Achieving Expediency: a P.R.I.M.E. Finance Update

Professor Dr. Bastiaan F. Assink on expedited arbitration

P.R.I.M.E. Finance Annual Conference 2019
4 & 5 February, Peace Palace, The Hague
PRIME Finance Arbitration Rules

EXPEDITED PROCEEDINGS

Article 2a
The parties may agree to shorten time lines set out in these Rules. If the parties have agreed upon shortened time lines, the shortened time lines shall only become effective after approval by the arbitral tribunal. The arbitral tribunal will communicate its approval, or refusal thereof, within 7 days of the parties’ submissions, notwithstanding the arbitral tribunal’s inherent discretion to suggest reasonable modifications of the parties’ agreed time line.
Opportunity to rethink and amend the PRIME Finance Arbitration Rules – and then market these new, state-of-the-art Rules

Options include:

- model rules for expedited arbitration
- default expedited regime for ‘small claims’
- model arbitration clauses tailored to expedited arbitration

UNCITRAL Working Group II sessions in N.Y. this week – PRIME Finance has observer status, will attend

Dedicated expert working group at PRIME Finance to follow-up

More on this next year?
Thank you
P.R.I.M.E. Finance
Panel of Recognized International Market Experts in Finance

2018 ISDA Arbitration Guide

Camilla Perera – De Wit
P.R.I.M.E. Finance Annual Conference 2019
4 & 5 February, Peace Palace, The Hague
Historical Background

- Tide shift in favour of arbitration in finance disputes, especially in Asia and emerging markets
- Errors in incorporating arbitration clauses into Master Agreements, e.g. no disapplication of Section 13(b) containing jurisdiction provisions parallel competences
- Need for guidance on essential elements, e.g. seat, arbitral rules, number of arbitrators etc.

→ 2013 ISDA Arbitration Guide
2013 ISDA Arbitration Guide

• Model arbitration clauses conforming effectively to the 2002 and 1992 Master Agreements
• 7 different sets of arbitration rules, namely ICC, LCIA, AAA-ICDR, HKIAC, SIAC, Swiss Chamber, P.R.I.M.E. Finance
• The combination of seat and arbitration rules reflected the preference of ISDA Members, not ISDA itself
• P.R.I.M.E. Finance also took that opportunity to draft amendment clauses under a number of different seats for the 1992 and 2002 ISDA Masters
2018 ISDA Arbitration Guide

- Five years later: time for an update
- Consultation sought from ISDA Members
- Reflections include:
  - 4 new model arbitration clauses, e.g. under SCC, DIS, DIFC-LCIA, VIAC Arbitration Rules
  - Minor amendments to the existing clauses
  - Introduction of an LCIA Rules clause with a Dublin seat for use with the Irish-law ISDA Master Agreement
  - Broad support for ‘plain vanilla’ arbitration clauses
2018 ISDA Arbitration Guide

- Specific reference to recent key arbitration features such as
  - Flexibility
  - Confidentiality
  - Expertise

Interim relief: as a number of arbitral institutions have published emergency arbitrator provisions, including P.R.I.M.E. Finance under article 26a of the P.R.I.M.E. Finance/PCA Arbitration rules.
2018 ISDA Arbitration Guide

Thank you.