

Introduction to Chinese European Arbitration Centre ("CEAC")

Contributed by

Lanming zhao, Partner

Transking Law Office, Beijing, China

Arbitrator, CEAC

"A useful tool for dispute resolution in China related trade and investment matters, adapted to the needs of the international business and legal community worldwide."

Background

The CEAC is an institution officially established by the Hamburg Bar Organisation (an official administration representing more than 7000 lawyers), by the Hamburg Chamber of Commerce (representing companies in Hamburg and home of the Hamburg Beijing Conciliation Centre since over 20 years) and by leading lawyers and lawfirms from around the globe. Under German law, to start its activities, the CEAC was duly registered with the Commercial Register of Hamburg at HRB 106638. It does not require a further license. The Hamburg Senator has given its explicit approval and accepted the patronage to the institution by a [letter dated 18 September](#) (which is the date of the CEAC inauguration).

The CEAC is supported by all of the over 80 founders from 19 nations and all members of the Chinese European Legal Association CELA which include many leading international lawfirms. See [CELA Founders & Members](#).

Vision and Goals

CEAC provides a top-level truly neutral dispute resolution process to enhance and facilitate China-related trade and investment matters for the international business and legal community worldwide.

CEAC solves China-related disputes in a truly international and economic way with respect to cultural differences in order to sustain global business relationships rather than bringing these to an end.

Function

CEAC serves as a twofold tool to the business and legal community:

- Firstly, during the negotiation of an international contract which has a (direct or indirect) relation to China or a China related party*, the [CEAC Arbitration Clause](#) and the [CEAC Choice of Law Clause](#) assist the parties to agree on a truly neutral dispute resolution process supplemented, if so desired by the parties, by the choice of a neutral law.
- Secondly, if a dispute arises, the CEAC administers an institutional arbitration which both safeguards equal treatment of the parties and provides efficient dispute resolution.

The CEAC does not ...

- control the contents of the procedural and material decisions of the arbitration tribunals duly constituted according to the CEAC Rules.

CEAC Arbitration Procedure

A CEAC Arbitration commences with a [Notice of Arbitration](#) to be sent by the Claimant to the other party or parties (Respondent/s) and to CEAC. The Notice of Arbitration shall include a demand to refer the dispute to arbitration, the names and addresses of the parties, a reference to the arbitration agreement or arbitration clause and a reference to the contract out of or in relation to which the dispute has arisen, as well as all other information and documents as listed in the [checklist for a notice of arbitration](#).

The Arbitration Procedure is governed by:

- a) The [CEAC Hamburg Arbitration Rules](#), which are based on the UNCITRAL Arbitration Rules, i.e. they are largely identical to the UNCITRAL Arbitration Rules and contain a limited amount of tailor-made adjustments and amendments as internationally discussed during the foundation process of CEAC.
- b) These Arbitration Rules shall be applied on the basis of the UNCITRAL Model Law based German Provisions on Arbitration in the German Code of Civil Procedure (ZPO §§ 1025 – 1066), because Hamburg is the seat of arbitration (even if the parties agree on

another place as the venue of physical meetings). These provisions have been revised in 1998 on the basis of the UNCITRAL Model Law on Arbitration. They therefore reflect the common international standard of arbitration law as known in many countries around the globe including China and most European countries.

The CEAC Hamburg Arbitration Rules contain provisions on the initiation of arbitration proceedings including the constitution of the tribunal (Art. 2-14), on the arbitration proceedings themselves (Art. 15-30, 33-34) and on the termination of proceedings (Art. 31 *et seq.*).

Checklist for a Notice of Arbitration

1. Mandatory Requirements:

a) Information

- Demand that the dispute be referred to arbitration
- Names and addresses of the parties
- Reference to the arbitration clause or the separate arbitration agreement that is invoked
- Reference to the contract out of or in relation to which the dispute has arisen
- General nature of the claim and an indication of the amount involved (if any)
- Relief or remedy sought
- Proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon

b) Documents

- Copy of the contract related to or out of which the dispute has arisen
- Copy of the arbitration agreement if not contained in the contract as arbitration clause

2. Optional Requirements:

- Proposals for the appointment of a sole arbitrator
- the full statement of claim

Model Arbitration Clause

In order to provide for dispute resolution by CEAC arbitration the parties to a China-related contract may insert in their contract the following

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in Hamburg (Germany) in accordance with the CEAC Hamburg Arbitration Rules.

- a. *The number of arbitrators shall be ____ ((i) one or (ii) three or (iii) three unless the amount in dispute is less than € ____ [e.g. 100.000 €] in which case the matter shall be decided by a sole arbitrator);*
- b. *The arbitration proceedings shall/may take place (also) in _____ (town or country);*
- c. *The language(s) to be used in the arbitral proceedings shall be _____;*
- d. *Documents also may be submitted in _____ (language).*
- e. *The arbitration shall be confidential. The parties agree that also the mere existence of an arbitration proceeding shall be kept confidential, except to the extent disclosure is required by law, regulation or an order of a competent court.*
- f. *The arbitration tribunal shall apply the CEAC Hamburg Arbitration Rules as in force at the moment of the commencement of the arbitration unless one of the parties requests the tribunal, within 4 weeks as of the constitution of the arbitration tribunal, to operate according to the CEAC Hamburg Arbitration Rules as in force at the date of the conclusion of this contract."*

The provisions in lit. a) through f) are optional. For further explanations see [Explanatory Comments](#).

Model Choice of Law Clause

"The Arbitration Tribunal shall apply the law or rules of law designated by the parties as applicable to the substance of the dispute. The parties may wish to consider the use of this model clause with the following option by marking one of the following boxes:

The contract shall be governed by

a) the law of the jurisdiction of _____ [country to be supplemented], or

b) the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) without regard to any national reservation, supplemented for matters which are not governed by the CISG, by the UNIDROIT Principles of International Commercial Contracts and these supplemented by the otherwise applicable national law, or

c) the UNIDROIT Principles of International Commercial Contracts supplemented by the otherwise applicable law.

In the absence of any such agreement, the Arbitration Tribunal shall apply the rules of law which it determines to be appropriate."

These choices of law are optional. In practice, it is often helpful if such choices are made. See the [Comments on the options](#).

For further information, please log on <http://www.ceac-arbitration.com>