Translation from Bulgarian

LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

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Chapter I
General Provisions

Art. 1. (1) (Amended - SG No. 93 of 1993). This Law shall apply to international commercial arbitration, based on arbitration agreements when the place of the arbitration proceedings is on the territory of the Republic of Bulgaria.

(2) (Amended - SG No. 93 of 1993), International commercial arbitration shall resolve civil property disputes resulting from international trade relations as well as disputes for filling gaps in contracts or their adaptation to newly established facts when the domicile or seat of at least one of the parties is not in the Republic of Bulgaria.

Art. 2. (Amended - SG No. 93 of 1993, abrogated - SG No. 38 of 2001).

Art. 3. Parties to international commercial arbitration may also be a state or a state agency.

Art. 4. An Arbitral Tribunal may either be a permanent institution or established to resolve a particular dispute.

Art. 5. A party which knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

Art. 6. Proceedings of a state court related to arbitration proceedings shall be admissible only in the cases provided for by this Law.

Chapter II
Arbitration Agreement

Art. 7. (1) An arbitration agreement shall mean consent of the parties to submit to arbitration the resolution of all or certain disputes which may arise or have arisen between them in connection with a specific contractual or non- contractual legal relation. This may be an arbitration clause in a contract or a separate agreement.

(2) The arbitration agreement shall be in writing. An agreement shall be deemed of being in writing if contained in a document signed by the parties or in the exchange of letters, telex messages, telegrammes or other means of communication.

(3) An arbitration agreement shall be deemed to exist also when the respondent in writing or by a statement, recorded in the minutes of the arbitration hearing, accepts the dispute to be heard by an Arbitral Tribunal or when the respondent participates in arbitration proceedings without challenging the jurisdiction of the Arbitral Tribunal.

Art. 8. (1) (Amended in SG No. 59 of 2007) The state court, before which a statement of claim is submitted in a dispute which is subject of an arbitration agreement, shall terminate the proceedings if a party states its reliance on that agreement within the term for written reply to the statement of claim. However, if the court finds that the arbitration agreement is null and void, inoperable or cannot be executed, the court proceedings shall not be terminated.

(2) Arbitration proceedings may be commenced, continued and an award may be issued regardless of a pending case on the same dispute before any domestic or foreign court.

Art. 9. Each of the parties to an arbitration agreement may request from a court to order a provisional remedy of the claim or perpetuation of the evidence before or during the arbitration proceedings.

Art. 10. The provisions of art. 8, para (1) and art. 9 shall also apply when the arbitration agreement provides for arbitration in another country.

Chapter III
Arbitral Tribunal Composition

Art. 11. (1) An Arbitral Tribunal may consist of one or more arbitrators whose number shall be determined by the parties. When their number is not determined by the parties, the arbitrators shall be three.

(2) (Amended in SG No. 93 of 1993) An arbitrator may also be a person who is not a citizen of the Republic of Bulgaria.

Art. 12. (1) The parties may agree on the procedure for composition of the Arbitral Tribunal.

(2) Failing such agreement on the procedure:

1. if the tribunal is of three arbitrators, each of the parties shall appoint one arbitrator and the two shall appoint the third arbitrator;
2. if a party fails to appoint an arbitrator within 30 days from the receipt of the request of the other party to do so, or if the two arbitrators fail to reach agreement on the third arbitrator within 30 days from their appointment, the President of the Bulgarian Chamber of Commerce and Industry, on request of one of the parties, shall appoint the third arbitrator;
3. if the Arbitral Tribunal is of a sole arbitrator and the parties fail to agree on his/her appointment, the latter shall be appointed on the request of one of the parties by the same body under the above item.

(3) When the President of the Bulgarian Chamber of Commerce and Industry is to appoint an arbitrator he shall have due regard of his/her qualification as provided for by the agreement between the parties as well as of all circumstances likely to secure the appointment of an independent and impartial arbitrator.

(4) The decision of the President of the Bulgarian Chamber of Commerce and Industry under para 2 and para 3 above shall be final.

Art. 13. When a person is nominated for arbitrator, he/she shall disclose all circumstances which may give rise to reasonable doubts of his/her impartiality or independence. The arbitrator shall have this obligation after his/her appointment as well.

Art. 14. (1) An arbitrator may be challenged only if circumstances giving rise to reasonable doubts concerning his/her impartiality or independence exist or if he/she does not have the necessary qualification as agreed on by the parties.

(2) A party may challenge an arbitrator appointed by it or in whose appointment it participated only for reasons which the said party has become aware of after the appointment.

Art. 15. (1) The parties shall be free to agree on the procedure for challenge. They shall not exclude the application of art. 16.

(2) Failing such agreement, a challenge of an arbitrator may be made not later than 15 days after the party has become aware of the composition of the Arbitral Tribunal or after the party has become aware of the circumstances substantiating the challenge.

(3) The request for a challenge shall be made in writing to the Arbitral Tribunal, pointing out the grounds for it.

(4) The Arbitral Tribunal shall decide on the challenge, unless the concerned arbitrator withdraws from office or the other party agrees on the challenge.

Art. 16. (1) (Amended in SG No. 59 of 1998, amended in SG No.38 of 2001, amended in SG No. 59 of 2007). If the Arbitral Tribunal rejects the challenge, the party which made it may within a seven-day term from being notified of the rejection request from the Sofia City Court to decide on it.

The Sofia City Court shall rule on the complaint in accordance with Chapter 21 “Appeal against Rulings” of the Civil Procedure Code and its decision shall be final.

(2) The Arbitral Tribunal may proceed with the hearing of the case and render an award on it in spite of the challenge and the complaint under para (1).

Art. 17. (1) When an arbitrator is unable to perform his/her duty or fails to act without justifiable reasons, his/her mandate shall terminate.

(2) (Amended – SG No. 59 of 1998). If in the cases of the above para (1) the arbitrator does not withdraw from office or the parties cannot agree on the termination of his/her mandate, each of the parties may request from the Sofia City Court to decide on the termination of the mandate. The decision of the Court shall be final.

Art. 18. When the mandate of an arbitrator is terminated, another arbitrator shall be appointed following the procedure for appointment of the arbitrator, whose mandate has terminated.

Chapter IV
Jurisdiction of the Arbitral Tribunal

Art. 19. (1) An Arbitral Tribunal shall rule on its own jurisdiction even when the jurisdiction has been challenged on the grounds of nonexistence or invalidity of the respective arbitration agreement.

(2) An arbitration agreement, included in a contract, shall be independent of its other provisions. The voidance of a contract shall not mean *ipso facto* invalidity of the arbitration agreement contained therein.

Art. 20. (1) The challenge of jurisdiction of the Arbitral Tribunal shall be made with the reply to the statement of claim at the latest.

It may be made also by the party which appointed or participated in the appointment of an arbitrator.

(2) If an issue exceeding the scope of jurisdiction of the Arbitral Tribunal is raised, the challenge of jurisdiction shall be made immediately.

(3) The Arbitral Tribunal may admit a challenge of jurisdiction even when made at a later date if there is a justifiable reason for the delay.

(4) The Arbitral Tribunal shall decide on the challenge under the above para (3) by a ruling or by the award on the case.

Art. 21. Unless otherwise agreed on by the parties, the Arbitral Tribunal may on a request of one of them order the other party to tale appropriate measure for securing the rights of the petitioner. If such measures are admitted the Arbitral Tribunal may determine a guaranty which the petitioner shall produce.

Chapter V
Arbitration Proceedings

Art. 22. The parties in arbitration proceedings shall be equal. The Arbitral Tribunal shall give each of them the opportunity of defending its rights.

Art. 23. Unless otherwise agreed on by the parties, arbitration proceedings shall commence on the day of receipt of the request for arbitration by the respondent.

Art. 24. The parties may agree on the procedure to be followed by the Arbitral Tribunal in hearing of the case. Failing such agreement, the Arbitral Tribunal shall be free to conduct the proceedings in a way it considers appropriate. In both cases the Arbitral Tribunal shall provide each party an equal opportunity of defending its rights.

Art. 25. The parties may agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the Arbitral Tribunal, taking into consideration the circumstances related to the case and the convenience of the parties.

Art. 26. The parties may agree on the language or languages to be used during the arbitration proceedings. Failing such agreement, the language or languages shall be determined by the Arbitral Tribunal.

The latter may order each piece of written evidence to be accompanied by a translation into the language or languages agreed on by the parties or determined by the Arbitral Tribunal.

Art. 27. (1) The statement of claim shall indicate the names and addresses of the parties, the facts supporting the claim, the relief or remedy sought and the amount claimed, while the written reply of the respondent shall set out his/her position on them.

(2) The statement of claim and the reply to it shall be submitted within a term agreed on by the parties or fixed by the Arbitral Tribunal.

(3) Along with the statement of claim and the reply the parties shall submit their written evidence and indicate other pieces of evidence to be submitted later.

Art. 28. The respondent may submit a counter claim along with the reply to the statement of claim at the latest.

Art. 29. Unless otherwise agreed on by the parties, each party may during the arbitration proceedings correct or supplement its claim or objection. The Arbitral Tribunal may not admit the correction if the Tribunal considers that it may create excessive difficulties for the other party.

Art. 30. The parties may agree on the case to be resolved only on the basis of the written evidence and opinions, without being summoned to the hearings. The Arbitral Tribunal may order a hearing with the participation of the parties if found necessary for the adequate resolution of the case.

Art. 31. (1) The parties shall in due time be notified of the arbitration hearing or of the actions of the Arbitral Tribunal concerning inspections and verification of documents, goods and chattels.

(2) Written evidence and statements, including reports of the experts shall be made available to the parties in due time.

Art. 32. (1) When the seat, domicile, habitual residence or address of the recipient cannot be found after a diligent inquiry, the notification shall be deemed delivered if sent to the latest known seat, domicile, habitual residence or address of the recipient by registered mail or by any other means which certifies the attempt for it to be delivered.

(2) The notification shall be deemed delivered also when the recipient refuses or fails to contact the post office to receive it, if the post office certifies this fact.

Art. 33. The Arbitral Tribunal shall terminate the proceedings if the claimant fails to submit the statement of claim within the term, agreed on by the parties or set by the Tribunal. This provision, however, shall not apply if the failure is due to an justifiable reason.

Art. 34. The Arbitral Tribunal shall hear the case also if the respondent fails to submit a reply to the statement of claim. The absence of a reply shall not be treated as acceptance of the claim.

Art. 35. The Arbitral Tribunal shall continue with the proceedings and render its award on the basis of the evidence even if one or both parties fail to attend the hearing.

Art. 36. (1) The Arbitral Tribunal may appoint one or more experts to give their opinions for clarification of some issues requiring specific knowledge. The Tribunal may order the parties to submit to the experts the necessary information or to provide access for them for inspection of documents, goods and chattels, when necessary for drawing their reports.

(2) On request of any of the parties or on its own initiative the Arbitral Tribunal may order the expert , after submission of his/her report, to take part in the hearing and give clarifications. On requests of the parties other experts may also be appointed to report on the issue under dispute.

Art. 37. The Arbitral Tribunal or the interested party with the approval of the Tribunal may request from the competent state court to collect certain evidence necessary for the case. The state court shall be bound to fulfill the request according to the provisions of the Civil Procedure Code.

Chapter VI
Rendering an Award and Conclusion of Proceedings

Art. 38. (1) The Arbitral Tribunal shall resolve the dispute applying the law chosen by the parties. Unless otherwise agreed on, the choice of law shall concern substantive law and not rules of conflict of laws.

(2) If the parties have not designated the applicable law, the Arbitral Tribunal shall apply the law indicated by the rules of conflict of laws which the Tribunal considers applicable.

(3) In any event the Arbitral Tribunal shall apply the provisions of the contract, taking into account the trade usages as well.

(4) The arbitral award shall be final and put an end to the dispute.

Art. 39. (1) When the arbitrators are more than one, unless otherwise agreed on by the parties, the award shall be made by a majority vote.

An arbitrator who disagrees with the award shall state his/her dissenting opinion in writing.

(2) If a majority decision cannot be reached, the award shall be made by the presiding arbitrator.

Art. 40. If the parties reach a settlement the proceedings shall conclude. They may request from the Arbitral Tribunal to reproduce the settlement in an award by consent. Such an award shall have the force of an award on the merits of the case.

Art. 41. (1) The award shall be reasoned, unless otherwise agreed on by the parties or issued under s settlement on agreed terms. It shall indicate the date and place of the arbitration proceedings.

(2) The award shall be signed by the sole arbitrator or the arbitrators. In case of arbitration proceedings with more than one arbitrator, the signatures of the majority of the members of the Arbitral Tribunal shall suffice, provided those who signed the award have indicated the reason for the missing signature.

(3) Amended – SG No. 93 of 1993). The award, signed by the arbitrators shall be served on the parties. It shall be deemed made known when served on one of them. Once served, the award shall enter into force, become binding on the parties and liable to forced execution.

Art. 42. The Arbitral Tribunal shall conclude the case by a ruling when:

1. the claimant withdraws his/her claim, unless the respondent objects to that and the Arbitral Tribunal establishes that the respondent has a legitimate interest in the rendering of an award;
2. the parties agree on termination of the proceedings;
3. the Arbitral Tribunal establishes the existence of an obstacle for hearing the case on its merits.

Art. 43. (1) On the request of any of the parties or on its own initiative the Arbitral Tribunal may correct the award regarding the calculation, spelling or any other obvious factual error. The other party shall be informed about the requested correction either by the requesting party or by the Arbitral Tribunal, if acting on its own initiative.

(2) Each party, after informing the other one, may request the Arbitral Tribunal for interpretation of the award.

(3) The request for correction or interpretation shall be made within 60 days from the date of receipt of the award, unless the parties agreed on another term for it. When the Arbitral Tribunal is acting on its own initiative, it shall make the correction within 60 days from the date of rendering the award.

(4) Regarding the correction and the interpretation of the award, the Arbitral Tribunal shall hear the parties or give them the possibility of submitting their written opinions within a term prescribed by the Tribunal. The latter shall decide on the correction or the interpretation within 30 days from the date of the request. The decision on these issues shall be made in compliance with art. 39 and art.41 above.

The correction and the interpretation shall become a part of the award,

Art. 44. On a request of the parties, the Arbitral Tribunal may render an additional award on claims omitted in the award. The party which requests the additional award shall inform the other party about the request made by it within 30 days from the date of receipt of the award. When the request is grounded, the Arbitral Tribunal shall render an additional award within 60 days in compliance with the provisions of art. 43, para (4) above.

Art. 45. The Arbitral Tribunal may extend the term related to the correction, interpretation and addition to the award.

Art. 46. The powers of the Arbitral Tribunal shall end with the conclusion of the arbitration proceedings, except in the cases related to art. 43 and art. 44 above.

Chapter VII
Setting Aside, Recognition and Enforcement of the Award

Art. 47. (Amended in SG No. 46 of 2002) The arbitration award may be set aside by the Supreme Court of Cassation if the party requesting the setting aside proves any of the following grounds:

1. the party has been incapable at the conclusion of the arbitration agreement;
2. no arbitration agreement has been concluded or it has been null and void according to the law chosen by the parties and failing such a choice – according to this Law;
3. the subject of the dispute has been unarbitrable or the arbitration award has been in conflict with the public order of the Republic of Bulgaria;
4. the party has not been duly notified of the appointment of an arbitrator or of the arbitration proceeding or has been unable to take part in the proceeding; owing to causes beyond its control;
5. the award has resolved a dispute not provided for in the arbitration agreement or contains a ruling outside the subject of the dispute;
6. the composition of the Arbitral Tribunal or of the arbitration procedure has not been in compliance with the agreement between the parties, unless the said agreement has been in conflict with the mandatory provisions of this Law or failing such agreement – when the provisions of this Law have not been applied.

Art. 48. (1) A request for setting aside may be made within 3 months from the day on which the requesting party received the award. When a request for correction, interpretation or addition to the award has been made, the term shall be effective from the day when the Arbitral Tribunal decides on that request.

(2) (Amended - SG No. 59 of 1998, No. 38 in 2001, No. 46 of 2002). Stay of execution of an arbitration award as a provisional remedy to actions under art. 47 shall be admitted only by the Supreme Court of Cassation against a guaranty of the amount equal to the interest from setting aside of the arbitration award.

(3) (New – SG No. 93 of 1993, repealed in NO. 38 of 2001, new in No. 46 of 2002, amended in No. 59 of 2007). The amount of the state charge for hearing claims under art. 47 of this Law shall be determined in compliance with the provisions of art. 71 of the Civil Procedure Code.

Art. 49. (Repealed – SG No. 93 of 1993, new – SG No. 38 of 2001). If the state court by a decision in force sets aside an arbitration award on some of the grounds of art. 47, items 1, 2 and 3. the interested

party may bring an action on the dispute before the competent state court and when the arbitral award has been set aside on some of the grounds of art. 47, items 4, 5 and 6, the state court shall return the case to the Court of Arbitration for a new hearing. Each of the parties may request the case to be heard by other arbitrators.

Art. 50. (Abrogated – SG No. 93 of 1993).

Art. 51. (Amended – SG No. 93 of 1993). (1) The Sofia City Court on a request of the interested party shall issue a writ of execution based on the arbitration award in force. A copy of the arbitration award and evidence of the award being served on the debtor party of the execution shall be attached to the request.

(2) The international treaties, to which the Republic of Bulgaria has been a party, shall apply for recognition and enforcement of foreign arbitration awards.

(3) (New – SG No. 38 of 2001, amended in No. 59 of 2007). The request for recognition and enforcement of a foreign arbitration award shall be made before the Sofia City Court, unless otherwise provided for in an international treaty to which the Republic of Bulgaria has been a party. For proceeding on the request respectively arts. 118-120 of the International Private Law Code shall apply, with the exception of the right of the debtor party to raise an objection based on liquidation of the debt.

Additonal Provision

(New – SG No. 93 of 1993)

§ 1. In art. 1, para. 1 and 2, art.. 11, para. 2, art. 47, para. 2, art. 49, para. 2 and art. 50, para. 2 the words “National Republic of Bulgaria” shall be replaced with “the Republic of Bulgaria".

Transitional and Final Provisions

(The heading, amended - SG No. 93 of 1993)

§ 2. (Former § 1, amended – SG No. 93 of 1993) In the Civil Procedure Code (promulgated in Izvestia No. 12 of 1952, amended and supplemented - No. 92 of 1952, No. 89 of 1953, No. 90 of 1955, No. 90 of 1956, No. 90 of 1958, No. 50 and 90 of 1961; amended – No. 99 of 1961; amended and supplemented – SG No. 1 of 1963, No. 23 of 1968, No. 27 of 1973, No. 89 of 1976, No. 36 of 1979, No. 28 of 1983, No. 41 of 1985, No. 27 of 1986, No. 55 of 1987, No. 60 of 1988, No. 31 and 38 of 1989, No. 31 of 1990, No. 62 of 1991, No. 55 of 1992,No. 61 of 1993) in art. 237, “a” and art. 242, para 2 the words “the Court of Arbitration at the Bulgarian Chamber of Commerce and Industry and the settlements concluded before it, when the arbitration is obligatory” shall be substituted by “the arbitral tribunals and the settlements concluded before them in arbitration proceedings”.

§ 3. (New – SG No. 93 of 1993) (1) (Amended and supplemented SG No. 38 of 2001) This Law shall apply also in arbitration proceedings between parties with domiciles or seats in the Republic of Bulgaria, with exception of art. 1, para (2), art. 10, art. 11, para (2) (except when a party to the dispute is a company with prevailing foreign participation), art. 26 and the words “according to the law chosen by the parties and failing such choice” of art. 47, para (1), item 2.

(2) In disputes which do not arise from commercial transactions, the appointing authority under art. 12 shall be the Sofia City Court.

(3) In cases of arbitration between parties with domiciles or seats in the Republic of Bulgaria the provisions of art. 38, paras (1) and (2) shall apply only if the disputed legal relation has such an international element about which the Bulgarian international private law provides for the application of a foreign law.

§ 4. (New – SG No. 93 of 1993) This Law shall apply to pending arbitration cases. It shall also apply to the arbitration awards rendered before its adoption if they have not been fulfilled but the term for request for setting aside of these awards, provided for by art. 48, para (1) shall become effective from the day of entry into force of this Law.

§ 5. (New – SG No. 93 of 1993) Article 98 of Decree No. 56 on the Economic Activity (promulgated in SG No. 4 of 1989, amended in No. 16 of 1989, amended and supplemented in Nos. 38, 39 and 62 of 1989,

Nos. 21, 31 and 101 of 1990, Nos. 15 and 23 of 1991, amended in No. 25 of 1991, amended in Nos. 47, 48 and 62 of 1991, No. 60 of 1992, No. 84 of 1993) shall be abrogated.

§ 6. (Former § 2, amended – SG No. 93 of 1993) The implementation of this law shall be entrusted to the Minister of Justice.

Transitional Provisions

(Law on Amendment and Supplementation of the Law on Foreign Commercial Arbitration, SG No. 38 of 2001)

§ 8. Paragraph 2 of this Law shall apply also to pending cases before the Arbitral Tribunals and to appeals before the Sofia City Court.

§ 9. Paragraphs 4 and 5 of this Law shall apply to existing arbitration awards and pending cases for their setting aside. The claimant may transform his/her request for annulment of the arbitration award into a request for its setting aside according to art. 47, while the new para (3) of art. 51 shall also apply to pending proceedings for recognition and admission of execution of foreign arbitration awards.

Transitional Provisions

(Law on Amendment and Supplementation of the Law on Foreign Commercial Arbitration, SG. No. 46 of 2002, Decision No. 9 of the Constitutional Court of the Republic of Bulgaria, SG, No 102 of 2002)

§ 3. (1) (Declared unconstitutional by the Constitutional Court of the Republic of Bulgaria with regard to the words “lifts the imposed security measures”, SG. No. 102 of 2002). Articles 47 and 48 shall apply to the pending proceedings for setting aside of arbitration awards. In these cases Sofia City Court within two weeks of the entry into force of this Law shall terminate the proceedings pending before it, shall lift the ordered remedial measures and send the case to the Supreme Court of Cassation.

(2) When there is a court decision made by the court of the first or the second instance on the existing proceedings under art. 47, the proceedings shall continue following the abrogated procedure.