



香港國際仲裁中心
Hong Kong International
Arbitration Centre

Your Ref: LS/S/29/12-13

16 September 2013

By Fax (2877 5029) and
Email (bloo@legco.gov.hk)

Mr Bonny LOO
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Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road, Central
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Dear Mr Loo

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

We refer to your letter of 21 August 2013 concerning the captioned matter (the Letter).

- (a) To better reflect the policy intent of the Hong Kong International Arbitration Centre (HKIAC), we, having consulted the Department of Justice, propose the following amendments to rule 13(2).

Delete

*“The HKIAC may charge, for the exercise of any of the functions referred to in subrule (1), a fee (**determined fee**) of an amount that—”*

Substitute

*“The HKIAC may from time to time vary the fee referred to in subrule (1), and the fee so varied (**determined fee**) must be a fee that—”*

- (b) We consider that it may not be necessary for Legislative Council (LegCo) to scrutinize and amend the amount varied by the HKIAC under rule 13(2) for the reasons as follows:



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- (i) The amount of the fees (i.e. \$8,000 - \$15,000) charged by the HKIAC for exercising its statutory functions is limited, and normally accounts for a very small portion of the total costs of an arbitration.
 - (ii) Under rule 13(2)(a), the amount of the fees that may be varied by the HKIAC is capped at \$15,000. As explained in our letter dated 12 October 2012 to the LegCo Panel on Administration of Justice and Legal Services and our earlier letter of 19 August 2013 to you, the estimated costs incurred by the HKIAC in complicated cases were \$16,609.76, and the purpose of varying the amount of the fees from time to time is to ensure that the HKIAC is not making a significant loss in the overall performance of its statutory functions.
 - (iii) The HKIAC is a non-governmental and not-for-profit organisation registered under the Company Ordinance (Cap. 32) in Hong Kong. The HKIAC Council, which comprises members from different sectors in Hong Kong (including the sectors relating to the organizations referred to in rule 3(3)(b)-(k) of the Rules) can make timely decisions to fix the amount of the Determined Fee at a reasonable level when there is a need for varying the amount of the fees.
- (c) We have been unable to locate any example from the existing legislative provisions that would match the descriptions stated in paragraph (c) of your Letter.

Yours sincerely

Chiann Bao
Secretary-General

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