

ARBITRATION ACT

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to resolve private law disputes through arbitration in an appropriate, fair, and prompt manner.

[This Article Wholly Amended on Mar. 31, 2010]

Article 2 (Scope of application)

(1) This Act shall apply to cases where the seat of arbitration under Article 21 is in the Republic of Korea; provided, Articles 9 and 10 shall apply even where the seat of arbitration has not been yet determined or is not in the Republic of Korea, and Articles 37 and 39 shall apply even where the seat of arbitration is not in the Republic of Korea.

(2) This Act shall not affect any other statute by virtue of which certain disputes may not be referred to arbitration or may be referred to arbitration only according to provisions, other than those of this Act, nor shall it affect any treaties in force in the Republic of Korea.

[This Article Wholly Amended on Mar. 31, 2010]

Article 3 (Definitions)

The terms used in this Act are defined as follows: <Amended on May 29, 2016>

1. The term "arbitration" means a procedure agreed by the parties to resolve a dispute over property rights or disputes over non-property rights that the parties can resolve through settlement by an arbitrator's award, not by a judgement of a court;
2. The term "arbitration agreement" means an agreement by the parties to resolve through arbitration all or certain disputes which have already arisen

or may arise between them in respect of a defined legal relationship, whether contractual or not;

3. The term "arbitral tribunal" means a sole arbitrator or a panel of arbitrators who conduct the arbitral proceedings and make an arbitral award.

[This Article Wholly Amended on Mar. 31, 2010]

Article 4 (Notice of written communications)

(1) Unless otherwise agreed by the parties, a written communication shall be delivered to the addressee in question personally.

(2) If a notice cannot be personally delivered under paragraph (1), a written communication shall be deemed to have been notified to the addressee when it is duly delivered to the addressee's domicile, place of business, or mailing address.

(3) In applying paragraph (2), if the addressee's domicile, place of business, or mailing address cannot be found even after making a reasonable inquiry, a written communication shall be deemed to have been notified to the addressee when it is sent to his or her last-known domicile, place of business, or mailing address by registered mail or any other postal service which provides a record of the delivery.

(4) The provisions of paragraphs (1) through (3) do not apply to service of documents by a court.

[This Article Wholly Amended on Mar. 31, 2010]

Article 5 (Waiver of rights to object)

A party that knows that any non-mandatory provision of this Act from which the parties may derogate or any agreement between the parties regarding the arbitral proceedings has not been complied with and yet proceeds with the arbitration without stating his or her objection to such non-compliance without delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his or her right to object.

[This Article Wholly Amended on Mar. 31, 2010]

Article 6 (Court intervention)

Except as provided in this Act, no court shall intervene in matters governed by this Act.

[This Article Wholly Amended on Mar. 31, 2010]

Article 7 (Competent courts)

(1) A district court or a branch court (hereinafter referred to as "court") designated in the arbitration agreement shall have jurisdiction over matters prescribed in any of the following subparagraphs; in the absence of such designation, the competent court of the seat of arbitration shall have jurisdiction; if the seat of arbitration has not yet been determined, the competent court of respondent's residence or place of business shall have jurisdiction; if respondent's residence or place of business is unknown, the competent court of the respondent's residence shall have jurisdiction; and, if the respondent's residence is unknown, the competent court of the respondent's last-known residence or place of business shall have jurisdiction:
<Amended on May 29, 2016>

1. Appointment of arbitrators and designation of an arbitral institution under Article 12 (3) and (4);
2. The court's decision on a request for challenging an arbitrator under Article 14 (3);
3. The court's decision on a request for terminating the arbitrator's mandate under Article 15 (2);
4. The court's review of an application to review the jurisdiction of the arbitral tribunal under Article 17 (6);
- 4-2. The court's decision on an application for recognition or enforcement of an interim measure and an order to provide security under Article 18-7;
5. The court's decision on a request for challenging an expert under Article 27 (3).

(2) The taking of evidence under Article 28 shall be governed by the competent court having jurisdiction over the area where such evidence-taking is performed.

(3) The court designated in the arbitration agreement shall have jurisdiction over the matters prescribed in any of the following subparagraphs, and if there is no such designation, the court having jurisdiction over the seat of arbitration shall have jurisdiction:

1. Retention of the original copy of an arbitral award under Article 32 (4);
2. Action for setting aside an arbitral award to court under Article 36 (1).

(4) An action for the recognition and enforcement of an arbitral award under

Articles 37 through 39 shall be governed by a court falling under any of the following subparagraphs:

1. The court designated in the arbitration agreement;
2. The court which has jurisdiction over the seat of arbitration;
3. The court which has jurisdiction over the place where a defendant's property is located;
4. The court which has jurisdiction over a defendant's domicile or place of business, his or her residence if none of those can be found, or his or her last-known domicile or place of business if his or her residence cannot be found.

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER II ARBITRATION AGREEMENT

Article 8 (Form of arbitration agreement)

(1) Arbitration agreements may be in the form of a separate agreement or in the form of an arbitration clause in a contract.

(2) Arbitration agreements shall be in writing.

(3) A written arbitration agreement shall be deemed made in any of the following cases: <Amended on May 29, 2016>

1. Where terms and conditions of an arbitration agreement have been recorded, regardless of whether such agreement was made orally, by conduct, or by any other means;
2. Where an arbitration agreement is contained in an electronic form of communication exchanged by telegram, telex, facsimile, electronic mail, or any other means of communication; provided, where the contents of such arbitration agreement cannot be verified, it shall be excluded;
3. Where either party asserts the existence of an arbitration agreement in a request for arbitration or an answer exchanged between the parties, and the other party does not deny such assertion.

(4) Where a contract refers to a document containing an arbitration clause, an arbitration agreement shall be deemed to exist; provided, this shall apply only where such arbitration clause constitutes a part of the contract. <Amended on

May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 9 (Arbitration agreement and substantive claim before court)

(1) The court before which an action is brought in a matter which is the subject of an arbitration agreement shall dismiss the action when the defendant raises as a defense the existence of an arbitration agreement; provided, this shall not apply where it finds that such arbitration agreement does not exist, is null and void, has become ineffective, or is impossible to perform.

(2) The defendant shall raise a defense under paragraph (1) by not later than when submitting his or her first statement on the substance of the dispute.

(3) Where an action under paragraph (1) is pending in the court, the arbitral tribunal may nevertheless commence or continue the arbitral proceedings, and make an arbitral award.

[This Article Wholly Amended on Mar. 31, 2010]

Article 10 (Arbitration agreement and interim measures of protection by court)

A party to arbitration agreement may, before the commencement of or during arbitral proceedings, request an interim measure of protection from a court.

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER III ARBITRAL TRIBUNAL

Article 11 (Number of arbitrators)

(1) The number of arbitrators shall be determined by an agreement of the parties.

(2) In the absence of such agreement under paragraph (1), the number of arbitrators shall be 3.

[This Article Wholly Amended on Mar. 31, 2010]

Article 12 (Appointment of arbitrators)

(1) Unless otherwise agreed by the parties, an arbitrator shall be appointed irrespective of his or her nationality.

(2) The procedure for appointing arbitrators shall be determined by an agreement of the parties.

(3) In the absence of such agreement under paragraph (2), arbitrators shall be

appointed in accordance with the following classifications: <Amended on May 29, 2016>

1. In an arbitration with a sole arbitrator: If the parties fail to reach an agreement on the appointment of an arbitrator within 30 days of receipt of a request to do so from the other party, the arbitrator shall, upon the request of a party, be appointed by the court or arbitral institution designated by the court;
2. In an arbitration with 3 arbitrators: Each party shall appoint 1 arbitrator, and the 2 arbitrators thus appointed shall appoint the third arbitrator by mutual agreement; in such cases, if a party fails to appoint an arbitrator within 30 days of receipt of a request to do so from the other party, or if the 2 arbitrators fail to appoint the third arbitrator within 30 days of their appointment, the appointment shall be made, upon the request of a party, by the court or arbitral institution designated by the court.

(4) Notwithstanding the parties' agreement under paragraph (2), arbitrators shall, upon the request of the parties, be appointed by the court or the arbitral institution designated by the court in any of the following cases: <Amended on May 29, 2016>

1. Where a party fails to appoint an arbitrator in accordance with the agreed procedure;
2. Where the parties or the arbitrators fail to appoint an arbitrator in accordance with the agreed procedure;
3. Where an institution or any other party, entrusted to appoint an arbitrator, fails to do so.

(5) A decision made by the court or arbitral institution designated by the court under paragraph (3) or (4) shall not be subject to appeal. <Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 13 (Grounds for challenge of arbitrators)

(1) When a person is asked to act as an arbitrator or has been appointed as such, he or she shall without delay disclose to the parties any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence.

(2) An arbitrator may be challenged only if any circumstances under paragraph (1) exist, or if he or she does not possess qualifications agreed to by the parties; provided, a party may challenge an arbitrator appointed by him or her, or in whose appointment he or she has participated, only for reasons of which he or she becomes aware after the appointment has been made.

[This Article Wholly Amended on Mar. 31, 2010]

Article 14 (Procedures for challenge of arbitrators)

(1) The procedures for challenging an arbitrator shall be determined by an agreement of the parties.

(2) In the absence of such agreement under paragraph (1), a party that intends to challenge an arbitrator shall make a challenge application in writing to the arbitral tribunal within 15 days after the constitution of the arbitral tribunal or becoming aware of any circumstances under Article 13 (2). In such cases, unless the challenged arbitrator resigns or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge application under paragraph (1) or (2) is not successful, the challenging party may request the court to decide on the challenge within 30 days after having received notice of such decision. In such cases, while such request is pending before the court, the arbitral tribunal may continue the arbitral proceedings or make an arbitral award.

(4) The court's decision on the challenge under paragraph (3) shall not be subject to appeal.

[This Article Wholly Amended on Mar. 31, 2010]

Article 15 (Termination of mandate of arbitrator due to his or her failure to act)

(1) If an arbitrator becomes de jure or de facto unable to perform his or her functions or fails to act promptly without good cause, the mandate of such arbitrator shall terminate upon his or her resignation or agreement of the parties.

(2) If a dispute arises over the termination of the mandate of the arbitrator under paragraph (1), any party may request the court to decide on the termination of the mandate.

(3) The court's decision on the termination of the mandate under paragraph (2) shall not be subject to appeal.

[This Article Wholly Amended on Mar. 31, 2010]

Article 16 (Appointment of substitute arbitrators)

Where the mandate of an arbitrator terminates and an arbitrator is newly appointed, the appointment procedure that applied to the arbitrator being replaced shall apply.

[This Article Wholly Amended on Mar. 31, 2010]

Article 17 (Decision on jurisdiction of arbitral tribunals)

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. In such cases, if the arbitration agreement is in the form of an arbitration clause in a contract, the validity of other provisions in the contract does not affect the validity of the arbitration clause.

(2) An objection regarding the jurisdiction of an arbitral tribunal shall be raised by not later than the submission of the statement of defense. In such cases, a party may raise such objection irrespective of whether he or she has appointed, or participated in the appointment of, an arbitrator.

(3) An objection that the arbitral tribunal is exceeding the scope of its jurisdiction during the arbitral proceedings shall be raised as soon as the matter alleged to be beyond the scope of its jurisdiction is addressed in the arbitral proceedings.

(4) The arbitral tribunal may admit an objection made after the time under paragraphs (2) and (3) if it finds that there is good cause for the delay.

(5) The arbitral tribunal may rule on an objection under paragraph (2) or (3) either as a preliminary question or in an arbitral award on the merits.

(6) If the arbitral tribunal has ruled on its jurisdiction as a preliminary question in accordance with paragraph (5), a party that objects to the decision may request the court to review the jurisdiction of the arbitral tribunal within 30 days from the date of receipt of such decision. <Amended on May 29, 2016>

(7) The arbitral tribunal may continue the arbitral proceedings or make an arbitral award while a court proceeding is pending due to the request under paragraph (6).

(8) The court's review of an application to review the jurisdiction of the arbitral tribunal under paragraph (6) shall not be subject to appeal.

(9) If the court makes a decision that an arbitral tribunal has jurisdiction to make

an arbitral award, upon receipt of a request under paragraph (6), the arbitral tribunal shall continue the arbitral proceeding; but the arbitrator's mandate shall terminate if he or she is unable or unwilling to continue the arbitral proceeding, and arbitrators shall be re-appointed in accordance with Article 16. <Added on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER III-2 INTERIM MEASURES

Article 18 (Interim measures)

(1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, grant interim measures as it considers necessary. <Amended on May 29, 2016>

(2) An interim measure under paragraph (1) is any temporary measure, by which, prior to the issuance of the arbitral award, the arbitral tribunal orders a party to perform any of the following actions: <Amended on May 29, 2016>

1. Maintain or restore the status quo pending the arbitral award on the merits;
2. Take action to prevent existing or imminent harm or prejudice to the arbitral proceeding itself, or prohibit actions that may cause such harm or prejudice;
3. Provide a means of preserving assets subject to the enforcement of an arbitral award;
4. Preserve evidence that may be relevant and material to the resolution of the dispute.

[This Article Wholly Amended on Mar. 31, 2010]

Article 18-2 (Conditions for granting interim measures)

(1) An interim measure under Article 18 (2) 1 through 3 may be granted only if the applicant prima facie establishes all of the following conditions:

1. If the applicant is not granted the interim measure, the applicant will possibly suffer harm that cannot be adequately compensated by an award of damages in the arbitral award, and such harm substantially exceeds the harm likely to be caused to the other party due to the interim measure;
2. There is a reasonable possibility of success on the merits of the case; provided, the arbitral tribunal shall not be bound by its assessment of the possibility of success made at the time of the interim measure decision when

examining the merits of the case.

(2) With respect to a request for an interim measure under Article 18 (2) 4, the conditions under paragraph (1) shall apply only to the extent the arbitral tribunal considers appropriate.

[This Article Added on May 29, 2016]

Article 18-3 (Modification, suspension, or termination of interim measures)

The arbitral tribunal may, upon the request of a party or, in special circumstances, on its own initiative after notifying the parties in advance, modify, suspend, or terminate an interim measure already granted. In such cases, the arbitral tribunal shall examine the parties before modifying, suspending, or terminating the interim measure.

[This Article Added on May 29, 2016]

Article 18-4 (Provision of security)

The arbitral tribunal may require the party requesting an interim measure to provide adequate security.

[This Article Added on May 29, 2016]

Article 18-5 (Duty to disclose)

Where there is a material change in the circumstances on the basis of which the measure was requested or granted, the arbitral tribunal may require the parties to promptly disclose it.

[This Article Added on May 29, 2016]

Article 18-6 (Costs and damages)

(1) If the arbitral tribunal, after granting an interim measure, finds the interim measure to be unjustified, the party that requested the interim measure shall be liable to pay or compensate the other party for the costs or damages incurred due to the interim measure.

(2) The arbitral tribunal may, at any time during the arbitral proceedings, order the payment of costs or compensation for damages under paragraph (1) in the form of an arbitral award.

[This Article Added on May 29, 2016]

Article 18-7 (Recognition and enforcement of interim measures)

(1) The party seeking recognition of an interim measure issued by an arbitral tribunal may request the court for a decision to recognize the interim measure, and the party seeking enforcement based on an interim measure may request the court for a decision allowing such enforcement.

(2) The party that is seeking recognition or enforcement of an interim measure and the other party shall inform the court of any modification, suspension, or termination of that interim measure.

(3) If the arbitral tribunal has not ordered the provision of security in relation to an interim measure, or if there is a risk of infringing on the rights of third parties, the court requested to recognize or enforce the interim measure may, if it considers necessary, order the party requesting recognition and enforcement to provide appropriate security.

(4) The provisions regarding interim measures of protection in the Civil Execution Act shall apply mutatis mutandis to the enforcement of interim measures.

[This Article Added on May 29, 2016]

Article 18-8 (Grounds for refusing recognition or enforcement)

(1) Recognition or enforcement of an interim measure may be refused only if it falls under any of the following subparagraphs:

1. Where the court, based on the objection of the party against whom the interim measure is directed, finds that any of the following exists:

(a) Where the party against whom the interim measure is directed prima facie establishes any of the following facts:

(i) The fact that it falls under Article 36 (2) 1 (a) or (d);

(ii) The fact that the party against whom the interim measure is directed was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case;

(iii) The fact that the interim measure addresses a dispute not subject to the arbitration agreement, or addresses matters beyond the scope of the arbitration agreement; provided, where the interim measure can be separated into parts that are within the scope of the arbitration agreement and parts that are not, only the part of the interim

measure that is not within the scope of the arbitration agreement may be refused;

(b) Where security ordered by the court or the arbitral tribunal with respect to interim measure has not been provided;

(c) Where the interim measure has been terminated or suspended by the arbitral tribunal;

2. Where the court finds on its own initiative that any of the following exists:

(a) Where the court does not have authority to enforce the interim measure; provided, this shall not apply where the court decides to modify the interim measure to the extent necessary to enforce the interim measure, without modifying the substance of the interim measure;

(b) Where any of the grounds referred to in Article 36 (2) 2 (a) or (b) exists.

(2) The court requested to recognize or enforce an interim measure in accordance with Article 18-7 shall not, in making that determination, undertake a review of the substance of the interim measure.

(3) The court's determination based on the grounds under paragraph (1) shall be valid only with respect to the decision on the recognition and enforcement of the interim measure.

[This Article Added on May 29, 2016]

CHAPTER IV ARBITRAL PROCEEDINGS

Article 19 (Equal treatment of parties)

The parties shall be treated equally in the arbitral proceedings and shall be given sufficient opportunity to present their case.

[This Article Wholly Amended on Mar. 31, 2010]

Article 20 (Arbitral proceedings)

(1) Except in cases contrary to the mandatory provisions of this Act, the parties may agree on the arbitral proceedings.

(2) In the absence of such agreement referred to in paragraph (1), the arbitral tribunal may, subject to the provisions of this Act, conduct the arbitration in such manner as it considers appropriate. In such cases, the arbitral tribunal has the power to determine the admissibility and relevance and weight of any evidence.

[This Article Wholly Amended on Mar. 31, 2010]

Article 21 (Seat of arbitration)

(1) The seat of arbitration shall be determined by an agreement of the parties.

(2) In the absence of such agreement referred to in paragraph (1), the arbitral tribunal shall determine the seat of arbitration, taking into account the convenience of the parties and all circumstances of the case.

(3) The arbitral tribunal may, at any appropriate place other than the seat of arbitration under paragraphs (1) and (2), consult among its members, examine witnesses, experts, and the parties, and inspect goods, other property, or documents; provided, this shall not apply where the parties have agreed otherwise.
<Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 22 (Commencement of arbitral proceedings)

(1) Unless otherwise agreed by the parties, the arbitral proceedings shall commence on the date when the respondent receives the request for arbitration.

(2) The request for arbitration referred to in paragraph (1) shall state the parties, the subject matter of the dispute, and the contents of the arbitration agreement.

[This Article Wholly Amended on Mar. 31, 2010]

Article 23 (Language)

(1) The language to be used in the arbitral proceedings shall be determined by the agreement of the parties. In the absence of such agreement, the arbitral tribunal shall determine such language, and in the absence of such determination by the arbitral tribunal, the Korean language shall be used.

(2) Unless otherwise specified, the language referred to in paragraph (1) shall be used for the parties' written statements, oral hearings, arbitral awards and decisions, or other communication by the arbitral tribunal.

(3) The arbitral tribunal may, if it considers necessary, order a party to submit any documentary evidence accompanied by a translation into the language referred to in paragraph (1).

[This Article Wholly Amended on Mar. 31, 2010]

Article 24 (Statement of claim and defense)

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall communicate the statement of claim stating the relief sought and the facts supporting his or her claim to the arbitral tribunal, and the respondent shall respond to it.

(2) The parties may attach documents deemed to be important to their statements of claim or defense or indicate the method of evidence they intend to use in the future.

(3) Unless otherwise agreed by the parties, either party may amend or supplement his or her request, claim, or defense during the course of the arbitral proceedings; provided, this shall not apply where the arbitral tribunal considers that there is a risk that such amendment or supplement might cause a significant delay to the proceedings.

[This Article Wholly Amended on Mar. 31, 2010]

Article 25 (Hearings)

(1) Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold an oral hearing or whether the proceedings shall be only conducted on a document-only basis; provided, unless the parties have agreed that no oral hearings shall be held, the arbitral tribunal shall hold an oral hearing at an appropriate stage of the proceedings, if so requested by a party.

(2) The arbitral tribunal shall notify the parties of the date of the oral hearing or evidence-taking with sufficient time in advance before conducting the oral hearing or any other evidence-taking.

(3) All written statements, documents, or other materials submitted to the arbitral tribunal by either party shall be provided to the other party without delay.
<Amended on May 29, 2016>

(4) The expert report or documentary evidence on which the arbitral tribunal intends to base its award shall be provided to both parties. <Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 26 (Default of either party)

(1) If the claimant fails to submit his or her statement of claim in accordance with Article 24 (1), the arbitral tribunal shall terminate the arbitral proceedings.

(2) If the respondent fails to submit his or her statement of defense referred to in Article 24 (1), the arbitral tribunal shall continue the arbitral proceedings without treating such failure as an admission of the claimant's claims.

(3) If any party fails to appear at an oral hearing or to produce documentary evidence within a fixed period of time, the arbitral tribunal may continue the arbitral proceedings and make the arbitral award on the evidence submitted before it.

(4) The provisions of paragraphs (1) through (3) shall not apply if otherwise agreed by the parties or if the arbitral tribunal considers that sufficient ground exists.

[This Article Wholly Amended on Mar. 31, 2010]

Article 27 (Experts)

(1) Unless otherwise agreed by the parties, the arbitral tribunal may appoint an expert to for the purpose of examining on specific issues. In such cases, the arbitral tribunal may require the parties to provide the expert the necessary information to the expert and to submit relevant documents, objects, etc. for the expert's inspection or allow access to them.

(2) Unless otherwise agreed by the parties, the arbitral tribunal may, on its own initiative or upon the request of a party, require the expert to appear at the oral hearing to answer questions from the parties.

(3) Articles 13 and 14 shall apply mutatis mutandis to the challenge of the expert appointed by the arbitral tribunal.

[This Article Wholly Amended on Mar. 31, 2010]

Article 28 (Court assistance in taking evidence)

(1) The arbitral tribunal may, on its own initiative or upon the request of a party, request the court to take evidence or request the court's assistance in taking evidence. <Amended on May 29, 2016>

(2) When the arbitral tribunal requests the court to take evidence, the arbitral tribunal may specify, in writing, the matters to be written in the examination report and other matters required in the taking of evidence. <Amended on May 29, 2016>

(3) When the court takes evidence in accordance with paragraph (2), the arbitrator or the parties may participate in the taking of evidence with the permission of the presiding judge.

<Amended on May 29, 2016>

(4) In the case of paragraph (2), the court shall, without delay after taking evidence, send to the arbitral tribunal the records relating to the taking of evidence, such as certified copies of reports on the examination of witnesses or evidence.

<Amended on May 29, 2016>

(5) When the arbitral tribunal requests the court to assist in taking evidence, the court may order a witness or a document holder, etc. to appear before the arbitral tribunal or to submit necessary documents to the arbitral tribunal. <Added on May 29, 2016>

(6) The arbitral tribunal shall pay the costs necessary for the taking of evidence to the court. <Added on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER V ARBITRAL AWARDS

Article 29 (Applicable law to substance of dispute)

(1) The arbitral tribunal shall make its award in accordance with the law designated by the parties. If the law or legal system of a particular State is designated, unless otherwise specified, it shall be deemed to refer to the substantive law applicable to the dispute, not the State's conflict of laws.

(2) In the absence of the designation referred to in paragraph (1), the arbitral tribunal shall apply the law of the State which has the closest connection to the subject matter of the dispute.

(3) The arbitral tribunal may decide *ex aequo et bono* only if the parties have expressly authorized it to do so.

(4) The arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the commercial practices applicable to the transaction.

[This Article Wholly Amended on Mar. 31, 2010]

Article 30 (Decision-making by arbitral tribunals)

Unless otherwise agreed by the parties, any decision of the arbitral tribunal consisting of at least 3 arbitrators shall be made by the resolution of a majority of all its members; provided, arbitral proceedings may be solely decided by the presiding arbitrator, if so agreed by the parties or if so authorized by all members

of the arbitral tribunal.

[This Article Wholly Amended on Mar. 31, 2010]

Article 31 (Settlement)

(1) If, during the arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings. In such cases, if requested by the parties, the arbitral tribunal may record the terms of the settlement in the form of an arbitral award.

(2) Recording the terms of the settlement in the form of an arbitral award in accordance with paragraph (1) shall be made in accordance with Article 32 and shall state that it is an arbitral award.

(3) The arbitral award on agreed terms shall have the same effect as the arbitral award on the merits of the case.

[This Article Wholly Amended on Mar. 31, 2010]

Article 32 (Form and contents of arbitral awards)

(1) The arbitral award shall be made in writing and shall be signed by all arbitrators; provided, in the case of an arbitral tribunal consisting of 3 or more arbitrators, if some of the arbitrators, who do not constitute a majority of the arbitral tribunal, are unable to sign for any reason, other arbitrators shall state the reason and sign the arbitral award.

(2) The arbitral award shall state the reasons upon which it is based; provided, this shall not apply if the parties have agreed otherwise or it is an arbitral award on agreed terms under Article 31.

(3) The arbitral award shall state its date and the seat of arbitration. In such cases, the arbitral award shall be deemed to have been made on that date and at that place.

(4) The authentic copy of the arbitral award made and signed in accordance with the provisions of paragraphs (1) through (3) shall be delivered to each party in accordance with the provisions of Article 4 (1) through (3); provided, upon the request of the parties, the arbitral tribunal may deliver the original copy of the arbitral award to the competent court, along with a document certifying such delivery, and deposit it with the court. <Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 33 (Termination of arbitral proceedings)

(1) The arbitral proceedings shall be terminated by the final arbitral award or by a decision of the arbitral tribunal under paragraph (2).

(2) The arbitral tribunal shall make a decision to terminate the arbitral proceedings in any of the following cases:

1. The claimant withdraws his or her claim; provided, this shall not apply if the respondent does not agree and the arbitral tribunal recognizes that there is a legitimate interest in the respondent seeking a final resolution of the dispute;
2. The parties agree to terminate the arbitral proceedings;
3. The arbitral tribunal finds that it has become unnecessary or impossible to continue the arbitral proceedings.

(3) Except as provided in Article 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings.

[This Article Wholly Amended on Mar. 31, 2010]

Article 34 (Correction and interpretation of arbitral awards and additional awards)

(1) Within 30 days of receipt of the authentic copy of the arbitral award, unless the parties have agreed on a different period of time, a party may request a correction, interpretation, or an additional award from the arbitral tribunal as prescribed in any of the following subparagraphs:

1. To correct any errors in computation, any clerical or typographical errors, or any errors of similar nature in the arbitral award;
2. To interpret a part of or a particular issue in the arbitral award, if agreed by the parties;
3. To make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award; provided, this shall not apply if the parties have agreed otherwise.

(2) When making any request under paragraph (1), the applicant shall give notice to the other party to that effect.

(3) The arbitral tribunal shall decide on the request within 30 days of the receipt of the request under paragraph (1) 1 or 2 and within 60 days of the receipt of the request under paragraph (1) 3, respectively. In such cases, the interpretation

under paragraph (1) 2 shall form part of the arbitral award.

(4) The arbitral tribunal may, on its own initiative, make a correction under paragraph (1) 1 within 30 days of the date of the arbitral award.

(5) The arbitral tribunal may extend, if it considers necessary, any period of time referred to in paragraph (3).

(6) Article 32 shall apply mutatis mutandis to the form of a correction or interpretation of the arbitral award, or an additional award.

[This Article Wholly Amended on Mar. 31, 2010]

Article 34-2 (Allocation of arbitration costs)

Unless otherwise agreed by the parties, the arbitral tribunal may determine the allocation of costs of arbitration incurred in relation to the arbitral proceedings, considering all the circumstances related to the arbitration.

[This Article Added on May 29, 2016]

Article 34-3 (Late payment interest)

Unless otherwise agreed by the parties, the arbitral tribunal may order the payment of late payment interest, as it deems appropriate when making the arbitral award, considering all the circumstances related to the arbitration.

[This Article Added on May 29, 2016]

CHAPTER VI EFFECT OF ARBITRAL AWARDS AND RECOURSE AGAINST ARBITRAL AWARDS

Article 35 (Effect of arbitral awards)

An arbitral award shall have the same effect as between the parties as a final and conclusive judgment of the court; provided, this shall not apply where recognition or enforcement has been refused in accordance with Article 38. <Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 36 (Action for setting aside arbitral awards)

(1) Recourse against an arbitral award may be made only by an action before the court for setting aside the arbitral award.

(2) An arbitral award may be set aside by the court only if it falls under any of the following subparagraphs: <Amended on May 29, 2016>

1. Where the party seeking to set aside the arbitral award proves any of the following facts:
 - (a) A party to the arbitration agreement was under some incapacity in accordance with the applicable law at the time the arbitration agreement was concluded, or the said agreement is not valid in accordance with the law designated by the parties, or in the absence of such designation, in accordance with the law of the Republic of Korea;
 - (b) The party seeking to set aside the arbitral award was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his or her case;
 - (c) The arbitral award deals with a dispute not subject to arbitration agreement, or the arbitral award addresses matters beyond the scope of the arbitration agreement; provided, if the arbitral award can be separated into parts that are subject to the arbitration agreement and those that are not, the parts not subject to the arbitration agreement may be set aside;
 - (d) The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties, which was not in conflict with a mandatory provision of this Act, or, in the absence of such agreement, was not in accordance with this Act;
 2. Where the court finds on its own initiative that any of the following grounds exist:
 - (a) Where the subject matter of the dispute is not capable of being resolved by arbitration in accordance with the law of the Republic of Korea;
 - (b) Where the recognition or enforcement of the arbitral award violates good morals and other social order of the Republic of Korea.
- (3) An action for setting aside the arbitral award shall be made within 3 months from the date on which the party seeking to set aside the arbitral award has received the authentic copy of the arbitral award or has received the authentic copy of a correction, interpretation, or an additional award under Article 34.
- (4) An action for setting aside the arbitral award shall not be made after a

decision on recognition or enforcement of the arbitral award rendered by the court of the Republic of Korea has become final and conclusive. <Amended on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER VII RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Article 37 (Recognition and enforcement of arbitral awards)

(1) An arbitral award shall be recognized unless a ground to refuse recognition under Article 38 or 39 exists; provided, upon the request of the parties, the court may make a decision to recognize the arbitral award. <Amended on May 29, 2016>

(2) Enforcement of an arbitral award may be permitted by a court's enforcement decision upon the request of the parties. <Added on May 29, 2016>

(3) A party requesting recognition or enforcement of an arbitral award shall submit an authentic copy or a copy of the arbitral award; provided, if the arbitral award is made in a foreign language, it shall be accompanied by a Korean translation. <Amended on May 29, 2016>

1. Deleted; <May 29, 2016>

2. Deleted. <May 29, 2016>

(4) In the case of a request under the proviso of paragraph (1) or paragraph (2), the court shall set a pleading date or examination date, when both parties can participate, and notifies the parties thereof. <Added on May 29, 2016>

(5) A decision rendered under the proviso of paragraph (1) or paragraph (2) shall state its reasons; provided, if no oral argument was made, only a summary of the reasons may be stated. <Added on May 29, 2016>

(6) An immediate appeal can be made against a decision rendered under the proviso of paragraph (1) or paragraph (2). <Added on May 29, 2016>

(7) An immediate appeal under paragraph (6) does not have the effect of suspending the enforcement; provided, until a decision on the immediate appeal is rendered, the appellate court (referring to the original court if the trial records remain at the original court) may order to suspend the enforcement of the original decision or suspend all or part of the enforcement proceedings, or may order the

provision of security and the continuation of continue with the enforcement.
<Added on May 29, 2016>

(8) A decision made under the proviso of paragraph (7) shall not be subject to appeal. <Added on May 29, 2016>

[This Article Wholly Amended on Mar. 31, 2010]

Article 38 (Domestic arbitral awards)

An arbitral award rendered in the Republic of Korea shall be recognized or enforced, unless any of the following grounds exist: <Amended on May 29, 2016>

1. Where a party to an arbitral award proves any of the following facts:
 - (a) The fact that it falls under any of the items of Article 36 (2) 1;
 - (b) The fact that it falls under any of the following:
 - (i) The fact that the arbitral award has not yet become binding on a party;
 - (ii) The fact that the arbitral award has been set aside by the court;
2. Where it falls under Article 36 (2) 2.

[This Article Wholly Amended on Mar. 31, 2010]

Article 39 (Foreign arbitral awards)

(1) Recognition or enforcement of foreign arbitral awards that are subject to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall be governed by that Convention.

(2) Article 217 of the Civil Procedure Act and Articles 26 (1) and 27 of the Civil Execution Act shall apply mutatis mutandis to recognition or enforcement of foreign arbitral awards that are not subject to the Convention on the Recognition and Enforcement of Foreign Arbitral Award.

[This Article Wholly Amended on Mar. 31, 2010]

CHAPTER VIII SUPPLEMENTARY PROVISIONS

Article 40 (Assistance to commercial arbitral institutions)

In order to resolve domestic and international commercial disputes in a fair and prompt manner and to establish order in international transactions in accordance with this Act, the Government may subsidize all or part of the necessary expenses

for an incorporated association that administers commercial arbitration designated by the Minister of Justice or the Minister of Trade, Industry and Energy.
<Amended on Mar. 23, 2013; Feb. 4, 2020>

[This Article Wholly Amended on Mar. 31, 2010]

Article 41 (Enactment and approval of arbitration rules)

If an incorporated association designated as a commercial arbitral institution in accordance with Article 40 enacts or amends its arbitration rules, it shall obtain approval from the Chief Justice of the Supreme Court.

[This Article Wholly Amended on Mar. 31, 2010]

ADDENDA <Act No. 6083, Dec. 31, 1999>

(1) (Enforcement date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional measures regarding arbitration cases in process) Cases for which arbitral proceedings are pending before this Act enters into force shall be governed by the previous provisions.

(3) (Transitional measures following designation of commercial arbitral institution) The Korean Commercial Arbitration Board Incorporated Association as at the time this Act enters into force shall be deemed to have been designated as an incorporated association administering commercial arbitration under the amended provisions of Article 40, and its commercial arbitration rules shall be deemed to have been approved by the Chief Justice of the Supreme Court under the amended provisions of Article 41.

ADDENDA <Act No. 6465, Apr. 7, 2001>

(1) (Enforcement date) This Act shall enter into force on July 1, 2001.

(2) through (4) Omitted.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 10207, Mar. 31, 2010>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 11690, Mar. 23, 2013>

Article 1 (Enforcement date)

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 14176, May 29, 2016>

Article 1 (Enforcement date)

This Act shall enter into force 6 months after the date of its promulgation.

Article 2 (Transitional measures regarding cases pending in arbitral proceedings)

Notwithstanding the amended provisions of Articles 7, 8, 12, 17, 18, 18-2 through 18-8, and 28, the previous provisions shall apply to the form of arbitration agreement, appointment of arbitrators, recourse against an arbitral tribunal's jurisdiction, interim measures, and request to assist in taking evidence in arbitral proceedings being conducted at the time this Act enters into force.

ADDENDUM <Act No. 16918, Feb. 4, 2020>

This Act shall enter into force on the date of its promulgation.