

THE LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON EXTERNAL ECONOMIC ARBITRATION

Adopted by Decree No. 875 of the Presidium of the Supreme People's Assembly on July 21, 1999, and approved by Ordinance No. 5 of the Supreme People's Assembly on April 6, 2000

Chapter 1. Fundamentals

Article 1. The Law of the Democratic People's Republic of Korea on External Economic Arbitration shall contribute to correct examination and settlement of external economic disputes and protection of the rights and interests of the parties to a dispute through establishment of a strict system and order in the settlement of external economic disputes.

Article 2. External economic disputes shall be settled by arbitration committees such as Korean International Trade Arbitration Committee and Korean Marine Arbitration Committee.

The Korean International Trade Arbitration Committee shall deal with disputes related to trade, investment and service; and the Korean Marine Arbitration Committee shall handle disputes in connection with marine transport, marine salvage and general average.

Article 3. An arbitration committee shall be composed of chairman, vice chairman, secretary-general and other members.

The chairman, vice-chairman and secretary-general shall be responsible for the work of the committee.

Article 4. External economic arbitration shall handle the following disputes:

1. Disputes between an institution, enterprise or association of the DPRK and a foreign enterprise,
2. Disputes between an institution, enterprise or association of the DPRK and a foreign-invested enterprise,
3. Disputes between different foreign-invested enterprises,
4. Disputes between a foreign-invested enterprise and a foreign enterprise,
5. Disputes between different foreign enterprises, and
6. Disputes between an institution, enterprise or association of the DPRK or a foreign-invested enterprise or a foreign enterprise and an overseas Korean compatriot or a foreigner.

Article 5. External economic arbitration shall take place when a written proposal for arbitration is submitted by a party to a dispute according to a written agreement between the parties to the dispute.

The written agreement shall include the arbitration clause contained in the contract or an arbitration contract that has been concluded after the occurrence of the dispute.

Article 6. The State shall ensure that external economic disputes are settled in an objective, scientific, unbiased and rapid way and the party who has defaulted is held responsible.

Article 7. The State shall respect the international treaties and practice and develop cooperation and exchange with foreign countries and international organizations in arbitration activities.

Chapter 2. Application for Arbitration

Article 8. A party to a dispute may apply for an arbitration in order to protect his rights and interests.

An application for arbitration shall be made by submitting a written application for arbitration and other documents to be attached thereto to the arbitration committee within the period of prescription.

Article 9. An application for arbitration shall contain the following information:

1. Title (or name), legal address of the party to the dispute, and his legal representative (or his agent),
2. Agreed items of arbitration such as the arbitration institution and governing law,
3. Contents and amounts of the claim,
4. Expression of an intention as to the selection of the arbitrator or his name, and
5. Other necessary information.

Article 10. The following documents shall be attached to the application for arbitration:

1. Arbitration clause or the original copy of the arbitration contract,
2. A document certifying the payment of the arbitration fee,
3. The document of claim that has been submitted to the other party before applying for arbitration,
4. Documents proving a violation of contractual obligations by the defendant, and
5. Other necessary documents.

Article 11. An arbitration applicant shall pay the arbitration fee at the time of submitting the application documents.

The arbitration fee shall be calculated according to a set rate depending on the amount of claim.

Where necessary, part of the arbitration fee may be used by the arbitration committee to cover the arbitration expenses.

Article 12. The arbitration committee shall examine the application documents and decide whether to accept or reject the application within 10 days.

Where it is decided to accept the application, the arbitration committee shall send a list of arbitrators to the applicant and a notice of acceptance of

arbitration application accompanied by the application documents, a list of arbitrators and the like to the defendant within the set time limit.

Article 13. The defendant shall, within 30 days of receipt of the notice of acceptance of arbitration application, submit a response in writing expressing his opinion about the arbitration application and the selection of the arbitrators as well as documents of proof to the arbitration committee.

Arbitration proceedings shall not be affected even if the response and documents of proof are not submitted.

Article 14. The defendant may apply for a counter arbitration against the original arbitration application, in which case the requirements specified in Articles 9 and 10 of this law shall be satisfied.

A counter arbitration shall be directly related to the original arbitration and applied to the arbitration committee before the completion of the arbitration proceedings.

Article 15. An arbitration applicant may change or cancel his application for arbitration or waive his claim.

In case of a change or cancellation of an arbitration application, the application may be filed again within the prescription period.

However, in case a claim has been waived, the same claim shall not be made again.

Article 16. A party to a dispute may apply for, or make a response on an arbitration through his agent.

This agent may be a DPRK citizen or a foreigner. In this case, the agent will submit a letter of attorney to the arbitration committee.

Article 17. Where a party to an arbitration institutes a civil suit for an external economic arbitration case which it has been agreed to settle through an arbitration or for which an arbitral award has been given, the court shall return the relevant documents to the suer.

Chapter 3. Arbitral Examination

Article 18. Arbitral examination shall be conducted by an arbitral board composed of one or three arbitrators.

An arbitrator shall be independent in the handling of disputes and shall not represent a party to a dispute.

Article 19. Any of the following people may act as an arbitrator:

1. A member of the arbitration committee concerned,
2. An official working in the legal or economic sector and capable of examining and settling a dispute,
3. A person with an experience of working as a lawyer or a judge, and
4. Where necessary, an overseas Korean compatriot or a foreigner who is well known in the field of arbitration.

Article 20. The arbitration committee shall keep a list of arbitrators.

The list of arbitrators shall contain the names, positions, qualifications

and career of arbitration activities of the arbitrators.

Personal information of an arbitrator may be carried in publications.

Article 21. The number of arbitrators to examine and settle a dispute shall be decided through agreement between the parties to the dispute.

Where the parties fail to agree on the number of arbitrators, it shall be decided by the arbitration committee.

Article 22. The arbitrator to examine and settle a dispute shall be selected by the parties to the dispute from the list of arbitrators.

Where the parties fail to select an arbitrator within the set time limit, he shall be selected by the arbitration committee.

The relevant institutions shall provide conditions for the work of the selected arbitrator.

Article 23. Parties to a dispute may request the relevant arbitration committee to change an arbitrator.

The arbitration committee shall discuss the request, make a decision and notify the applicant of the decision.

Article 24. Where an arbitrator is not in a position to handle the case in question due to unavoidable circumstances, he may apply for a waive.

In this case, the arbitration committee shall notify the parties to the dispute and let them select another arbitrator.

Article 25. The date, time and place of the arbitration examination shall be determined by the arbitral board.

The arbitration committee shall notify the parties to the dispute of the date, place and time of the arbitration examination and the like not later than 30 days before the beginning of the arbitration examination.

A party to a dispute who has been notified of the beginning of the arbitration examination may request the arbitration committee not later than 10 days before the date of the examination to change any of the contents notified to him.

Article 26. Arbitration examination shall take place as a closed session at the seat of the relevant arbitration committee.

Upon request by the parties to the dispute, the arbitration examination may be open to the public or may take place at a place other than the seat of the committee.

Article 27. Arbitration examination shall be attended by the legal representative or his agent.

Where necessary, both the legal representative and the agent may be present.

Article 28. The arbitrator shall announce the beginning of the arbitration examination, allow the applicant to make a statement of claim and get the defendant to make a response.

When the parties have finished their statements, they shall be examined and allowed to interrogate each other.

Article 29. A party to the dispute may present an evidence and request the arbitrator to allow a witness or expert witness to participate in the arbitration examination.

Where the request is deemed reasonable, the arbitrator shall request the arbitration committee to allow the relevant witness or expert witness to attend the arbitration examination,

Article 30. A party to a dispute may request measures to be taken related to the preservation of evidence and asset security.

In this case, the arbitration committee shall examine it and make a request to the relevant court.

Article 31. The arbitrator shall suspend the arbitration examination if he discovers a ground for the suspension or dismissal of the case in the course of examination, and he shall finish examination when the objective of the arbitration examination has been achieved.

The period of arbitration examination shall not exceed 5 months from the date of receipt of the written application for arbitration.

Article 32. A protocol of arbitration examination shall be prepared by the secretary and signed by the arbitrator and the secretary.

Recording or video recording of the arbitration examination may be allowed only with the approval of the parties to the dispute.

A party to the dispute may be allowed to read the protocol of arbitration examination.

Article 33. Parties to a dispute may make a compromise at any time.

Where a compromise is made between the parties to a dispute, the arbitration examination under way shall be terminated.

Article 34. An external economic dispute may also be settled through reconciliation.

Reconciliation shall be made if the parties agree to a proposal advanced by the reconciler at the reconciliation council composed of the reconciler and the parties to the dispute.

Chapter 4. Arbitral Award and its Execution

Article 35. An arbitral award shall be announced within 30 days after the completion of the arbitration examination.

In unavoidable circumstances, the arbitrator may request the arbitration committee to extend the period of announcement of an arbitral award.

Article 36. An arbitral award shall contain the following information:

1. Title (or name), legal address of the parties to the dispute, and his legal representative (or his agent),

2. Date of the arbitration examination and the names of the arbitrator and secretary,

3. Name of the case and the participants in the arbitration examination,

4. Contents of the claim of the applicant and contents of the response of the defendant,
5. Facts and evidence proved in the examination,
6. Governing laws and regulations on which the award is based,
7. Conclusions regarding the settlement of the case,
8. Provisions for the arbitration expenses,
9. Date of the announcement of the arbitral award, and
10. Other necessary information.

Article 37. An arbitral award shall be prepared in Korean. A translated version may be attached upon request by a party to a dispute.

In case of a discrepancy in interpretation between the translated and Korean versions, the original Korean version shall prevail.

Article 38. An arbitral award shall be effective only if it bears the signature of the arbitrator and the official seal of the arbitration committee.

Where 3 arbitrators have examined a dispute, any arbitrator who does not agree to the majority opinion shall not sign the arbitral award. In this case, a letter of explanation shall be attached to the protocol of arbitration examination to be submitted to the arbitration committee.

Article 39. The arbitrator may decide suspension of the arbitration examination, dismissal of the case or compromise.

When an event that had caused suspension of the examination disappears, the examination shall be resumed.

A compromise decision shall state the conditions for compromise.

A compromise decision shall have the same validity as an arbitral award.

Article 40. An arbitral award shall be sent or handed over in person to the parties to the dispute by the arbitration committee.

Where the legal address has been changed after applying for arbitration, the party concerned shall notify the arbitration committee of it in time.

Article 41. A party to a dispute shall perform his obligations within the time limit stated in the arbitral award.

A party to a dispute who is aggrieved by an arbitral award may request the arbitration committee to modify, amend or interpret certain expressions or provisions within 30 days from the date of receipt of the award and may within 6 months request the relevant court to cancel an award that is deemed to be wrong.

Article 42. Where the responsible party fails to perform in time his obligations stated in the award or performs the obligations unfaithfully, the other party may apply for the execution of the award to a court having jurisdiction over the area where the former is residing or where the property that is the object of execution is located.

Article 43. Where the object of execution is located outside the territory of the DPRK, execution of the award may be applied for to a foreign court.