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Notification No. B 10 — The International Arbitration (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 8th day of March 2012.

International Arbitration (Amendment) Bill

Bill No. 10/2012.

Read the first time on 8th March 2012.

A BILL

i n t i t u l e d

An Act to amend the International Arbitration Act (Chapter 143A of the 2002 Revised Edition) and to make related amendments to the Arbitration Act (Chapter 10 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the International Arbitration (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the International Arbitration Act (referred to in this Act as the principal Act) is amended —

- (a) by inserting, immediately after the words “permanent arbitral institution” in the definition of “arbitral tribunal” in subsection (1), the words “, and includes an emergency arbitrator appointed pursuant to the rules of arbitration agreed to or adopted by the parties including the rules of arbitration of an institution or organisation”;
- (b) by deleting the definition of “arbitration agreement” in subsection (1) and substituting the following definition:

“ “arbitration agreement” means an arbitration agreement referred to in section 2A;”;
- (c) by deleting the definitions of “data messages” and “electronic communications” in subsection (1); and
- (d) by deleting subsections (3) and (4).

New section 2A

3. The principal Act is amended by inserting, immediately after section 2, the following section:

“Definition and form of arbitration agreement

- 2A.—(1) In this Act, “arbitration agreement” means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.

(2) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(3) An arbitration agreement shall be in writing.

5 (4) An arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct or by other means.

10 (5) The requirement that an arbitration agreement shall be in writing is satisfied by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference.

15 (6) Where in any arbitral or legal proceedings, a party asserts the existence of an arbitration agreement in a pleading, statement of case or any other document in circumstances in which the assertion calls for a reply and the assertion is not denied, there shall be deemed to be an effective arbitration agreement as between the parties to the proceedings.

20 (7) A reference in a contract to any document containing an arbitration clause shall constitute an arbitration agreement in writing if the reference is such as to make that clause part of the contract.

25 (8) A reference in a bill of lading to a charterparty or other document containing an arbitration clause shall constitute an arbitration agreement in writing if the reference is such as to make that clause part of the bill of lading.

(9) Article 7 of the Model Law shall not apply to this section.

(10) In this section —

30 “data message” means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;

“electronic communication” means any communication that the parties make by means of data messages.”.

Repeal and re-enactment of section 10

5 **4.** Section 10 of the principal Act is repealed and the following section substituted therefor:

“Appeal on ruling of jurisdiction

10.—(1) This section shall have effect notwithstanding Article 16(3) of the Model Law.

10 (2) An arbitral tribunal may rule on a plea that it has no jurisdiction at any stage of the arbitral proceedings.

(3) If the arbitral tribunal rules —

(a) on a plea as a preliminary question that it has jurisdiction; or

15 (b) on a plea at any stage of the arbitral proceedings that it has no jurisdiction,

any party may, within 30 days after having received notice of that ruling, apply to the High Court to decide the matter.

20 (4) An appeal from the decision of the High Court made under Article 16(3) of the Model Law or this section shall lie to the Court of Appeal only with the leave of the High Court.

(5) There shall be no appeal against a refusal for grant of leave of the High Court.

(6) Where the High Court, or the Court of Appeal on appeal, decides that the arbitral tribunal has jurisdiction —

25 (a) the arbitral tribunal shall continue the arbitral proceedings and make an award; and

30 (b) where any arbitrator is unable or unwilling to continue the arbitral proceedings, the mandate of that arbitrator shall terminate and a substitute arbitrator shall be appointed in accordance with Article 15 of the Model Law.