

ADOPTING A POLICY ON THE ACCEPTANCE BY CIAC ARBITRATORS OF CONSTRUCTION CASES OUTSIDE OF CIAC

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WHEREAS, Section 34 of Republic Act No. 9285 or the Alternative Dispute Resolution Act of 2004 provides that “(t)he arbitration of construction disputes shall be governed by Executive Order No. 1008, otherwise known as the Construction Industry Arbitration Law”;

WHEREAS, pursuant to the policy of the State declared under Section 2 of E.O. 1008 “to encourage the early and expeditious settlement of disputes in the Philippine construction industry”, the Construction Industry Arbitration Commission (CIAC) was created and vested with original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the country;

WHEREAS, in accordance with the law, disputes are resolved by the CIAC through Arbitral Tribunals accredited, trained, and appointed by the Commission;

WHEREAS, the Philippine Institute of Construction Arbitrators and Mediators, Inc (PICAM), an organization composed of CIAC-accredited arbitrators and mediators, raised concerns about the acceptance, by some of its members, of construction disputes outside of CIAC auspices as this would, in effect, detract from the intent and spirit of the law for these cases to be settled under the CIAC, and would undermine the CIAC as an institution;

WHEREAS, to address the concerns raised as well as to promote and strengthen the CIAC as an institution, the PICAM passed Resolution No. 01-2007, recommending the issuance by the CIAC of a policy prohibiting, with exceptions, all CIAC-accredited arbitrators from accepting domestic construction disputes for ad hoc arbitration outside of the CIAC;

WHEREAS, the Commission, after due deliberation in its 130th Regular Meeting held on 13 August 2010, and finding the PICAM recommendation to be in order, approved the same with modifications;

NOW, THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law, and based on the recommendation of the PICAM under Resolution 01-2007 (as amended during the PICAM General Assembly Meeting held on 08 December 2007), RESOLVES to adopt a policy generally prohibiting all CIAC-accredited Arbitrators from accepting domestic construction cases outside of CIAC, except in the following instances:

1. If the two members of the Arbitral Tribunal who are non-CIAC accredited arbitrators choose a CIAC-accredited arbitrator as Chairman;
2. If appointed by the Court at any level in a court-referred arbitration;
3. If appointed by the Integrated Bar of the Philippines (IBP), the Philippine Dispute Resolution Center, Inc. (PDRCI), and other similar institutions having default authority;
4. If anyone of the parties is a foreign national and decides to conduct the arbitration in the Philippines, nominating a CIAC-accredited Arbitrator as member or chairman; and
5. If the contract specified international arbitration or if the parties agree to international arbitration and to a separate set of rules outside of CIAC.

UNANIMOUSLY APPROVED.

(SGD.) ISAAC S. DAVID
Acting Chairman

(SGD.) SAMSON C. LAZO
Member

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