
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 amended by Decree No. 2806 of the Presidium of the Supreme People's Assembly on July 29, 2008

Chapter 1 Fundamentals

Article 1 (Objective)

This Law is enacted for the purpose of providing strict guidelines for the settlement of external economic disputes, thereby ensuring proper examination and settlement thereof and protecting the rights and interests of the parties thereto.

Article 2 (Definitions)

In this Law, the following terms shall be construed as follows:

1. *External economic arbitration* means a system of dispute settlement, according to which disputes arising in external economic transactions are, subject to the agreement of the parties concerned, resolved in accordance with the award of the arbitral tribunal and not by the judgement of a court ;

2. *Arbitration agreement* means an agreement by the parties to submit to arbitration certain disputes that have arisen or may arise between them in respect of contractual or other economic legal relationships;

3. *Arbitral tribunal* means a single arbitrator or a panel of three arbitrators who are responsible for the settlement of external economic disputes;

4. *Award* means a decision made by an arbitral tribunal after examining an external economic dispute;

5. *Foreign elements* mean the conditions related to foreign countries on account of one of the parties to a dispute being a corporate body or an individual of a foreign country and the place of business, residence or domicile, the property at dispute or place of arbitration being in a foreign country;

6. *Arbitration committee* means a permanent arbitral institution that is in charge of organizing the settlement of external economic arbitration and settling issues arising in the course of arbitration;

7. *Judicial institution* means the Supreme Court or an institution designated by the Supreme Court;

8. *Institution concerned* means a competent State institution outside the judicial institution;

and
9. *Mediation* means an act undertaken for a dispute settlement by a third party, leading the parties concerned to compromise or conciliation.

Article 3 (Features of external economic arbitration)

External economic arbitration shall be conducted without any limitation of regional jurisdiction and no instance shall be set, with the award of the arbitral tribunal being final and conclusive.

Article 4 (Disputes to be settled by external economic arbitration)

The following disputes shall be settled by external economic arbitration:

1. Disputes that have foreign elements and have arisen in the course of external economic transaction in respect of which the parties concerned have agreed to refer to arbitration; and
2. Disputes which the State has decided to settle in accordance with the external economic arbitration procedures.

Article 5 (Parties to arbitration)

The institutions, enterprises and organizations concerned shall be the parties to the external economic arbitration.

Individual citizens may also be parties to arbitration if circumstances so require.

Article 6 (Principles in dispute settlement)

External economic disputes shall be settled on the basis of objectivity, scientific accuracy, impartiality and expedition, and the party that has defaulted shall be held liable.

Article 7 (Effect of notice)

Unless otherwise agreed by the parties concerned, a notice shall be deemed to have been received if it is served directly on the person concerned or delivered to his place of business or residence or postal address. In case the address of the party concerned is unknown, the notice shall be deemed to have been received only when it is sent to his last-known place of business and residence and postal address.

Article 8 (Right to raise objection, validity)

In case where a party concerned fails to raise an objection immediately or within the prescribed period of time though he is aware that the arbitration is being conducted in violation of the arbitration agreement or this Law, allowing the given arbitral case to be continued to be dealt with, he shall be deemed to have waived his right to raise an objection.

Article 9 (Transfer of arbitral case)

Where an arbitral case that falls under article 4 of this Law is referred to a judicial institution or the parties concerned brought an action before a judicial institution disregarding the arbitral agreement they had already made, the case in question shall be transferred to the arbitration committee.

Where an arbitration agreement is not valid, the foregoing shall not be applicable.

Article 10 (Independence of arbitral tribunal)

The State shall ensure that the arbitral tribunal is fully independent in dealing with and settling the cases referred to external economic arbitration.

No one shall interfere in the dealing with and settlement of disputes, save in cases as are prescribed in this Law.

Article 11 (International exchange and cooperation)

The State shall respect the international laws and practices in conducting external economic arbitration and promote cooperation and exchange with foreign countries and international organization in that regard.

Chapter 2 Arbitration Agreement

Article 12 (Arbitration agreement, procedures thereof)

Parties concerned may agree to refer to arbitration the disputes that may arise in the course of conducting external economic transactions.

Arbitration agreement shall be made by including the arbitration clause in the contract concerned or preparing a separate arbitral document.

Arbitration agreement may be made even after a dispute has arisen.

Article 13 (Manner of making arbitration agreement)

Parties concerned shall make an arbitration agreement in writing.

In case where the intention concerning arbitration is specified in a document signed by a party concerned or in correspondence, fax or e-mail exchanged between the parties concerned, and in case an arbitration agreement is made verbally, by action or other means or form but whose contents are put in a record or verified by evidence, an arbitration agreement shall be deemed to have been made.

Article 14 (Admission as arbitration agreement in the absence of written agreement)

In cases where a party does not object to the suggestion of the other party for arbitration agreement, or a respondent does not object to the suggestion of the claimant for arbitration agreement and submits a response, arbitration agreement shall be deemed to have been made though a written agreement has not been made.

Article 15 (Reasons for invalidation of arbitration agreement)

An arbitration agreement shall be invalidated in cases where:

1. Arbitral agreement has gone beyond the arbitral jurisdiction prescribed by law;
2. A party is incompetent at the time of making the agreement; and
3. An arbitral agreement is made under coercion.

Article 16 (Relationship between arbitration agreement and conservation measures)

Request for such interim measures as conservation of property made by one party to the arbitration committee, the arbitral tribunal, the court or a competent authority before applying for arbitration or at the stage of dealing with a case and approval thereof shall not conflict with an arbitration agreement.

Article 17 (Conditions for requesting for arbitration)

Request for arbitration shall be made on following conditions:

1. An arbitral agreement should have been made;
2. There should be claims in detailed accounts and grounds thereof; and
3. The dispute in question should fall under the jurisdiction of the arbitration committee.

Where a request for dispute lacks any of the conditions in the foregoing paragraph, the arbitration committee shall not receive it.

Article 18 (Manner of making request for arbitration, receipt or dismissal thereof)

Request for arbitration shall be made by submitting to the arbitration committee a request for arbitration and other documents required by the committee.

The arbitration committee shall examine a request for arbitration within 5 days of receipt thereof, and in case of approval, send a notice of receipt to the parties concerned and in case of rejection a notice of rejection to an applicant concerned with the reasons thereof stated.

Article 19 (Request for arbitration by agent)

A party to a dispute may make a request for arbitration or raise a plea through his agent. An agent may be a citizen of the DPRK or a foreigner. The agent shall present a letter of delegation to the arbitration committee or the arbitral tribunal.

Chapter 3 Arbitral Tribunal

Article 20 (Composition of arbitral tribunal)

The number of arbitrators of the arbitral tribunal shall be decided by agreement between the parties concerned.

In the absence of such agreement, the arbitration committee shall appoint one or three arbitrators.

Article 21 (Procedures for appointment of arbitrators)

Procedures for the appointment of arbitrators shall be decided by agreement between the parties concerned.

In the absence of agreement between the parties concerned, arbitrators shall be appointed according to the following procedures:

1. Where an arbitral tribunal is to be composed of three arbitrators, each party may select one arbitrator, who shall, within 15 days, select the chief arbitrator; in case the parties concerned fail to select the arbitrators or the two arbitrators selected fail to select the chief arbitrator, the arbitration committee shall do the selecting upon request by one of the parties concerned or an arbitrator selected; and

2. Where an arbitral tribunal is to be composed of one arbitrator, the parties concerned shall select an arbitrator by agreement; in case of failure in agreement, the arbitration committee shall select an arbitrator upon request by one of the parties concerned.

Parties concerned shall not lodge any complaints against the decision made by the arbitration committee in accordance with para. 2.

Article 22 (Obligation of arbitration committee in respect of appointment of arbitrator)

The arbitration committee shall, if the circumstances so require, appoint arbitrators who are known to be impartial and independent, with due account taken of the wishes of the parties concerned or the qualification of arbitrators as are prescribed in this Law.

Article 23 (Eligibility for arbitrators)

The following persons shall be eligible for arbitrators:

1. A member of an arbitration committee;
2. An official in the legal or economic sector capable of examining and settling a dispute;
3. A person with a career of a lawyer or a judge; or
4. An overseas Korean or a foreigner renowned in the field of arbitration.

Article 24 (Reasons for exclusion of arbitrator)

An arbitrator shall, from the time of his appointment as an arbitrator to the time of completion of settlement of a case in question, disclose to the arbitration committee and the parties concerned any matter that may give rise to doubt as to his impartiality and independence.

An arbitrator shall be excluded in case where there exists any doubt as to his impartiality and independence, or he fails to possess the qualification prescribed in this Law or agreed upon by the parties concerned.

Article 25 (Procedures for exclusion of arbitrator)

Parties concerned may agree on the procedures for exclusion of an arbitrator.

In the absence of agreement by the parties concerned, the party that wishes an arbitrator excluded shall, within 10 days of learning the reasons for exclusion of an arbitrator provided for in article 24 of this Law, file with the arbitral tribunal a request to that effect, with the reasons thereof specified.

In case where an arbitrator whose exclusion has been requested refuses to withdraw, or the other party refuses to agree to filing a request for exclusion, the arbitral tribunal shall make a decision on either approving or rejecting the request filed.

Where an arbitrator is not excluded according to the procedures agreed upon by the parties concerned or specified in the foregoing paragraph, a requesting party may again file a request with the arbitration committee within 15 days of receiving the notice of the arbitral tribunal of rejection of the request.

Parties concerned shall not lodge complaints against the decision of the arbitration committee concerning the request for exclusion of an arbitrator. An arbitrator shall, even during the period when a request has been submitted for the exclusion of himself, be allowed to deal with the case in question and render an award.

Article 26 (Reasons for withdrawal or replacement of arbitrator)

An arbitrator shall withdraw of himself or be replaced by agreement of the parties concerned or according to decision of the arbitration committee in cases where:

1. There exists legal or other obvious reasons for which an arbitrator is not allowed to carry out his assignments; and
2. An arbitrator delays the settlement of a case without any justifiable reasons.

Article 27 (Procedures for re-appointing arbitrator)

Where an arbitrator is excluded, withdraws or replaced, another arbitrator shall be appointed following the same procedures that applied to the former.

Article 28 (Powers of arbitral tribunal)

The arbitral tribunal shall have the power to check whether an arbitration agreement has been made or not, to decide whether or not to use the objections raised as to the effect of arbitration agreement and the evidence presented as the basis of dispute settlement and judgement, as well as the pertinence of the evidence and the jurisdiction of itself.

In case of determining the existence of an arbitration agreement and its effect, the arbitral tribunal shall consider the arbitration clause of a contract separately from the effect of other clauses therein.

Decision on invalidation of a contract concerning dispute shall not affect the effect of an arbitration clause.

Article 29 (Raising of objections in respect of arbitral tribunal)

Parties concerned shall, in case they deem so, challenge the jurisdiction of the arbitral tribunal within the period prescribed for the presentation of the first response. The challenge may be presented even if the party concerned appointed the arbitrator or was involved in the appointment.

Objections as to the arbitral tribunal exercising authority outside its jurisdiction shall be submitted immediately upon occurrence of the matter and within the period of dealing with the case.

The arbitral tribunal may accept the objections of the parties concerned if they were submitted later than the prescribed period of time for justifiable reasons.

Article 30 (Settlement of objections concerning arbitral tribunal)

The arbitral tribunal may either render a separate decision concerning the objections that fall under article 29 of this Law or include the decision in the award.

Where it is deemed that the arbitral tribunal has a separate jurisdiction, an aggrieved party may, within 15 days of receiving the notice on decision, make a request to the arbitration committee to reconsider the matter. No complaints shall be lodged against the decision made by the arbitration committee concerning the request for reconsideration.

The arbitral tribunal may continue to deal with the case concerned or render an award even during the period when the arbitration committee is settling the request made.

Article 31 (Interim measures)

The arbitration committee or the arbitral tribunal may, if the settlement of a request of one of the parties or of dispute so requires, make a decision on such interim measures as conservation of property and require the requesting party and the requested party to provide a security for the interim measure.

In case a party concerned refuses to execute the decision concerning the interim measure, the arbitral tribunal may refer the execution to a court or an institution concerned.

The court or an institution concerned shall, within 10 days of being referred the execution of the interim measure, shall take a relevant measure and notify the result thereof to the arbitral tribunal.

Article 32 (Withdrawal or cancellation of interim measure)

Where the decision on interim measure and execution thereof is proved uncalled for or wrongful, the arbitration committee or the arbitral tribunal shall have them immediately withdrawn or cancelled.

Chapter 4 Arbitration Procedures

Article 33 (Status of parties concerned)

Parties concerned shall have equal status in dealing with and settling disputes, and shall be given sufficient opportunity to state their claims.

Article 34 (Determination of arbitration procedures)

Arbitration procedures shall be decided by agreement between the parties concerned.

In the absence of agreement between the parties concerned, the procedures set out in this Law shall be applicable.

Article 35 (Venue of arbitration)

Venue of arbitration shall be decided by agreement between the parties concerned.

In the absence of agreement between the parties concerned, the arbitral tribunal shall designate the venue in consideration of the convenience of the party concerned and overall condition for the settlement of the case.

Unless otherwise agreed by the parties concerned, the arbitral tribunal may, in a place other than the designated arbitration venue, conduct such acts as holding consultation among arbitrators, verifying facts with witnesses, expert witnesses and others related to the case and conducting inquiries into property or documents.

Article 36 (Date of commencement of arbitration)

Unless otherwise agreed by the parties concerned, the arbitration shall be deemed to have commenced on the date on which the person against whom the request for arbitration is made receives a notice of receipt of arbitration.

Article 37 (Language)

Parties concerned may determine by agreement the language to be used in the proceedings.

In the absence of agreement between the parties concerned, the arbitral tribunal shall determine the language; in the absence of the decision of the arbitral tribunal, Korean shall be used.

The language so designated shall be used in the preparation of documents of the parties concerned, in the proceedings, rendering an award or a decision and making other notifications.

Article 38 (Statement of claim or defence)

The claimant shall, within the period of time prescribed by the arbitral tribunal, submit a statement of claim, a summary of the dispute and specific relief sought, and the defendant shall submit a statement of defence.

Parties concerned may present documentary evidence or exhibits, as well as amending or supplementing their statement of claim or defence within the period of dealing with the case.

The arbitral tribunal may not allow the amending or supplementing of statements of claim or defence if it is deemed that they are unreasonable and thus cause a delay to the settlement of the case.

Article 39 (Manner of proceedings)

Unless otherwise agreed by the parties concerned, the arbitral tribunal shall determine whether the proceedings are to be conducted orally or by means of document.

Save for the cases in respect of which the parties concerned have agreed not to conduct the proceedings orally, oral hearing shall be held at the necessary stages of dealing with a case and upon request by one party.

Article 40 (Dealing with defaults of party concerned)

Where a claimant fails to submit a statement of claim without any justifiable reasons, the handling of the case concerned shall be suspended; where a defendant fails to submit a statement of response without any good reasons the case shall not be discontinued.

In the case of the foregoing failure by a defendant to submit a statement of response shall not be considered as his acceptance of the statement of the claimant.

Failure of either of the claimant or the defendant to participate in the proceedings or submit documentary evidence without any valid cause shall not prevent the arbitral tribunal from conducting the hearing of the case and rendering an award on the basis of presented evidence.

The preceding paragraph shall not apply in case the parties have agreed otherwise or the arbitral tribunal deems there is justifiable reason.

Article 41 (Expert witness, witness)

Unless otherwise agreed by the parties concerned, the arbitral tribunal shall designate an expert witness and provide him with necessary information or ask the parties concerned to present to him necessary documents and articles.

An expert witness and witnesses may be allowed to participate in the proceedings and make responses upon request by one of the parties or in case the arbitral tribunal deems it necessary.

Article 42 (Referral of investigation of evidence)

The arbitral tribunal may, upon request of a party concerned or if deemed necessary, conduct an investigation of evidence or refer the investigation thereof to a court or an institution concerned.

A party concerned may also make a request for the investigation of evidence subject to the permission of the arbitral tribunal.

In case of making a request for the investigation of evidence, necessary details shall be specified in the document.

Article 43 (Notification of results of investigation of evidence)

The institution concerned shall, within 15 days of receiving the request for investigation of evidence, conduct the investigation thereof and send to the arbitral tribunal via the arbitration committee such documents as a copy of protocol of witness examination, of expert opinion and of report on admissibility of evidence.

Article 44 (Counter-claim)

A defendant may apply for counter-claim against an arbitration case received.

The counter-claim should be directly related to the original claim and instituted before the completion of proceedings.

The arbitration committee may refuse to receive an application for counter-claim if it is deemed that the counter-claim may cause the delay of the settlement of the case.

Chapter 5 Award

Article 45 (Governing law of award)

Governing law of an award shall be determined by agreement between the parties concerned.

In the absence of agreement between the parties concerned, the law that is most closely related to and applicable to the dispute in question shall be applied. In this case a decision or an award shall be rendered taking into consideration the terms and conditions of contracts and the international practice.

Article 46 (Manner of making decision at arbitral tribunal)

The arbitral tribunal composed of three arbitrators shall make a decision by a majority vote.

The chief arbitrator shall be allowed to make a decision by agreement between the parties concerned or among the members of arbitral tribunal.

Article 47 (Conciliation)

Parties concerned may make conciliation at any stage of dealing with an arbitration case.

In case the parties concerned come to conciliation, the arbitral tribunal shall close the case and render a decision on conciliation.

A decision on conciliation shall have the same effect as an award in respect of the case concerned.

Article 48 (Mediation)

Mediation may be one of the ways of settling external economic disputes.

A decision on mediation shall have the same effect as an award in respect of the case concerned.

Article 49 (Manner of preparing award)

An award shall be prepared in writing.

An award shall bear the signature of an arbitrator; in case the arbitral tribunal is composed of three arbitrators, the signatures of majority of arbitrators shall be affixed thereto.

Article 50 (Contents of award)

An award shall contain the reasons for rendering such award, date of its preparation and the venue of arbitration.

An award shall be deemed to have been rendered on the date and at the venue specified therein.

Article 51 (Dispatching of award)

Where an award is rendered, the arbitration committee shall either dispatch or give it directly to the parties concerned.

Article 52 (Closing of arbitration)

An arbitration shall be closed by an award; it shall be closed by a decision of the arbitral tribunal in cases where:

1. A claimant withdrew the request for arbitration;
2. A claimant have agreed with a defendant to close the arbitration; and
3. The arbitral tribunal deems it unnecessary or impossible to continue with the arbitration.

The arbitral tribunal shall not close an arbitration case where the claimant has revoked a request for arbitration but the defendant refuses to agree thereto and it is deemed that settlement of the dispute by arbitration is in the interest of the defendant.

The work of the arbitral tribunal shall be completed with the closing of the arbitration, save in the cases provided by articles 54 and 59 of this Law.

Article 53 (Request for correction or interpretation of award and additional award)

Parties concerned shall, unless the period is set otherwise, make a request for correction or interpretation of an award or additional award within 30 days of receiving an award in cases where:

1. Miscalculation or wording error in an award needs to be corrected;
2. Interpretation is required in respect of certain parts of an award; and
3. Additional settlement is required on an issue for which claim was made but whose settlement is not provided in an award.

Where one of the parties presented a request for correction or interpretation of an award or an additional award, the arbitral tribunal shall inform the other party of the matter.

Article 54 (Correction or interpretation of award, additional award)

Where the request for correction or interpretation of an award is deemed justified, the arbitral tribunal shall provide the required correction or interpretation within 30 days of receiving the request. In this case the interpretation shall be included in the award as a part thereof.

Where a request for additional award is deemed justified, it shall be rendered within 45 days of receiving the request.

The arbitral tribunal may, under unavoidable circumstances, extend the period for providing correction or interpretation of an award, or an additional award subject to the agreement of the arbitration committee.

The manner of correction or interpretation of an award, and an additional award shall be in accordance with articles 49 and 50 of this Law.

Chapter 6 Effect of an Award and Request for Revocation

Article 55 (Date of entry into force of award)

An award shall be effective as of the date of preparation thereof.

Article 56 (Request for revocation of an award)

A party that is aggrieved at an award may make a request for the revocation thereof. The request shall be presented to a court.

Article 57 (Reasons for presenting request for revocation of award)

Request for revocation of an award shall be made only when it is proved that:

1. A party concerned was incompetent under the governing law at the time of making an agreement for arbitration;
2. The arbitration agreement is invalid under the law designated by the parties concerned, or in the absence of such law, under the law of the DPRK;
3. A party concerned was unable to make a response because he was not properly informed of the appointment of an arbitrator or the arbitration procedures or for unavoidable reasons;
4. An award is rendered in respect of a dispute that is not the subject of arbitration agreement, or has gone beyond the limit of arbitration agreement; or
5. The composition of the arbitral tribunal or the arbitration procedures are in violation of the agreement of the parties under this Law or in the absence of such agreement, violates this Law.

Article 58 (Period for presenting request for revocation of award)

The period of presenting a request for revocation of an award shall be 2 months from the date of receipt by the parties concerned of a copy of an award, a copy of correction or interpretation thereof, or an additional award.

Request for revocation of an award shall not be made in case where the term of validity has expired or the decision of a court on the execution of an award is finalized.

Article 59 (Measures to be taken by court in respect of revocation of award)

A court shall settle the request for revocation of an award within 2 months of receipt thereof.

Where the request for revocation of an award is justified, a notice shall be sent requiring to hold arbitration examination again; where the cause for requesting the revocation of an award does not have a direct effect on an award, the arbitration committee shall be asked to take necessary remedies for removing such cause.

Chapter 7 Execution of an Award

Article 60 (Execution of award)

A party concerned shall execute an award within the period of time prescribed in the award.

Where the period of time for the execution of an award is not specified in the award, immediate execution shall be obligatory.

Article 61 (Request for execution of award)

Where a party responsible for the execution of an award fails to perform in good time his duties stated in the award or performs it in bad faith, the other party may refer the execution of an award to a court or an institution concerned.

A request for the execution of an award shall be accompanied by a copy of the award.

Article 62 (Execution of award, sanction)

A court or an institution concerned shall, within 10 days of receiving a request for the execution of an award, examine the request and have the award executed by an award or a decision.

An award shall be executed within 30 days of receiving the request for the execution thereof.

Where a party concerned refuses to execute the award in accordance with the writ of execution, specific performance shall be carried out or such measure as suspension of business, fine, confiscation or prohibition of immigration shall be adopted.

Article 63 (Referring of execution to court of country concerned)

Where a property that is to be executed in accordance with an award lies outside the territory of the DPRK, a request for the execution of the award shall be made to a court of the country concerned.

Article 64 (Acknowledgement and execution of award rendered by arbitral tribunal of foreign country)

An award rendered by the arbitral tribunal of a foreign country shall be acknowledged and executed in accordance with the relevant law of the DPRK.

Article 65 (Reasons for refusing to execute award rendered by arbitral tribunal of foreign country)

The execution of an award rendered by the arbitral tribunal of a foreign country may be refused if it is proved that:

1. A party concerned was incompetent under the governing law at the time of making an agreement for arbitration, or the arbitration agreement is invalid under the law designated by the parties concerned and in the absence of such law, under the law of the country where the arbitration examination was conducted;

2. A party concerned was unable to make a response because he was not properly informed of the appointment of an arbitrator or the arbitration procedures or for unavoidable reasons;

3. An award is rendered in respect of a dispute that is not the subject of arbitration agreement, or has gone beyond the limit of arbitration agreement;

4. The composition of the arbitral tribunal or the arbitration procedures are in violation of the agreement of the parties or in the absence of such agreement, violates the law of the country where the arbitration examination was conducted;

5. An award does not yet have an effect on the party concerned but was revoked or suspended by a court of the country where the award was rendered or by the law of such country;

6. A dispute in question cannot be settled by the arbitration procedure under the law of the country where an award was rendered; or

7. The execution of an award is prejudicial to the public order of the DPRK.