

MALACANANG

Manila

**EXECUTIVE ORDER NO. 1008
CREATING AN ARBITRATION MACHINERY FOR
THE PHILIPPINE CONSTRUCTION INDUSTRY**

WHEREAS, the construction industry provides employment to a large segment of the national labor force and is a leading contributor to the gross national product;

WHEREAS, it is of vital necessity that continued growth towards national goals shall not be hindered by problems arising from, or connected with, the construction industry;

WHEREAS, there is a need to establish an arbitral machinery to settle such disputes expeditiously in order to maintain and promote a healthy partnership between the government and the private sector in the furtherance of national development goals;

WHEREAS, Presidential Decree No. 1746 created the Construction Industry Authority of the Philippines (CIAP) to exercise centralized authority for the optimum development of the construction industry and to enhance the growth of the local construction industry;

WHEREAS, among the implementing agencies of the CIAP is the Philippine Domestic Construction Board (PDCB) which is specifically authorized by Presidential Decree No. 1746 to "adjudicate and settle claims and disputes in the implementation of public and private construction contracts and for this purpose, formulate and adopt the necessary rules and regulations subject to the approval of the President";

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby authorize the creation of an arbitration machinery in the construction industry of the Philippines, and do hereby order and ordain:

SECTION 1. Title - This Executive Order shall be known as the "Construction Industry Arbitration Law".

SECTION 2. Declaration of Policy - There is hereby declared to be the policy of the State to encourage the early and expeditious settlement of disputes in the Philippine construction industry.

SECTION 3. Creation - There is hereby established in the CIAP a body to be known as the Construction Industry Arbitration Commission (CIAC). The CIAC shall be under the administrative supervision of the PDCB.

SECTION 4. Jurisdiction - The CIAC shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines, whether the disputes arises before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts. For the Board to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration.

The jurisdiction of the CIAC may include but is not limited to violation of specifications for materials and workmanship; violation of the terms of agreement; interpretation and/or application of contractual provisions; amount of damages and penalties; commencement time and delays; maintenance and defects; payment default of employer or contractor and changes in contract cost.

Excluded from the coverage of this law are disputes arising from employer-employee relationships which shall continue to be covered by the Labor Code of the Philippines.

SECTION 5. Composition of the Board - The Commission shall consist of a Chairman and two (2) members, all to be appointed by the CIAP Board upon recommendation by the members of the PDCB.

SECTION 6. Functions of the Commission - The Commission shall perform, among others that may be conferred by law, the following functions:

1. To formulate and adopt an arbitration program for the construction industry;

2. To enunciate policies and prescribe rules and procedures for construction arbitration;
3. To supervise the arbitration program, and exercise such authority related thereto as regards the appointment, replacement or challenging of arbitrators; and
4. To direct its officers and employees to perform such functions as may be assigned to them from time to time.

SECTION 7. Compensation of the Commission - The members of the Commission shall receive such per diems and allowances as may be fixed by the CIAP from time to time.

SECTION 8. Term - The term of office of the members of the Commission shall be six (6) years ; provided, however, that of the Commission members first appointed, the chairman shall hold office for six years; the other member for four (4) years; and the third for two (2) years. The appointment to any vacancy in the Commission shall only be for the unexpired portion of the term of the predecessor.

SECTION 9. Quorum - The presence of a majority of the members of the Commission shall constitute a quorum for the transaction of business.

SECTION 10. Deliberations - The decisions of the Commission shall be arrived at by a majority vote.

SECTION 11. Secretariat - The Commission shall have a Secretariat to be headed by an Executive Director who shall be responsible for receiving requests for arbitration and other pleadings; for notifying the parties thereto; and, for fixing and receiving filing fees, deposits, costs of arbitration, administrative charges, and fees. It shall be the duty of the Executive Director to notify the parties of the awards made by the arbitrators.

The Secretariat shall have among others a Publication and a Training Division.

SECTION 12. Authority to Appoint - The Commission is hereby authorized to appoint the Executive Director, the consultants, the arbitrators, as well as personnel and staff.

SECTION 13. Authority to Collect Fees - The Commission is empowered to determine and collect fees, deposits, costs of arbitration, as well as administrative and other charges as may be necessary in the performance of its functions and responsibilities. The CIAC is authorized to use its receipts and deposits of funds to finance its operations subject to the approval of the PDCB, the provisions of any law to the contrary notwithstanding.

SECTION 14. Arbitrators - A sole arbitrator or three arbitrators may settle a dispute.

Where the parties agree that the dispute shall be settled by a sole arbitrator, they may, by agreement, nominate him from the list of arbitrators accredited by the CIAC for appointment and confirmation. If the parties fail to agree as to the arbitrator, the CIAC taking into consideration the complexities and intricacies of the dispute/s has the option to appoint a single arbitrator or an Arbitral Tribunal.

If the CIAC decides to appoint an Arbitral Tribunal, each party may nominate one (1) arbitrator from the list of arbitrators accredited by the CIAC for appointment and for confirmation. The third arbitrator who is acceptable to both parties confirmed in writing shall be appointed by the CIAC and shall preside over the Tribunal.

Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. They shall not be permanently employed with the CIAC. Instead, they shall render services only when called to arbitrate. For each dispute they settle, they shall be given fees.

SECTION 15. Appointment of Experts - The services of technical or legal experts may be utilized in the settlement of disputes if requested by any of the parties or by the Arbitral Tribunal. If the request for an expert is done by either or by both of the parties, it is necessary that the appointment of the expert be confirmed by the Arbitral Tribunal.

Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders service. When only one party makes the request, it shall deposit the whole amount required.

SECTION 16. Arbitration Expenses - Arbitration expenses shall include the filing fee, administrative charges, arbitrator's fees; fee and expenses of the expert, and others which may be imposed by the CIAC.

The administrative charges and the arbitrator's fees shall be computed on the basis of percentage of the sum in dispute to be fixed in accordance with the Table of Administrative Charges and Arbitrator's Fees.

SECTION 17. Deposit to Cover Arbitration Expenses - The CIAC shall be authorized to fix the amount to be deposited which must be equivalent to the expected arbitration expenses. The deposit shall be paid to the Secretariat before arbitration proceedings shall commence. Payment shall either be shared equally by the parties or be paid by any of them. If one party fails to contribute his share in the deposit, the other party must pay in full. If both parties fail to tender the required deposit, the case shall be considered dismissed but the parties shall still be liable to pay one half (1/2) of the agreed administrative charge.

SECTION 18. Reports - The Commission shall, within three (3) months after the end of the fiscal year, submit its annual report to the CIAP. It shall, likewise, submit such periodic report as may be required from time to time.

SECTION 19. Finality of Awards - The arbitral award shall be binding upon the parties. It shall be final and inappealable except on questions of law which shall be appealable to the Supreme Court.

SECTION 20. Execution and Enforcement of Awards - As soon as a decision, order or award has become final and executory, the Arbitral Tribunal or the single arbitrator, with the concurrence of the CIAC, shall motu proprio or on motion of any interested party, issue a writ of execution requiring any sheriff or other proper officer to execute said decision, order or award.

SECTION 21. Rule-Making Power - The CIAC shall formulate and adopt necessary rules and procedures for construction arbitration.

SECTION 22. Separability Clause - The provisions of this Executive Order are declared to be separable and if any provision on the application hereof is held invalid or unconstitutional, the validity of the remaining provision not otherwise affected shall remain in full force and effect.

SECTION 23. Repealing Clause - All provisions of existing laws, proclamations, decrees, letters of instructions and executive orders contrary to or inconsistent herewith are hereby repealed or modified accordingly.

SECTION 24. Effectivity of Clause - This Executive Order shall take effect immediately.

Done in the City of Manila, this 4th day of February in the Year of our Lord, Nineteen Hundred and Eighty-Five.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant