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New LMAA Rules pursuant Small Claims Procedure

Arbitration can be very costly in any jurisdiction. Therefore, Small Claims Procedure (hereinafter 'SCP') in the arbitration is ideal to save costs and delay. However, the major issue was that in LMAA SCP procedure was limited only to USD 50,000. Any other claim above USD 50,000 had to go over to normal LMAA procedures.

Andrew Liu Company is the member of LMAA Far East Committee that brings about changes/amendments/guidance notes to the LMAA arbitration rules. The representative of Andrew Liu had submitted a lot of amendments in content of LMAA rules, including SCP, to benefit the clients that are located in Far East. The President of LMAA based in London even visited the Shanghai office of Andrew Liu in September 2016 due to ALCO's Shanghai office growing importance in dealing with the FDD disputes.

From 1 May, 2017 the Procedure shall apply, where the total amount of the claimant's claims and the total amount of any counterclaims does not exceed USD 100,000 (with this limit applying separately to claims and counterclaims, and not as an aggregate figure).

There are advantages in the new system that means disputes until USD 100,000 can be resolved through SCP procedure, which is quick and can be done on the documents alone. This is good when the parties want quick effective solution, but have to apply to LMAA Committee to appoint a sole arbitrator. The fees of LMAA will be all inclusive to appoint a sole arbitrator as well dealing with the case. SCP is only valid if the parties have included the SCP clause in the charterparty.

Another important issue in SCP procedure that parties often overlook are:

The right of appeal to the courts is excluded under this procedure. By adopting the Small Claims Procedure the parties shall be deemed to have agreed to waive all rights of appeal [emphasis added]. For the avoidance of doubt, this provision does not apply to any ruling by an arbitrator on his own jurisdiction.

On the other hand, if the parties do not want to resolve the dispute through SCP route, but only wanted to appoint the arbitrator at GBP 250 to put commercial pressure and prevent the claims to become time barred, then the SCP can have disadvantages. In that scenario, parties should not include SCP clause and limit to arbitration pursuant to LMAA rules in the charterparty.

Also, in other centers of arbitration, there are similar procedures and parties have to look into the costs of just appointing the arbitrator, which is very high in some jurisdictions for arbitrations, and even delay in appointing the arbitrator.

Source of Information: Andrew Liu & Co., Ltd www.andrewliu.com.hk