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Newsletter

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The Thai Arbitration Institute Rules Amended – A Key to Quicker Dispute Resolution?

Introduction

Arbitration is a common mechanism for alternative dispute resolution nowadays. The Thai Arbitration Institute (the "TAI") (originally the Arbitration Office under the supervision of the Ministry of Justice) is among a handful of organizations that provide services in administering arbitration proceedings in Thailand. The TAI has amended its arbitration rules with the goal of streamlining procedural rules and increasing the efficiency of the overall arbitral process. An understanding of the TAI Arbitration Rules, which generally apply to disputes under the auspices of the TAI, is critical for organizations that choose arbitration as a means to settle disputes through the TAI.

Amendments to the TAI Rules

On September 30, 2021, amendments to the TAI Arbitration Rules were published in the Thai Royal Gazette and became effective on October 1, 2021. The amendments set out specific procedures to enable parties to a dispute to accelerate arbitration proceedings and resolve disputes more quickly. Such accelerated procedures can be applied: (i) upon mutual agreement of the parties; or (ii) to a case where the amount in dispute does not exceed five million Baht and one of the parties to that dispute makes a request. In this case the contract between the parties must have been executed after September 30, 2021. However, for contracts executed before October 1, 2021 (even if the disputed amount is less than five million Baht), the consent of both parties would still be required for accelerated procedures. In a case where the use of the accelerated procedures is approved by the TAI, such procedures will supersede the related arbitration clause and proceedings as previously agreed in the relevant contract. In addition to the new arbitration procedures, rules on class action proceedings in the TAI are also cancelled by the amendments.

Accelerated arbitral procedures

To request accelerated arbitral procedures, a party to a dispute must submit a petition to the TAI before the arbitral tribunal is formed. Once the TAI approves the use of the accelerated procedures, the appointment of any arbitrator by a party to the dispute would be terminated.

The following is a comparative table to show differences between the normal and accelerated arbitration procedures and timelines.

	Accelerated Procedures	Normal Procedures
Number of arbitrators	1 arbitrator	1 arbitrator, or 3 or more arbitrators
Appointment of arbitrator	By TAI	By the parties/TAI
Timing of the arbitration proceeding	The proceeding must be completed within 60 days – except for cases where an extension is granted by the TAI. Time extensions will only be granted in the case of necessity and/or force majeure.	The proceeding must be completed within 180 days – except for cases where an extension is granted by the TAI.
Presentation of witness	Not required – subject to the arbitral tribunal's discretion as to whether documentary evidence alone is sufficient.	May not be required – subject to the parties' agreement.
Arbitral Award	The award will be made within 15 days from the date on which the tribunal declares the proceedings closed – except for cases where an extension is granted by the TAI.	The award will be made within 30 days from the date on which the tribunal declares the proceedings closed or the date on which the submission of a written closing statement is due – except for cases where an extension is granted by the TAI.

Conclusion

In summary, the accelerated procedures under the amendments to the TAI's rules may become a key to resolving cases quicker. Whether the accelerated procedures are beneficial however, will depend on the parties' ongoing business relationship, agreement on the TAI's appointment of an arbitrator, and the tribunal's determination as to whether documentary evidence alone is sufficient.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact persons at Mori Hamada & Matsumoto or Chandler MHM Limited. If you should have any inquiries about the publications, or would like more information about Chandler MHM Limited, please contact bd@mhm-global.com.

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