz Vagyonkezelo v. Hungary, ICSID Case No. ARB/12/3, Decision on Respondents Objection Under Arbitration Rule 41(5) (Jan. 16, 2013); Emmis International Holding, B.V., Emmis Radio Operating, B.V., and MEM Magyar Electronic Media Kereskedelmiés Szolgáltató Kft. v. Hungary, ICSID Case No. ARB/12/2, Decision on Objection under ICSID Arbitration Rule 41(5) (March 11, 2013); MOL, ICSID Case No. ARB/13/32, Decision on Respondent Application under ICSID Arbitration Rules 41(5) (Dec. 2, 2014), ¶ 45; Transglobal Green Energy, LLC and Transglobal Green Energy de Panama, S.A. v. Republic of Panama, ICSID Case No. ARB/13/28, Decision on the Admissibility of Respondent Preliminary Objection to the Jurisdiction of the Tribunal under Rule 41(5) of the Arbitration Rules (March 17, 2015); Venoklim Holding B.V. v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/12/22, Decision on the Respondent Preliminary Objection under ICSID Arbitration Rule 41(5), March 8, 2016; Álvarez y Marín Corporación S.A. and others v. Republic of Panama, ICSID Case No. ARB/15/14, Decision on Respondent Preliminary Objections pursuant to ICSID Arbitration Rule 41(5) (April 4, 2016), ¶¶ 79-80.

69 Trans-Global Petroleum, ICSID Case No. ARB/07/25, Decision on the Respondent's Objection under Rule 41(5) of the ICSID Arbitration Rules (May 12, 2008), ¶ 90.

70 RSM Production Corporation and others v. Grenada [II], ICSID Case No. ARB/10/6, Award (Dec. 10, 2010), ¶ 6.11 [*hereinafter* "RSM"].

71 MOL, ICSID Case No. ARB/13/32, Decision on Respondent Application under ICSID Arbitration Rules 41(5) (Dec. 2, 2014), ¶ 44.

claim is manifestly without legal merit; or (ii) the claim is manifestly outside the jurisdiction of the tribunal. The application must state "*in detail the facts and legal basis supporting the application*". The tribunal may, in its discretion, allow the application to proceed.[72]

If the application is allowed to proceed, the tribunal may grant, in whole or in part, the application, and shall issue its order or award on the application within 60 days of the date of filing of the application (unless the registrar extends the time).[73]

The purpose of Rule 29 is to allow a tribunal to dismiss unmeritorious claims without a full, drawn out proceeding, and thereby to save time and costs.

Rule 29, however, raises a few questions. First, a party may apply for the early dismissal of a "*claim*" or a "*defence*" on the basis that it is manifestly without legal merit.[74] As Rule 29 speaks of "claim", the mention of "*defence*" potentially creates an ambiguity. "*Defence*", which is not defined in the 2016 Rules, could be interpreted as being broader than a claim or counterclaim, to potentially cover mere arguments. If so, there would be more scope for a respondent's case to be dismissed earlier than a claimant's one. It might have been preferable to use a generic term like "*issues*", as do the SCC Rules,[75] or to limit early dismissal to "*claims*", as do the ICSID Rules.

Second, there may be some overlap between the two grounds – "*a claim or defence is manifestly without legal merit*" and "*a claim or defence is manifestly outside the jurisdiction of the Tribunal*". ICSID tribunals have found that an objection that a claim is "*without legal merit*" under ICSID Rule 41(5) "*may go either to jurisdiction or the merits*".[76] As compared to the ICSID Rules, the SIAC Rules have the advantage of being explicit about the early dismissal mechanism, which may be used to raise a jurisdictional objection. One will have to see whether SIAC tribunals interpret Rule 29.1(a) as

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72 SIAC Rules, r. 29(3).

73 *Id.* r. 29.4.

74 *Id.* r. 29.1.

75 Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (Jan. 2017), art. 39. ("Article 39 Summary procedure
(1) A party may request that the Arbitral Tribunal decide one or more issues of fact or law by way of summary procedure, without necessarily undertaking every procedural step that might otherwise be adopted for the arbitration.
(2) A request for summary procedure may concern issues of jurisdiction, admissibility or the merits. It may include, for example, an assertion that:
(i) an allegation of fact or law material to the outcome of the case is manifestly unsustainable;
(ii) even if the facts alleged by the other party are assumed to be true, no award could be rendered in favour of that party under the applicable law; or
(iii) any issue of fact or law material to the outcome of the case is, for any other reason, suitable to determination by way of summary procedure.
(3) The request shall specify the grounds relied on and the form of summary procedure proposed, and demonstrate that such procedure is efficient and appropriate in all the circumstances of the case.
(4) After providing the other party an opportunity to submit comments, the Arbitral Tribunal shall issue an order either dismissing the request or fixing the summary procedure in the form it deems appropriate.
(5) In determining whether to grant a request for summary procedure, the Arbitral Tribunal shall have regard to all relevant circumstances, including the extent to which the summary procedure contributes to a more efficient and expeditious resolution of the dispute.
(6) If the request for summary procedure is granted, the Arbitral Tribunal shall seek to make its order or award on the issues under consideration in an efficient and expeditious manner having regard to the circumstances of the case, while giving each party an equal and reasonable opportunity to present its case pursuant to Article 23 (2).").

76 RSM, ICSID Case No. ARB/10/6, Award (Dec. 10, 2010), ¶ 6.11.

being limited to the merits, and Rule 29.1(b) as concerned with jurisdiction, or whether they will allow applicants to raise a jurisdictional objection under both Rule 29.1(a) and 29.1(b), and, if so, whether a different test will be applied each.

Third, Rule 29.1(b) ("*a claim or defence is manifestly outside the jurisdiction of the Tribunal*"), Rule 28.1 ("*If any party objects to the existence or validity of the arbitration agreement […] the Court shall decide if it is prima facie satisfied that the arbitration shall proceed*"), and Rule 28.3 ("*Any objection that the Tribunal does not have jurisdiction shall be raised no later than in a Statement of Defence or in a Statement of Defence to a Counterclaim*") effectively give a party three chances to challenge jurisdiction, one before the SIAC and two before the tribunal. It remains to be seen whether and how the threshold of "*manifestly*" in Rule 29 and the one of "*prima facie*" in Rule 28 are different.

Fourth, Rule 29.2 requires that the application for early dismissal "*state in detail the facts and legal basis supporting the application*". The wording "*in detail*" and the reference to the "*facts*" will need to be approached with restraint for this requirement to remain consistent with the high threshold to be met for an early dismissal application to succeed ("*clear and obvious cases*", *i.e.* there are limits to how much "*detail*" a tribunal will go into) and to be consistent with the fact that the early dismissal mechanism is concerned with legal, and not factual, impediments to a claim.

Fifth, there may be an issue with the timing of the application. Under the ICSID Rules, the application for early dismissal under Rule 41(5) (claim manifestly without legal merit) must be made within 30 days after the constitution of the tribunal, or before the first session of the tribunal. In contrast, the 2016 Rules, under Rule 29, do not specify any time-limit to lodge an application for early dismissal for '*manifest lack of legal merit*'. A safeguard may be found in Rule 29.3, which grants the Tribunal discretion whether to allow or not the application to proceed (language not found in ICSID Rule 41(5)). One may think that in practice, a tribunal would not allow such an application to proceed (if at all made) after the deadline to lodge an objection to jurisdiction under Rule 28.3 has lapsed, which is no later than in a Statement of Defence or in a Statement of Defence to a Counterclaim.

Sixth, as mentioned Rule 29.3 grants the Tribunal discretion whether to allow or not an application for early dismissal. No further guidance is found in Rule 29 on how a Tribunal should exercise this discretion. In addition to the late timing of an application mentioned above, one may think that a Tribunal could refuse to allow an application to proceed where it is clear that it is not an appropriate application for the purpose of Rule 29, e.g. because it is heavily factual and would not meet the "*manifestly*" threshold of Rule 29. Refusing to allow the application would be conducive of an expeditious and economical resolution of the dispute (Rule 19.1).

Lastly, there is also a potential question of enforcement. The only precedent in arbitration of early dismissal is in the ICSID context, in which the process to challenge an award is self-contained, before an ICSID Annulment Committee, with no recourse to national courts.[77] Arbitrations under the 2016 Rules will probably generate the test case of an award granting early dismissal being challenged before national courts. One can foresee losing parties arguing that

[77] ICSID Convention Arbitration Rules art. 52 (2006).

they were unable to present their case and to challenge early dismissal awards on that basis. However, such objections should not prevail as (i) by choosing the SIAC Rules, the parties are deemed to have agreed to the early dismissal procedure; and (ii) the parties are able to present their case, although to a more limited extent that in a full proceeding.

It remains that, while the early dismissal mechanism under the SIAC Rules will have to be tested, it is truly innovative for the SIAC to have introduced it.

**Table 3: Early Dismissal Comparison between SIAC, ICSID, and SCC**

| Rules | Source of Tribunal's Power | Time Limit for Application | Criteria | Time Limit for Tribunal's Decision |
|---|---|---|---|---|
| SIAC | 29 (Early Dismissal of Claims and Defences) | No time limit | The claim is manifestly without legal merit; or<br>The claim is manifestly outside the jurisdiction of the Tribunal | Within 60 days of the date of filing of the application |
| ICSID | 41(5) (Under "Preliminary Objections") | No later than 30 days after the constitution of the Tribunal and before the Tribunal's first session | A claim is manifestly without legal merit | At the tribunal's first session or promptly thereafter |
| SCC | 39 (Summary Procedure) | No time limit | May include, for example:<br>an allegation of fact or law material to the outcome of the case is manifestly unsustainable;<br>even if the facts alleged by the other party are assumed to be true, no award could be rendered in favour of that party under the applicable law; or<br>any issue of fact or law material to the outcome of the case is, for any other reason, suitable to determination by way of | No express time limit |

| | | | summary procedure. | |
|---|---|---|---|---|

## IV. Amendments to Existing Procedures to Enhance Efficiency of Arbitral Proceedings

### A. Special Procedures

The 2016 Rules retained the expedited procedure and the emergency arbitrator provisions and enhanced them by allowing more flexibility, adjusting the time frame and refining the wording.

#### i. *Expedited Procedure*

The SIAC's Expedited Procedure allows for an arbitration to be completed within a period of six months from the appointment of arbitral tribunal.[78] It is typically used in arbitrations with small claim amounts. As of December 31, 2015, the SIAC had received 231 applications for Expedited Procedure since this procedure was introduced in 2010.[79]

Minor revisions were made to the expedited procedure to expand and refine it. The tribunal may now determine whether a case is to be decided on the basis of documentary evidence only.[80] Under the SIAC Rules 2013, the tribunal is required to hold a hearing unless the parties agree otherwise. Experience shows that in small cases, there is a higher chance of an unparticipating respondent. In such cases, under the SIAC Rules 2013, the tribunal would be forced to hold a hearing since the respondent in default would not have agreed to a 'document only proceedings'.

Further, the monetary threshold for the applicability of the Expedited Procedure has been raised from SGD 5,000,000 to SGD 6,000,000 (which is about USD 4,300,000), thereby allowing more cases to benefit from it.[81]

#### ii. *Emergency Arbitrator*

The Emergency Arbitrator provisions were introduced in the SIAC Rules 2013 to address situations where a party requires interim relief before the tribunal is constituted. As of December 31, 2015, the SIAC had received 47 emergency arbitrator applications.[82]

Revisions were made to the Emergency Arbitrator provisions in the 2016 Rules to further expedite the process.[83] The timeframe for the appointment of an Emergency Arbitrator was changed from one business day to one day, thereby requiring the appointment of an Emergency Arbitrator the next day, regardless of whether that day falls on a weekend or is a public holiday. The 2016 Rules also provide that the order or award of interim relief by the Emergency Arbitrator must be issued within a maximum of 14 days from the appointment of the Emergency Arbitrator.[84] The SIAC Rules 2013 did not contain any time limit for the Emergency Arbitrator to issue its order or award.

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78 SIAC Rules, r. 5.

79 Singapore International Arbitration Centre, *Annual Report*, 18 (2015), *available at* http://www.siac.org.sg/images/stories/articles/annual_report/SIAC_Annual_Report_2015.pdf.

80 Arbitration Rules of the Singapore International Arbitration Centre SIAC Rules (5th ed., April 1, 2013), r. 5.2.

81 SIAC Rules, r. 5.1(a).

82 *Supra* note 79.

83 SIAC Rules, Schedule 1, r. 30.

84 SIAC Rules, Schedule 1.

### B. Other Revisions

#### *i. Removal of Default Seat*

Under the 2016 Rules, unless the parties agree on a seat, the seat shall be determined by the Tribunal.[85] According to SIAC's press release, the removal of a default seat (Singapore under Rule 18.1 of the 2013 Rules) is to adapt to "*the increasingly international nature of SIAC cases and diverse cultures of users*".[86]

#### *ii. Reasoned Decisions in Challenge to Arbitrators*

Under Rule 16.4 of the 2016 Rules, the Court's decision on any challenge to an arbitrator shall be reasoned unless otherwise agreed by the parties. It is our understanding that it was SIAC's practice over recent years to issue to the parties involved reasoned decisions on challenges where possible for the sake of transparency.[87] The revision converts this practice into rule, and does not allow for exceptions to the requirement, unless the parties agree otherwise.

## V. Conclusion

The SIAC has pushed the boundaries and provided one of the most comprehensive and innovative set of arbitration rules on the market. No other institution to our knowledge has rules which include all of joinder and consolidation provisions, early dismissal provisions, expedited procedure provisions and emergency arbitrator provisions.

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85 SIAC Rules, r. 21.

86 Highlights of the 2016 Rules, *available at* http://siac.org.sg/images/stories/articles/rules/SIAC%20Rules%202016_Cheat%20Sheet_30June2016.pdf.

87 The SIAC did not systematically issue reasoned decisions where such a decision was needed urgently, such as in cases where the challenge is made to an emergency arbitrator.