

Procedural Issues:

A. Does the tribunal have the jurisdiction and/or the powers under the arbitration agreement to adapt the contract, which includes in particular the question of which law governs the arbitration agreement and its interpretation?

You may analyze this question from the following aspects:

1. Which law governs the arbitration agreement? Danubian Contract Law or Mediterranean Contract Law?

Relevant law: HKIAC Rules 2018 Art. 19.2; UNCITRAL Model Law Art. 16(1), Art. 34(2)(a)(i); New York Convention Art. V(1)(a)

2. In case Danubian Contract Law governs the arbitration agreement, does the tribunal have the jurisdiction and/or the powers under the arbitration agreement to adapt the contract?

Relevant law: UNIDROIT Principles Art. 2.1.17; UNCITRAL Model Law Art. 28(3)

3. In case Mediterranean Contract Law governs the arbitration agreement, does the tribunal have the jurisdiction and/or the powers under the arbitration agreement to adapt the contract?

Relevant law: CISG Art. 8; UNIDROIT Principles Art. 4, Art. 6.2.3; UNCITRAL Model Law Art. 28(3)

B. Is CLAIMANT entitled to submit evidence from the other arbitration proceedings on the basis of the assumption that this evidence had been obtained either through a breach of a confidentiality agreement or through an illegal hack of RESPONDENT's Computer system?

You may analyze this question from the following aspects:

1. Is this evidence relevant to the case and material to the outcome of the case?

Relevant law: HKIAC Rules 2018 Art. 22.3; IBA Rules Art. 9(2)(a)

2. Would the confidentiality of the evidence render it inadmissible?

Relevant law: HKIAC Rules 2018 Art. 45/ HKIAC Rules 2013 Art. 42; IBA Rules Art. 9(2)(b); IBA Rules Art. 9(2)(e)

3. Can illegally obtained evidence be admitted? Did CLAIMANT act in bad faith or violate procedural fairness?

Relevant law: HKIAC Rules 2018 Art. 13.5; IBA Rules Art. 9(2)(g)

Substantive Issues

C. Is CLAIMANT entitled to the payment of US\$1,250,000 or any other amount resulting from an adaptation of the price under clause 12 of the contract?

You may analyze this question from the following aspects:

1. Which party should undertake the cost of the additional tariff, CLAIMANT or RESPONDENT?

Relevant law: CISG Art. 8; UNIDROIT Principles Art. 4

Relevant reference: ICC Guide to Incoterms 2010

2. In case CLAIMANT is not responsible for the additional cost of the tariff, is CLAIMANT entitled to get reimbursed through adaptation under clause 12 of the contract? And how to calculate the amount of the price adaptation?

Relevant law: CISG Art. 8; UNIDROIT Principles Art. 6.2.3

D. Is CLAIMANT entitled to get the reimbursement through adaptation by relying on CISG?

Relevant law: CISG Art. 7, Art.8, Art. 9, Art. 79; UNIDROIT Principles Art. 6.2.2, Art. 6.2.3

Relevant reference: CISG Advisory Council Opinion No. 7