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EXTERNAL ECONOMIC ARBITRATION LAW OF THE
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
(Adopted on ____, 1994 by the Admintrative Council)

English
Commentary

SUBJECT: ARBITRATION

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Chapter I - Essence of External Economic Arbitration Law (EEAL)

Article 1

The External Economic Arbitration Law of the DPRK (EEAL) strictly establishes a system for and order in solving external economic disputes and correctly examines and solves each case, and contributes toward protecting the rights and interests of the parties concerned in a dispute.

Article 2

The solution of an external economic dispute is conducted by the Korea International Trade Arbitration Committee and the Korea Maritime Arbitration Committee.

Article 3

The arbitration committee consists of its chairman, vice chairman, secretary and committee members.

Article 4

The cases to be examined and solved by the external economic arbitration organizations are as follows:

1. A dispute generated between an organ, enterprise or group of our country and a foreign enterprise.
2. A dispute between an organ, enterprise or group of our country and a foreign investment enterprise.
3. A dispute between foreign investment enterprises.
4. A dispute between a foreign investment enterprise and a foreign enterprise.
5. A dispute between foreign enterprises.
6. A dispute between an organ, enterprise or group of our country, and a foreign investment enterprise, foreign enterprise, overseas Korean or a foreigner.

Article 5

External economic arbitration is conducted in accordance with a written agreement of the parties concerned and a document of arbitration proposal submitted by a party concerned.

Included in such written agreements are arbitration clauses contained in a contract and an arbitration contract concluded by the parties concerned after a dispute is caused.

Article 6

The State ensures objectivity, scientific nature, fairness and promptness in solving an external economic dispute and pursues the responsibility of the party which has committed an error.

Article 7

The State pays respect to international treaties and practices in its arbitration activities, and expands cooperation and exchange with international organs and foreign countries.

Chapter II Arbitration Proposal

Article 8

The parties concerned in a dispute are able to ask an arbitration proposal to assure their rights and interests.

An arbitration proposal is made in such a way that a written arbitration proposal and papers attached to it are delivered to the arbitration committee within a specified period.

Article 9

The contents of a written arbitration proposal should concern the following:

1. The name, legal address and a court representative or his (or her) agent of the parties concerned in a dispute.
2. The content of agreement on arbitration such as of an arbitration organ and a law on which it is based on.
3. The content of a claim and an amount asked for.
4. Expression of will concerning the selection of judges or the names of judges.
5. Other matters of importance.

Article 10

The attached papers should be of the following nature:

1. Arbitration clauses or the original text of an arbitration contract.
2. A document which confirms payment for arbitration expense.
3. A document specifying the amount to be delivered to the other party before an arbitration proposal is made.
4. A document which proves that the other party violated a contract obligation.
5. Other matters of importance.

Article 11

The arbitration applicant submits a written arbitration proposal and pay arbitration expenses.

The arbitration expenses are calculated in accordance with a rate applicable to the amount of claim.

The arbitration committee may use some of the arbitration expenses, if needed.

Article 12

The arbitration committee examines the written arbitration proposal within 10 days and decides if it accepts or refuses the document.

In case of its acceptance, the committee sends a list of judges within a specified period to the applicant, and a notice of an arbitration trial, to which attached are the written arbitration proposal and a list of judges, to the other party.

Article 13

The other party who received the notice sends back within 30 days to the committee papers of proof and a reply which contains the other party's opinion on the arbitration proposal and the selection of judges.

The arbitration trial is not influenced by the absence of the other party's reply or papers of proof.

Article 14

The other party may raise a counter-arbitration proposal regarding the arbitration proposal. In this case, the other party meets the requirements stipulated in articles 9 and 10.

The counter-arbitration proposal is directly related to the main arbitration proposal, and the proposal is addressed to the arbitration committee before the arbitration trial ends.

Article 15

The arbitration applicant can alter or withdraw the arbitration proposal, or abandon the claim.

In case the proposal is altered or withdrawn, the proposal can be made again within a specified period.

In case the claim is abandoned, however, a claim of the same content can not be made.

Article 16

The parties concerned in a dispute are able to propose an arbitration proposal through their agents, or have the agents reply on their behalf.

The agent can be a DPRK citizen or a foreigner. In either case, the agent submits a letter of attorney to the arbitration committee.

Article 17

In case one of the parties concerned brings a civil action against an external economic arbitration case or a decided case, on which solution through arbitration has been agreed by the parties concerned, the court organ returns the related documents to the one who brings a civil action.

Chapter III Arbitration Trial

Article 18

The judging council which consists of one or three judges conducts the arbitration trial.

The judges are independent in dealing with a case and can represent neither of the parties concerned in a dispute.

Article 19

The judges can be a person of the following qualifications:

1. A member of the arbitration committee concerned.
2. A lawyer or economic expert who is able to examine and solve a dispute.
3. A person who is experienced as an attorney or a judge.
4. A well-known overseas Korean compatriot or a foreigner experienced in arbitration affairs, if needed.

Article 20

The arbitration committee prepares a list of judges.

The list of arbitration judges clarifies their names, occupations and positions, professional knowledge and their careers as arbitration judges.

The profiles of judges can be made public through a publication.

Article 21

The number of judges for examining and solving a case is decided upon through the consent of the parties concerned in a dispute.

In case no agreement is reached by the parties concerned, the arbitration committee decides the number.

Article 22

The judges (or a judge) who examine a dispute are selected by the parties concerned in a dispute from the list of arbitration judges.

In case the selection is not made within a specified period, the arbitration committee selects the judges.

Article 23

The parties concerned in a dispute can propose a change in arbitration judges to the arbitration committee.

The arbitration committee examines the proposal and announces the result of its deliberation to the one who made the proposal.

Article 24

In case a judge can not fulfill his or her duties and can not examine a dispute due to an unavoidable circumstance, he (or she) can request to resign from his (or her) arbitration work.

In this case, the arbitration committee announces the fact to the parties concerned in a dispute and let them select another judge.

Article 25

The date, time and place of an arbitration trial are decided by the arbitration committee.

The arbitration committee announces the date, time and place of an arbitration trial within 30 days before it starts.

The parties concerned who received a notice of the arbitration trial, can request an alternation in the content of the notice within 10 days before the trial starts.

Article 26

The arbitration trial is conducted in the place of the arbitration committee concerned, and is not open to the public.

The trial can be made open or conducted in a different place if the parties concerned so desire.

Article 27

Participating in the trial are a court representative or his (or her) agent.

A court representative or his (or her) agent can participate in a trial together, if needed.

Article 28

Arbitration judges (or a judge) announce the start of an arbitration trial, let the applicant speak about facts concerning his or her claim, and allow the other party to make a reply.

After statements are made by the two parties, the judges examine them and ask them questions.

Article 29

The parties concerned in a dispute can present evidence and request the judges to call a witness or an identifier to the court.

In case the request is well-grounded, judges apply to the arbitration committee for the attendance of a witness or an identifier in the court.

Article 30

The parties concerned can form an opinion on the preservation of evidence and disposal of property offered as a surety. In this case, the arbitration committee confirms the content of the proposal and entrusts the matter to the court organ concerned.

Article 31

The Judges suspend or terminate the arbitration trial in case a reason for suspension of the trial or dismissal of a case is found or in case the purpose of the trial has been attained.

The period of an arbitration trial can not exceed five months after a written arbitration proposal is accepted.

Article 32

A protocol of a trial is drawn up by the secretary, and signed by the judges and secretary.

Recording and filming of a trial can be made upon the consent of the parties concerned in a dispute.

The parties concerned in a dispute have free access to the protocol.

Article 33

The parties concerned in a dispute can agree on reconciliation any time.

If reconciliation is agreed upon, the on-going arbitration trial is terminated.

Article 34

An external economic dispute can be solved by the method of mediation.

Mediation is made upon the consent of the parties concerned in a dispute on a plan submitted by a mediator of the mediation council that consists of a mediator and the two parties.

Chapter IV Decision and Implementation

Article 35

The decision is announced within the 30 days after the arbitration trial is finished.

In an unavoidable case, judges can request the arbitration committee to extend the period of announcement of the decision.

Article 36

The contents clarified in the document of decision are as follows:

1. The names and legal addresses of the parties concerned in a dispute, court representatives and his (or her) agents.
2. The date of an arbitration trial, and the names of judges and secretary.
3. The name of a case, and the state of attendance in an arbitration trial.
4. The content of the claim of the applicant, and the content of the reply of the other party.
5. Facts and evidence confirmed during an arbitration trial.
6. The law and rules the decision is based on.
7. The conclusion concerning the solution of the case.
8. Matters related to trial expenses to be borne.
9. Date of announcement of the decision.
10. Other matters of importance.

Article 37

The written decision is prepared in the Korean language.

The decision document can be accompanied by its translated version upon demand of the parties concerned in a dispute.

In case there is some difference in meaning between the Korean document and its translated version the former has priority.

Article 38

The decision document becomes effective only when it contains the signatures of judges (a judge) and is endorsed by the arbitration committee.

In case three judges examine a dispute, and one judge who does not agree with the opinion of the other two, does not sign the document, a document explaining the reason is attached to the protocol of the arbitration trial and submitted to the arbitration committee.

Article 39

Judges can rule suspension of an arbitration trial, dismissal of a case or reconciliation.

In case the reason for suspension of a arbitration trial vanishes, the trial is continued.

In a reconciliation ruling, reconciliation conditions are specified.

Reconciliation ruling has the same effect as an arbitration decision.

Article 40

The arbitration committee sends or directly delivers the decision document to the parties concerned in a dispute.

In case the legal address is changed after an arbitration trial is proposed, the party concerned in a dispute reports the fact to the arbitration committee within a specified time.

Article 41

The parties concerned in a dispute implement their obligation within a period stipulated in the decision document.

A party concerned in a dispute, which has an opinion on the decision, can request the arbitration committee to revise or supplement or explain expressions in its contents, within 30 days after it receives the decision document and request a court organ concerned to withdraw the decision which is recognized as incorrect within the next six months.

Article 42

In case a responsible party concerned in a dispute does not implement his (or her) obligation stipulated in the decision document within an appointed time, or unfaithfully implements his (or her) obligation, the other party concerned in a dispute can apply for the implementation of the decision to a court organ in his residential area or in the region in which the property as an object of implementation exists.

Article 43

In case the property as an object of implementation exists outside of DPRK territory, the implementation of the decision can be entrusted to a court organ in a foreign country.