

CIETAC SG WANG Chengjie's Speech
for UNCITRAL's Day 5 Webinar (15 July 2020)

Dear moderator, distinguished panelists, and dear friends online,

It is my great honor to be invited by UNCITRAL to attend this webinar and share CIETAC's experience on taking effective measures to mitigate the effect of COVID-19.

Arbitration is an important way of resolving international commercial disputes. During the pandemic, arbitration institutions around the world face the same challenge of having to ensure the fairness and efficiency of arbitration and to protect the health and safety of arbitration participants at the same time. I echo the views of my distinguished panelists. We can see that many international arbitration institutions have taken effective measures to respond to the impact of the pandemic.

As an international arbitration institution with over 60 years of history, CIETAC is no exception. We have also taken a series of measures to respond effectively, provide fair and efficient dispute resolution services, and to help the enterprises to go through the hard times. Now I will share with you the measures taken by CIETAC from the following four aspects.

I. On Online Case Filing

In virtue of its online case filing system just launched in 2019, CIETAC is able to encourage the parties to take full advantage of this system to file their arbitration application online in its emergency notice responding to the pandemic as early as January when the pandemic just broke out. The online case filing system has solved the problems in non-contact case filing, with the functions of real-time consultation, identity verification, and submission of arbitration application documents online, etc.

Also thanks to this non-contact online case filing, CIETAC's new caseload was not significantly undermined during the pandemic. By the end of June, CIETAC has accepted 1544 cases in total, with a 6% increase than the same period last year. Among them, there were 330 foreign-related or international cases, an increase of 17% compared to the same period last year, with parties from 58 countries and regions. Statistics show that the online case filing system has become an important channel for the parties to file their arbitration applications with CIETAC, which has effectively

resolved the difficulty with case filing during the pandemic.

II. Promptly Issue Procedure Guidelines on Properly Proceeding with Arbitration

To take a further step in expediting the procedures for pending arbitration cases, CIETAC took the lead in issuing its [Guidelines on Proceeding with Arbitration Actively and Properly during the COVID-19 Pandemic \(Guidelines\)](#) at the end of April, providing useful guidance and advice for the arbitral tribunals and the parties.

The Guidelines explicitly point out that during the pandemic, the arbitral tribunal still bears the responsibility to proceed with the arbitration efficiently, whereas the parties are expected to participate in the arbitral proceedings in good faith. The Guidelines suggest that the participants take full advantage of the digital technology and the current tools in the rules, such as online case filing, electronic service of documents, documents-only examination of the case, pre-hearing conferences, virtual hearings, mediation and partial awards, to mitigate the effects of the pandemic to the greatest extent and proceed with the arbitration proceedings actively and properly.

The Guidelines make it clear that the virtual hearing is a specific method of oral hearing, which is in accordance with Article 35 of CIETAC Arbitration Rules stipulating that “the arbitral tribunal shall examine the case in any way it deems appropriate”. During the pandemic, for cases to be examined with oral hearings, the arbitral tribunal is advised to first consider the possibility of holding virtual hearings. The Guidelines also explicitly provide that when deciding whether to hold a virtual hearing, the arbitral tribunal shall take into comprehensive consideration a variety of factors such as the parties’ opinions, the complexity of the case, any witness to be present, etc.; where a virtual hearing is conducted, the arbitral tribunal shall fully protect the procedural rights of the parties, afford a reasonable opportunity to both parties to present their case, and treat both parties equally, so as to ensure the enforceability of the arbitral award under the applicable procedural law.

The Guidelines also recommend that the arbitral tribunal make full use of the “oriental experience” of combining conciliation with arbitration initiated by CIETAC, and encourage the parties to reconcile their differences and overcome the difficulties together.

The Guidelines have effectively accelerated the pending arbitration

proceedings. By the end of June, CIETAC has concluded 1208 cases. Among them, over a dozen of cases were examined on a documents-only bases, nearly 400 cases were settled through mediation by the tribunal or as a result of conciliation by the parties themselves. Since CIETAC launched its Smart Oral Hearing Platform this April, 54 cases have been heard virtually, and 20 more virtual hearings have been scheduled to be held before the end of July, with parties participating from 30 different cities from the United State, Canada, Australia, Sweden, Hong Kong and Mainland China. It can be predicted that the means of virtual hearing will be gradually accepted by the parties.

III. Actively Explore Virtual Hearings

CIETAC cases often involve parties from different cities in China or different countries, hence parties concern about how to conduct oral hearings during the pandemic. To ensure the smooth holding of the virtual hearings, CIETAC has specially built up a Smart Oral Hearing Platform and released its Provisions on Virtual Hearings based on CIETAC Arbitration Rules to address the procedural and technical issues of parties' concern, such as identification verification, electronic submission of evidence, simultaneous hearing minutes, electronic signature, arbitral tribunal's deliberation, back-to-back mediation, etc. Evidence such as audio/video materials and electronic data could be easily presented on CIETAC's Smart Oral Hearing Platform. With such technology and procedural regulations, the participants can join a virtual hearing from any place, preventing the risk of in-person gatherings during the pandemic, cutting the time and cost for the parties and effectively carrying the procedures forward.

CIETAC now has 17 sub-commissions/branches located in mainland China and overseas, and has concluded cooperative agreements with over 70 dispute resolution institutions across the world with arrangement to mutually provide oral hearing facilities and assistance. Under the circumstances of retarded personal mobility during the pandemic, this has made it possible for CIETAC to satisfy the need for a hearing mode of virtual and in-person combination in some special cases, especially those cases where the physical presence of some participants is required by the parties.

In CIETAC's virtual hearings, in addition to the option of all participants using its Smart Oral Hearing Platform, there are also a bunch of cases where the tribunal, the parties or the witness respectively participated in the virtual hearing at CIETAC headquarters and its different sub-

commissions/branches.

If the parties need to verify the originals of certain documentary evidence or physical evidence, they may do so at the nearby CIETAC sub-commissions/branches. Especially in cases with witnesses, having the witness to participate in the virtual hearing at a nearby CIETAC sub-commission/branch under the supervision of CIETAC staff members could also ensure the witness' independent presentation and response to questions.

For example, in this June, an arbitration case accepted by CIETAC Hong Kong Arbitration Center (CIETAC Hong Kong) was held simultaneously in four cities of two countries in two continents. CIETAC Hong Kong held an oral hearing of virtual and in-person combination with the aid of CIETAC Fujian Sub-Commission. The witness of the Claimant attended the hearing online in Xiamen at CIETAC Fujian Sub-Commission, the witness of the Respondent participated in the hearing online in Melbourne under the supervision of the Claimant's representative. The stenographer participated in the hearing online in Shenzhen. The witness and assistance of CIETAC Hong Kong and CIETAC Fujian Sub-Commission ensured the smooth operation and confidentiality of the hearing.

Virtual hearing is an innovative approach rapidly developed in this crisis. CIETAC will continue to improve and regulate its arbitration practice of virtual hearings, and actively explore new effective approaches to proceed with arbitration under the premise of protecting the parties' rights and interest.

IV. Provide Public Legal Service and Promote International Arbitration Cooperation

In addition to providing fair and efficient dispute resolution services, CIETAC also took the initiative to provide public legal service and promote international arbitration cooperation, to serve the needs of the enterprises and help them go through the hard times.

(i) Provide Public Legal Service

As an effort to help the enterprises better respond to the pandemic, protect their legal rights, prevent the legal risks and mitigate the adverse effects, CIETAC has organized its professional arbitrators to conduct legal risk prevention studies in different industries. CIETAC has set up a [Column for Legal Risks Prevention against the Pandemic](#) on its official website, and released over 150 high-quality risk prevention research reports concerning

more than 10 industries.

Since April, CIETAC has also launched a series of CIETAC Live, producing dozens of professional and authoritative online lectures on topical issues, benefiting hundreds of thousands of online audience.

(ii) Promote International Arbitration Cooperation

CIETAC kept in touch with 82 international arbitration institutions during the pandemic, and provided anti-pandemic supplies to 34 dispute resolution institutions in need. CIETAC also joined upon invitation the joint statement on “Arbitration and COVID-19” initiated by 13 major international arbitration institutions to promote fair and efficient international dispute resolution.

CIETAC also employed its extensive branch network to provide oral hearing assistance for other international arbitration institutions. Recently, CIETAC Sichuan Sub-Commission assisted the Singapore International Arbitration Centre (SIAC) in a case with a witness in Sichuan to participate in a virtual hearing.

Faced with the unprecedented challenges posed by the pandemic, the only way out is for the international community to overcome the difficulties with joint efforts and dedication, turning the threat into opportunity and embracing the innovation along the way. The series of webinars organized by UNCITRAL are a best illustration of such joint efforts in international community. CIETAC is willing to join hands with international organizations and arbitration institutions to fight this battle against the pandemic and strive for a better future.

Thanks!