

*Arbitration Alert - October 2011*

### **New ICC Rules of Arbitration**

The ICC is one of the main institutions for the resolution of international commercial disputes. The rules of arbitration that were in place since 1998 have now been revised and from 1<sup>st</sup> January 2012 the new Rules of Arbitration will come into force.

Some of the main changes relate to the following matters:

- (i) **Multiple Parties, Multiple Contracts and Consolidation**
  - a. The rules now provide for the possibility of a party to join an additional party to the arbitration by filing a Request for Joinder.
  - b. In addition to the above, claims arising out of or in connection with more than one contract may be made in a single arbitration.
  - c. Under certain circumstances, two or more arbitrations may be consolidated into one single arbitration.
- (ii) **Emergency Arbitrator**

A party seeking urgent interim or conservatory measures that cannot wait the constitution of an arbitral tribunal may make an application for such measures pursuant to the Emergency Arbitrator Rules which are set out in an appendix. It is expressly provided, however, that the parties are not prevented from seeking interim/conservatory measures from a competent judicial authority.

The emergency arbitrator's decision shall take the form of an order and the parties undertake to comply with such order. However, such order shall not bind the arbitral tribunal which may modify, terminate or annul such order.

The Emergency Arbitrator provisions are opt out provisions and therefore will apply to an arbitration under the new rules (provided the arbitration agreement was concluded after the entry into force of the new rules) unless the parties expressly state that they do not wish the provisions to apply (or have agreed to another pre - arbitral procedure).
- (iii) **Case Management Conference**

In an effort to have a more efficient process and speedy arbitration, a case management conference shall be convened by the arbitral tribunal to agree with the parties on procedural measures that may be adopted. A new appendix has been added in the rules and sets out a list of techniques that could be used by the tribunal and the parties for controlling time and cost.
- (iv) **Appointment of Arbitrator by the Court**

In cases where a party is a state, the Court may appoint directly the arbitrator and not make the appointment upon the proposal of the National Committee.

*If you would like further information please contact Vicky Psaltis ([vicky.psaltis@potamitisvekris.com](mailto:vicky.psaltis@potamitisvekris.com))*

*Disclaimer: This information is provided for guidance only.*