



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : LP 19/00/4C
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By Fax (2524 2171) and
Email (adr@hkiac.org)

21 August 2013

Ms. Chiann Bao
Secretary-General
Hong Kong International Arbitration Centre
38th Floor Two Exchange Square
8 Connaught Place
Hong Kong

Dear Ms. Bao,

**Arbitration (Appointment of Arbitrators and
Mediators and Decision on Number of Arbitrators) Rules**

I refer to your letter dated 19 August 2013 and my telephone conversation with your Mr Dennis Cai on 20 August 2013.

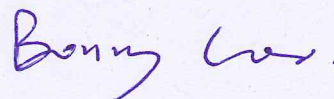
It is noted that paragraph (b)(i) of your latest reply explains that the intention of rule 13(2) of the above Rules is not to tailor a different fee for each case, but rather to allow the Hong Kong International Arbitration Centre (HKIAC) to review its costs periodically to ensure that it is not making a significant loss in the overall performance of its statutory functions. Rule 13(2) as drafted, however, does not seem to make this intention sufficiently clear, but is capable of being construed as allowing the HKIAC to impose different fees for different cases depending on their complexity.

- (a) To better reflect the HKIAC's policy intent, instead of providing for a separate power for the HKIAC to charge a fee that exceeds \$8,000, please consider whether rule 13(2) should be amended to the effect that for the exercise of any of the functions referred to in rule 13(1), the HKIAC may from time to time vary the fee referred to in that rule to the amount as described in the existing rule 13(2)(a) and (b).

- (b) It is noted that while the amount of \$8,000 is specified in rule 13(1), notification of the amount as varied by the HKIAC under rule 13(2) will only be done administratively as provided in rule 13(3)(a) and (b) instead of by way of subsidiary legislation. Will the HKIAC consider making the amount so varied subject to scrutiny and amendment by the Legislative Council (LegCo) as well?
- (c) Please provide examples of existing legislative provisions which allow amounts of fees or charges specified in primary or subsidiary legislation to be varied administratively without requiring the new amounts to be:
- (i) subject to positive or negative vetting by LegCo; or
 - (ii) published in the Gazette.

I look forward to receiving your reply (in both languages) as soon as possible.

Yours sincerely,



(Mr Bonny LOO)
Assistant Legal Adviser

cc. DoJ (Attn.: Mr LEE Tin-yan, ASG(Atg) (By Fax: 3543 0350)
Mr Manuel NG, GC (By Fax: 2845 2215))

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