

*Hanoi, 26th October, 2019*

## Official Release of the VIAC Rules 2017

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On 3 February 2017, the Vietnam International Arbitration Centre (VIAC) officially released the new 2017 VIAC Arbitration Rules (VIAC Rules 2017), which is scheduled to come into effect on 1 March 2017. Compared to the current Rules of Arbitration of VIAC which has been in force from 1 January 2012, the VIAC Rules 2017 aim at ironing out concerns during the arbitration procedures while further adapting to the international norms in order to better promote arbitration as an alternative dispute resolution mechanism in Vietnam.

The 2017 VIAC Rules include the following changes:

- Multiple Contracts (Article 6) – under the 2017 VIAC Rules parties will now have the opportunity to bring claims relating to more than one contract in a single Request for Arbitration, irrespective of whether the claims are made under one or more arbitration agreement.
- Consolidation (Article 15) – parties may now agree to consolidate two or more pending VIAC arbitrations into a single arbitration. However, VIAC will retain discretion to confirm the consolidation “upon its consideration on relevant matters”. At this stage, it is unclear what matters VIAC considers relevant and the rule is comparatively short on detail when compared to the provisions of other institutions, such as HKIAC and SIAC. The rule is clear that unless otherwise agreed by the parties, the arbitrations will be consolidated into the arbitration that commenced first. According to VIAC, this provision is estimated to save between 15% and 37% of the total costs of arbitration for multiple VIAC proceedings, had those proceedings not been consolidated.
- Expedited Procedure (Article 37) – where the parties agree to it, arbitration proceedings can be conducted under a new expedited procedure. Unless the parties have agreed otherwise, the 2017 VIAC Rules provide that expedited proceedings will be heard by a sole arbitrator with time limits in the rules shortened. Unlike other institutional rules – such as SIAC or ICC’s 2017 rules with their 6 months time’s limits – the VIAC rules do not prescribe any particular process or specify any time limits for an award in an expedited arbitration. This may be because the claimed statistics for VIAC arbitrations show that on average, matters are already resolved very quickly by international standards (claimed figure is 154 days). Usefully, the rules specify that unless the parties agree otherwise, the tribunal now

also has discretion to decide a case on documents only, which means no oral hearing, no requests to produce documents and no examination of witnesses. With the parties' agreement, a hearing may also be conducted by teleconference or videoconference, instead of in person.

The 2017 VIAC Rules are part of an effort to keep VIAC's institutional arbitration offering up to date with international best practice and contain some undoubtedly helpful features to help parties control time and cost in their arbitration. They are intended to address some of the key complaints from the users of arbitration generally. It is not alone in updating its rules to allow for the consolidation of multiple claims and for expedited proceedings, though the recently updated rules of the major international institutions are arguably drafted in a more comprehensive way. It remains to be seen how VIAC will apply them in practice. Certainly, the amendments will help gather support for institutional arbitration in Vietnam and cement VIAC's growing reputation as a leading centre for parties who have agreed to arbitrate there. Its latest available statistics show rapid growth, with over 50 foreign element cases pending before VIAC in 2015.

More broadly, the 2017 VIAC Rules are a further positive indication that Vietnam is increasingly adopting a more pro-arbitration approach. We now look forward to seeing how the rules are applied in practice and further clarification from the Supreme People's Court as to, for example, the status of awards made under VIAC's new expedited procedures. We expect these will add to the positive direction the Vietnamese courts are taking in regards to the enforcement of arbitral awards.

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If you have any further queries, please contact us at:

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