On 11 August 2020, the London Court of International Arbitration (LCIA) released updates to its Arbitration Rules, which will come into effect on 1 October 2020. Here we highlight the key changes and what they mean for parties to LCIA arbitration.

Last updated in 2014, updates to the LCIA Arbitration Rules have been anticipated for some time. As with so much in 2020, the release of the planned updates has been delayed by the global pandemic. However, the LCIA has made a virtue of necessity - it has taken the opportunity to supplement the planned rule changes with further updates to reflect and embed good working practices that have been necessitated by the health crisis, such as the increased use of virtual hearings and electronic communications. The new rules should therefore facilitate arbitration in the "new world".

Commencing arbitration

The new rules allow a party to use a single, composite request for arbitration to commence more than one LCIA arbitration, whether against one or more respondents or under one or more arbitration agreements.

Under the current rules, parties can commence proceedings by submitting their request for arbitration in either electronic or paper form. From 1 October though, all requests for arbitration and responses must be submitted in electronic form, and parties will require prior permission to file documents in any other form.

Nationality
Article 6 is revised to require parties to give information on their nationality, and to clarify how nationality is to be determined. This will assist in the timely appointment of sole and presiding arbitrators (who must be of different nationality to the parties).

**Expediting proceedings**

The updates include various measures designed to further streamline and expedite proceedings.

In cases where a respondent does not file a response, the rules now enable quicker appointment of a tribunal (reduced from 35 days to 28).

The updates also introduce new tools to allow arbitrators to expedite proceedings, including limiting the use of written statements and witness evidence, and restricting the duration of hearings.

The tribunal is also given an express power of early determination, allowing the early dismissal of claims that are manifestly outside the tribunal's jurisdiction or without merit. This follows similar moves by other arbitral institutions in recent years (see "What does the ICC's summary procedure mean for arbitration?")

The new rules also provide that the tribunal shall make its final award as soon as possible, and shall endeavour to do so no later than three months following the last submission from the parties. This three month benchmark, while not binding, should give parties welcome clarity on the LCIA's expectations.

**Use of technology**

The new rules confirm that electronic communication will be the primary form of communication with arbitrators and the LCIA (as well as for submission of requests for arbitration and responses thereto).

The updates also make clear that the arbitral tribunal's power includes employing technology to enhance the efficient and expeditious conduct of the arbitration, and include slightly more expansive provisions on the use of virtual hearings - something which was referenced in the LCIA Arbitration Rules 2014, but which has become the "new normal" overnight as a result of the pandemic. This includes clarification that, if a hearing takes place otherwise than in person, it will nonetheless be treated as being conducted at the arbitral seat (this mirrors and supplements the existing provisions for in person hearings..."
The new rules also clarify that any award may be signed electronically.

**Tribunal secretaries**

For the first time, the rules include provisions on the use and role of tribunal secretaries. These reflect guidance issued by the LCIA in 2017, clarify the process for appointing a secretary and confirm that the arbitral tribunal must in no circumstances delegate its decision-making function to a tribunal secretary.

**Consolidating proceedings**

The LCIA and arbitrators are also given broader powers to order the consolidation of multiple arbitrations, or for the concurrent conduct of multiple arbitrations. Whereas the current rules allow the consolidation or concurrent conduct of arbitrations between the same disputing parties, the new rules will also extend this power to arbitrations arising out of the same transaction or series of transactions.

**Confidentiality and Data Protection**

Data protection and cyber security have been hot topics in international arbitration of late, and the new rules address this. The parties are now under a duty to seek confidentiality undertakings from all those they involve in the arbitration. The tribunal is also under a new duty to consider adopting information security measures to protect information shared in the arbitration, and means of addressing the processing of personal data in connection with the arbitration.

**Costs**

The new rules allow (but do not oblige) an emergency arbitrator to determine the costs of the emergency proceedings. They also expressly allow arbitrators to take the conduct of the parties' representatives into account when making costs awards.

**Fees**

The new rules also come with an uplift in the LCIA's fee structure. The maximum hourly rate for arbitrators increases from £450 to £500 per hour.
While many of the updates are evolutionary rather than revolutionary, they should contribute to a more streamlined process, while also reflecting the current (and likely ongoing) impetus towards more remote working practices.
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