

ARBITRATION ACT

Wholly Amended by Act No. 6083, Dec. 31, 1999

Amended by Act No. 6465, Apr. 7, 2001

Act No. 6626, Jan. 26, 2002

Act No. 10207, Mar. 31, 2010

Act No. 11690, Mar. 23, 2013

Act No. 14176, May 29, 2016

Article 1 (Purpose)

The purpose of this Act is to ensure the appropriate, impartial and prompt settlement of disputes in private laws by arbitration.

Article 2 (Scope of Application)

(1) This Act shall apply to cases where the place of arbitration under Article 21 is in the Republic of Korea: Provided, That Articles 9 and 10 shall apply even in cases where the place of arbitration is not yet determined or is not in the Republic of Korea, and Articles 37 and 39 shall apply even in cases where the place of arbitration is not in the Republic of Korea.

(2) This Act shall not affect any other Act 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 those treaties which come into operation in the Republic of Korea.

Article 3 (Definitions)

The definitions of terms used in this Act shall be as follows: *<Amended by Act No. 14176, May 29, 2016>*

1. The term "arbitration" means a procedure to resolve a dispute over a property right or a dispute over a non-property right, which can be settled by compromise between parties, by an award of arbitrators under an agreement between parties, not by judgment of a court;
2. The term "arbitration agreement" means agreement between the parties to settle, by arbitration, all or some disputes which have already occurred or might occur in the future with regard to defined legal relationships, whether contractual or not;
3. The term "arbitral tribunal" means a single arbitrator or a panel of arbitrators who conduct arbitral proceedings and make arbitral awards.

Article 4 (Written Notices)

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

(2) If a notice cannot be provided by personal delivery under paragraph (1), the written notice shall be deemed to have been provided to the addressee on the day 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 can not be found even after making a reasonable inquiry, a written notice shall be deemed to have been provided to the addressee on the day it is sent to his/her last-known domicile, place of business or mailing address by registered mail or any other postal service which provides a record of delivery.

(4) The provisions of paragraphs (1) through (3) shall not apply to communications in court proceedings.

Article 5 (Forfeiture of Rights to Object)

Where a party fails to raise an objection without delay, or proceeds with arbitration without raising an objection within the specified period for raising an objection, even after it becomes aware that any non-mandatory provision of this Act or any agreement between the parties concerning arbitral proceedings is violated, the party shall forfeit its rights to object.

Article 6 (Court Intervention)

In matters governed by this Act, no court shall intervene except where so provided in this Act.

Article 7 (Competent Court)

(1) As regards the following matters, a district court or branch court (hereinafter referred to as "court") shall have jurisdiction, if such a court has been designated by an arbitration agreement; or the court having jurisdiction over the place for arbitration shall have jurisdiction, if no court has been designated; while the court having jurisdiction over the abode shall have jurisdiction, if the domicile or place of business of the respondent is unknown; but the court having jurisdiction over the last known domicile or place of business of the respondent shall have jurisdiction, if even the respondent's abode is unknown: <Amended by Act No. 14176, May 29, 2016>

1. Appointment of arbitrators and designation of an arbitration agency under Article 12 (3) and (4);
 2. Court's decision on the acceptance of a request for challenging an arbitrator under Article 14 (3);
 3. Court's decision on the acceptance of a request for terminating an arbitrator's authority under Article 15 (2);
 4. Court's examination on the authority of the arbitral tribunal at the request under Article 17 (6);
 - 4-2. Recognition of an interim measure or a decision rendered by a court on an application for recognition or execution of an interim measure under Article 18-7 and an order to provide an asset as security;
 5. Court's decision on the acceptance of a request for challenging an expert under Article 27 (3).
- (2) The investigation of evidence under Article 28 shall be governed by the competent court having jurisdiction over an area where such investigation is performed.
- (3) The court designated by arbitration agreement shall govern each of the following matters, and the court having jurisdiction over the place of arbitration shall do so, if not designated by arbitration agreement:

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 application for the recognition and execution of an arbitral award under Articles 37 through 39 shall be governed by a court falling under any of the following subparagraphs:
1. Court designated by arbitration agreement;
 2. Court which has jurisdiction over the place of arbitration;
 3. Court which has jurisdiction over the place where a respondent's property is located;
 4. Court which has jurisdiction over a respondent's domicile or place of business, his/her place of abode if none of those can be found, or his/her last-known domicile or place of business if his/her place of abode can not be found.

Article 8 (Forms of Arbitration Agreement)

- (1) Arbitration agreement may be in the form of separate agreement or in the form of an arbitration clause in a contract.
- (2) Arbitration agreement shall be in writing.
- (3) In any of the following cases, a written arbitration agreement shall be deemed made: *<Amended by Act No. 14176, 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 parties' intentions communicated by telegram, telex, facsimile, electronic mail, or any other means of communication contain an arbitration agreement: Provided, That the cases where terms and conditions of such arbitration agreement are not verifiable shall be excluded herefrom;
 3. Where either party asserts that an application or a written answer exchanged between the parties contains an arbitration agreement, and the other party does not deny such assertion.
- (4) Where a contract cites a document containing an arbitration clause, an arbitration agreement shall be deemed made: Provided, That the foregoing shall apply only where such arbitration clause constitutes part of the contract. *<Amended by Act No. 14176, May 29, 2016>*

Article 9 (Arbitration Agreement and Substantive Claim before Court)

- (1) A court before which an action is brought in a matter which is the subject of arbitration agreement shall, when the respondent raises a plea for the existence of arbitration agreement, reject the action: Provided, That this shall not apply in cases where it finds that such arbitration agreement is null and void, inoperative or incapable of being performed.
- (2) A respondent shall raise a plea under paragraph (1) by not later than when submitting his/her first statement on the substance of the dispute.
- (3) Where an action under paragraph (1) is pending before the court, arbitral proceedings may nevertheless be commenced or continued, and an award may be made.

Article 10 (Arbitration Agreement and Interim Measures by Court)

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

Article 11 (Number of Arbitrators)

(1) The parties shall be free to determine the number of arbitrators by agreement.

(2) Failing such agreement under paragraph (1), the number of arbitrators shall be three.

Article 12 (Appointment of Arbitrators)

(1) No person shall be precluded by reason of his/her nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties shall be free to agree on a procedure of appointing arbitrators.

(3) If no agreement has been made under paragraph (2), arbitrators shall be appointed as follows:

<Amended by Act No. 14176, May 29, 2016>

1. In cases of arbitration by a sole arbitrator: If the parties fail to reach an agreement on the appointment of an arbitrator within 30 days after either party receives a request from the other party to appoint an arbitrator, a court or the arbitration agency designated by a court shall appoint an arbitrator upon a request from either party;

2. In cases of arbitration by three arbitrators: Each party shall appoint one arbitrator respectively, and then the two arbitrators so appointed shall appoint the third arbitrator by mutual agreement. If either party does not appoint an arbitrator within 30 days after the party is requested by the other party to appoint an arbitrator or if the two appointed arbitrators fail to appoint the third arbitrator within 30 days after they are appointed, a court or the arbitration agency designated by a court shall appoint the arbitrator upon a request from either party.

(4) In any of the following cases, arbitrators shall be appointed by a court or the arbitration agency designated by a court upon a request from the parties, if an agreement has been made by the parties under paragraph (2): *<Amended by Act No. 14176, May 29, 2016>*

1. A party fails to appoint an arbitrator according to the procedure agreed upon;

2. The parties or two arbitrators fail to appoint an arbitrator according to the procedure agreed upon;

3. An institution or any other party, entrusted to appoint an arbitrator, fails to do so.

(5) No protest may be made against a decision by a court or by the arbitration agency designated by a court under paragraph (3) or (4). *<Amended by Act No. 14176, May 29, 2016>*

Article 13 (Grounds for Challenge)

(1) When a person is approached in connection with his/her possible appointment as an arbitrator or has already been appointed as such, he/she shall, without delay, disclose any circumstance likely to give rise to justifiable doubts as to his/her impartiality or independence to the parties.

(2) Any arbitrator may be challenged only if any circumstance under paragraph (1) exists, or if he/she does not possess qualifications agreed to by the parties: Provided, That a party may challenge an arbitrator appointed by him/her, or in whose appointment he/she has participated, only for reasons of which he/she becomes aware after the appointment is made.

Article 14 (Procedures for Challenge)

- (1) The parties shall be free to agree on a procedure for challenging an arbitrator.
- (2) Failing such agreement under paragraph (1), a party who intends to challenge an arbitrator shall, within 15 days after becoming aware of the constitution of the arbitral tribunal, or after becoming aware of any circumstance under Article 13 (2), send a written statement of the reason for the challenge to the arbitral tribunal. In such cases, unless the challenged arbitrator withdraws from office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.
- (3) If a challenge under the procedure of paragraph (1) or (2) is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court to decide on the challenge. In such cases, the arbitral tribunal may, even if such request is pending in court, continue arbitral proceedings or make an award.
- (4) A decision on the challenge by paragraph (3) entrusted to the court shall be subject to no appeal.

Article 15 (Termination of Mandate of Arbitrator due to his/her Failure of Impossibility to Act)

- (1) If an arbitrator becomes de jure or de facto unable to perform his/her functions or for other reasons fails to act without undue delay, his/her mandate shall terminate if he/she withdraws from office or if the parties agree on the termination.
- (2) If a controversy remains concerning the termination of the mandate of an arbitrator under paragraph (1), any party may request the court to decide on the termination of the mandate.
- (3) A decision on the termination of the mandate under paragraph (2) entrusted to the court shall be subject to no appeal.

Article 16 (Appointment of Substitute Arbitrator)

Where, in consequence of the termination of the mandate of an arbitrator, a substitute arbitrator is appointed, he/she shall be so done in conformity with the procedure that is followed for the appointment of the arbitrator being replaced.

Article 17 (Ruling of Arbitral Tribunal on its Jurisdiction)

- (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, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other clauses of the contract.
- (2) A plea concerning the arbitral tribunal's jurisdiction shall be raised by not later than the submission of the statement of defence. In such cases, a party shall not be precluded from raising such plea by the fact that he/she has appointed, or participated in the appointment of, an arbitrator.
- (3) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.
- (4) The arbitral tribunal may, in either case of paragraphs (2) and (3), admit a later plea if it considers the delay justified.
- (5) The arbitral tribunal may rule a plea under paragraph (2) or (3) either as a preliminary question or in an arbitral award on the merits.

(6) If the arbitral tribunal makes a decision on its jurisdiction as a preliminary question under paragraph (5), the party who objects to the decision may file a petition with a court to examine the jurisdiction of the arbitral tribunal, within 30 days after the party is notified of the decision. <Amended by Act No. 14176, May 29, 2016>

(7) While a request under paragraph (6) is pending, the arbitral tribunal may continue the arbitral proceedings or make an arbitral award.

(8) No appeal shall be filed against the review of the authority which is conducted by a court following a request therefor under paragraph (6).

(9) If the court makes a decision that an arbitral tribunal has jurisdiction to make an award, upon receipt of a petition under paragraph (6), the arbitral tribunal shall continue the arbitral proceeding; but the arbitrators shall cease to have jurisdiction, if they are unable to, or do not want to, continue the arbitral proceeding, and arbitrators shall be appointed again under Article 16. <Newly Inserted by Act No. 14176, May 29, 2016>

Article 18 (Interim Measures)

(1) Unless otherwise agreed by the parties, the arbitral tribunal may take an interim measure as considered necessary, at the request of either party. <Amended by Act No. 14176, May 29, 2016>

(2) The interim measure under paragraph (1) shall be taken before the arbitral tribunal makes an arbitral award as a provisional measure to order either party to perform any of the following actions: <Amended by Act No. 14176, May 29, 2016>

1. Maintaining or restoring the status quo until an arbitral award is made on the merits of the case;
2. Prohibiting measures that prevent a present or imminent danger or impact on the arbitral proceeding itself or measures that are likely to endanger or influence the arbitral proceeding;
3. Providing methods for preserving assets subject to the execution of an arbitral award;
4. Preserving evidence relevant and essential to the resolution of the dispute.

Article 18-2 (Elements for Interim Measures)

(1) An interim measure under Article 18 (2) 1 through 3 may be taken only if the party applying for the measure proves all of the following elements:

1. If the applicant fails to have the interim measure taken, the applicant will possibly sustain damage that cannot be redressed by an arbitral award for compensating for damage, and such damage will considerably exceed the damage that the other party is expected to sustain as a consequence of the interim measure;
2. The interim measure will be possibly accepted reasonably for the merits of the case: Provided, That the arbitral tribunal shall not be bound by the judgment on the possibility of citation in making a decision on an interim measure.

(2) The elements specified in paragraph (1) are applicable to an application filed for an interim measure under Article 18 (2) 4 only to the extent that the arbitral tribunal concludes that the application of such elements is proper.

Article 18-3 (Alteration, Suspension, or Revocation of Interim Measures)

Upon the request of either party or if any exceptional circumstance exists, the arbitral tribunal may, ex officio, alter, suspend, or revoke an interim measure already taken after giving notice thereof to the parties. In such cases, the arbitral tribunal shall examine the parties before altering, suspending, or revoking the interim measure.

Article 18-4 (Provision of Security)

The arbitral tribunal may order the party who requests an interim measure to provide an asset of a reasonable value as security.

Article 18-5 (Duty to Notify)

The arbitral tribunal may require the parties to notify the arbitral tribunal of any significant change in the circumstance upon which an interim measure has been taken or a request for an interim measure has been filed.

Article 18-6 (Expenses and Damage)

(1) If the arbitral tribunal finds that an interim measure is improper after taking the interim measure, the party who requested the interim measure shall be liable to pay or compensate the other party for the expenses or damage incurred to the party.

(2) The arbitral tribunal may issue an order, in the form of an arbitral award, for the payment of expenses or the compensation for damage under paragraph (1) at any time during the arbitral proceeding.

Article 18-7 (Recognition and Execution of Interim Measures)

(1) The party who wishes to obtain recognition of the interim measure taken by the arbitral tribunal may file a petition with a court to seek a decision to approve the measure, and the party who intends to enforce a writ of execution issued according to an interim measure may file a petition with a court to seek a decision that authorizes the execution.

(2) If an interim measure is altered, suspended, or revoked, the party who filed a petition for the recognition or execution of the interim measure or the other party shall notify the court thereof.

(3) If a court finds it necessary, upon receipt of a petition for the recognition or execution of an interim measure, where the arbitral tribunal has not issued an order to provide an asset as security in connection with the interim measure or the interim measure is likely to violate a third party's rights, the court may order the party who files the petition for recognition and execution to provide an adequate asset as security.

(4) The provisions concerning preservative measures in the Civil Execution Act shall apply mutatis mutandis to the execution of interim measures.

Article 18-8 (Grounds for Denial of Recognition or Execution)

(1) The recognition or execution of an interim measure may be denied only in any of the following cases:

1. Where the court finds that any of the following grounds exists upon the other party's objection to the interim measure:

- (a) The other party to the interim measure proves any of the following facts:
 - (b) Where an asset has not been provided as security for the interim measure according to an order issued by the court or the arbitral tribunal;
 - (c) Where the interim measure has been revoked or suspended by the arbitral tribunal;
2. Where the court, ex officio, finds that either of the following grounds exists:
- (a) Where the court has no authority to execute the interim measure: Provided, That the foregoing shall not apply where the court makes a decision to alter the interim measure to the necessary extent, without altering the substance of the interim measure, in order to execute the interim measure;
 - (b) Where any of the grounds referred to in Article 36 (2) 2 (a) or (b) exists.
- (2) No court shall examine the substance of an interim measure when it makes a decision on a petition filed to seek the recognition or execution of the interim measure under Article 18-7.
- (3) The judgment of a court based on any of the grounds referred to in paragraph (1) shall be valid only for the decision on the recognition and execution of the relevant interim measure.

Article 19 (Equal Treatment of Parties)

The parties shall be equally treated in the arbitral proceedings and each party shall be provided a full opportunity to present his/her case.

Article 20 (Arbitral Proceedings)

- (1) Except those contrary to the mandatory provisions of this Act, the parties may agree on arbitral proceedings.
- (2) Failing such agreement under paragraph (1), the arbitral tribunal may, subject to the provisions of this Act, conduct arbitration in such manner as it considers appropriate. In such cases, the power conferred upon the arbitral tribunal shall include the power to determine admissibility, relevance, and weight of any evidence.

Article 21 (Place of Arbitration)

- (1) The parties shall be free to agree on the place of arbitration.
- (2) Failing such agreement under paragraph (1), the place of arbitration shall be determined by the arbitral tribunal having regard to all circumstances of the case, including the convenience of the parties.
- (3) The arbitral tribunal may conduct consultations among arbitrators, examinations of witnesses, expert witnesses, and the parties, or the inspection of articles, places, or documents at any place other than the place of arbitration under paragraph (1) or (2), as appropriate: Provided, That the foregoing shall not apply where the parties agree otherwise. <Amended by Act No. 14176, May 29, 2016>

Article 22 (Commencement of Arbitral Proceedings)

- (1) Unless otherwise agreed by the parties, arbitral proceedings in respect of a particular dispute shall commence on the date when a request for that dispute to be referred to arbitration is received by the respondent.
- (2) In a request under paragraph (1), the parties, subject-matter of the dispute and details of the arbitration agreement shall be contained.

Article 23 (Language)

(1) The parties shall be free to agree on a language to be used in arbitral proceedings, failing such agreement, the arbitral tribunal shall determine such language, and otherwise the Korean language shall be used.

(2) The agreement or determination referred to in paragraph (1) shall, unless otherwise specified therein, apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

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

Article 24 (Statement of Claim and Defence)

(1) Within the period agreed by the parties or determined by the arbitral tribunal, the claimant shall communicate statements of the facts supporting his/her claim and the points at issue, and the respondent shall state his/her defence in respect of these particulars.

(2) The parties may submit with their statements of claim or defence all documents they consider to be relevant or may indicate other evidence they will use in the documents.

(3) Unless otherwise agreed by the parties, either party may amend or supplement his/her claim or defence during the course of arbitral proceedings: Provided, That this shall not apply in cases the arbitral tribunal considers that such amendment or supplement might cause a considerable delay in the arbitral proceedings.

Article 25 (Hearings)

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

(2) The arbitral tribunal shall provide the parties sufficient advance notice of any oral hearing and of any meeting for the purpose of inspection of other evidence.

(3) All statements, documents, or other materials submitted by either party to the arbitral tribunal shall be conveyed to the other party, without delay. <Amended by Act No. 14176, May 29, 2016>

(4) Any expert report or evidentiary document on which the arbitral tribunal intends to rely in making its decision shall be conveyed to both parties. <Amended by Act No. 14176, May 29, 2016>

Article 26 (Default of Party)

(1) If the claimant fails to submit his/her statement of claim under Article 24 (1), the arbitral tribunal shall terminate arbitral proceedings.

(2) If the respondent fails to submit his/her statement of defence under Article 24 (1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations.

(3) If any party fails to appear at a hearing or to produce documentary evidence within a fixed period, the arbitral tribunal may continue the proceedings and make the 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 any sufficient ground exists

Article 27 (Expert)

(1) Unless otherwise agreed by the parties, the arbitral tribunal may appoint one or more experts to consult on specific issues. In such cases, the arbitral tribunal may require a party to provide the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other articles for his/her inspection.

(2) Unless otherwise agreed by the parties, the arbitral tribunal may, ex officio or in receipt of the application of the parties, require the expert to participate in a hearing, and to answer questions asked by the parties.

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

Article 28 (Court's Assistance in Examining Evidence)

(1) The arbitral tribunal may, ex officio or at the request of the parties, request a court to examine evidence or may request a court to cooperate in examining evidence. *<Amended by Act No. 14176, May 29, 2016>*

(2) When the arbitral tribunal requests a court to examine evidence, the arbitral tribunal may specify, in writing, the matters to be entered in the report on the examination of evidence and other matters necessary for the examination of evidence. *<Amended by Act No. 14176, May 29, 2016>*

(3) When a court examines evidence under paragraph (2), arbitrators or the parties may attend the examination of evidence with permission of the presiding judge. *<Amended by Act No. 14176, May 29, 2016>*

(4) In cases of paragraph (2), the court shall dispatch records of the examination of evidence, including certified transcripts of reports on the examination of witnesses and certified transcripts of reports on the examination of evidence, to the arbitral tribunal, without delay after closing the examination of evidence. *<Amended by Act No. 14176, May 29, 2016>*

(5) When the arbitral tribunal requests a court to cooperate in the examination of evidence, the court may order witnesses, holders of documents, and others to make an appearance before the arbitral tribunal or may order them to submit necessary documents to the arbitral tribunal. *<Newly Inserted by Act No. 14176, May 29, 2016>*

(6) The arbitral tribunal shall pay expenses incurred in the examination of evidence to the court. *<Newly Inserted by Act No. 14176, May 29, 2016>*

Article 29 (Rules Applicable to Substance of Dispute)

(1) The arbitral tribunal shall make an award in accordance with such rules as are designated by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its Act on Private International Law.

(2) Failing the designation under paragraph (1), the arbitral tribunal shall apply the law of the State which it considers having the closest connection with the subject-matter of the dispute.

(3) The arbitral tribunal shall 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 usages of the trade applicable to the transaction.

Article 30 (Decision-Making by Arbitral Tribunal)

In arbitral proceedings with not less than three arbitrators, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by the resolution of a majority of its members: Provided, That questions of procedure may be solely decided by a presiding arbitrator, if so agreed by the parties or if so authorized by all members of the arbitral panel.

Article 31 (Settlement)

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

(2) An arbitral award on agreed terms under paragraph (1) shall be made in accordance with Article 32 and shall state that it is an award.

(3) An arbitral award on settlement shall have the same effect as any other award on the merits of the relevant case.

Article 32 (Form and Contents of Arbitral Awards)

(1) Each arbitral award shall be made in writing and shall be signed by all arbitrators: Provided, That if some of the arbitrators, whose number does not constitute a majority of the arbitral tribunal consisting of not less than three arbitrators, other arbitrators shall state the reasons therefor and sign on it.

(2) Each arbitral award shall state the reasons upon which it is based: Provided, That this shall not apply if the parties have agreed that no reason are to be given or the award is an award on agreed terms under Article 31.

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

(4) The authentic copy of an arbitral award made and signed in accordance with paragraphs (1) through (3) of this Article shall be delivered to each party in accordance with Article 4 (1) through (3): Provided, That the arbitral tribunal may deliver the original copy of the arbitral award to the competent court, along with a document certifying such delivery, upon the request of the parties, so as to deposit it with the court.

<Amended by Act No. 14176, May 29, 2016>

Article 33 (Termination of Proceedings)

(1) Arbitral proceedings shall be terminated by the final award or by a decision of the arbitral tribunal in accordance with paragraph (2).

(2) The arbitral tribunal shall make a decision for the termination of arbitral proceedings in cases falling under any of the following subparagraphs:

1. Where the claimant withdraws his/her claim: Provided, That cases where the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his/her part in obtaining a final settlement of the dispute shall be excluded;
2. Where the parties agree on the termination of arbitral proceedings;
3. Where the arbitral tribunal finds that the continuation of arbitral proceedings has for any other reason become unnecessary or impossible.

(3) The mandate of the arbitral tribunal shall terminate with the termination of arbitral proceedings, subject to the provisions of Article 34.

Article 34 (Correction or Interpretation of Award or Additional Award)

(1) Within thirty days of receipt of the authentic copy of an arbitral award, unless another period has been agreed upon by the parties, a party may request the arbitral tribunal to make a correction, interpretation or an additional award under any of the following subparagraphs:

1. To correct any errors in computation, any clerical or typographical errors or any errors of similar nature;
2. To give an interpretation of a specific point of or part of the award, if so agreed by the parties;
3. To make an additional award as to claims presented in arbitral proceedings but omitted from the award: Provided, That this shall not apply if agreement between the parties exists.

(2) In cases of making any request under paragraph (1), a party shall give notice to the other party to such effect.

(3) The arbitral tribunal shall decide within thirty days of the receipt of a request under paragraph (1) 1 or 2, and within sixty days of the receipt of the request under paragraph (1) 3 respectively. In such cases, interpretation under paragraph (1) 2 shall form part of the award.

(4) The arbitral tribunal may correct, ex officio, any error of the type under paragraph (1) 1 within thirty days of the date of the award.

(5) The arbitral tribunal may extend, if necessary, any period under paragraph (3).

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

Article 34-2 (Allocation of Costs of Arbitration)

Unless otherwise agreed by the parties, the arbitral tribunal may determine the allocation of costs of arbitration incurred in the arbitral proceeding, considering all circumstances of the relevant arbitration case.

Article 34-3 (Past Due Interest)

Unless otherwise agreed by the parties, the arbitral tribunal may order either party to pay past due interest, if it finds it appropriate in making an arbitral award, considering all circumstances of the relevant arbitration case.

Article 35 (Effect of Arbitral Awards)

An arbitral award shall have the same effect on the parties as a final and conclusive judgement of a court: Provided, That the foregoing shall not apply where recognition or execution is denied under Article 38.

<Amended by Act No. 14176, May 29, 2016>

Article 36 (Lawsuit for Setting Aside Arbitral Awards)

(1) A protest against an arbitral award may be made only by filing a lawsuit for setting aside such arbitral award with a court.

(2) An arbitral award may be set aside by the court only if: *<Amended by Act No. 14176, May 29, 2016>*

1. The party seeking the setting aside of the arbitral award proves that:

(a) A party to arbitration agreement was under some incapacity under the law applicable to him/her; or the said agreement is not valid under the law to which the parties have subjected it, or failing any indication thereon, under the law of the Republic of Korea;

(b) The party seeking the setting aside of the arbitral award was not given proper notice of the appointment of arbitrators or of the arbitral proceeding or was otherwise unable to present his/her case;

(c) The award has dealt with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration: Provided, That if the decisions on matters submitted to arbitration can be separated from those not submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside;

(d) The composition of the arbitral tribunal or arbitral proceedings were not in accordance with agreement of the parties, unless such agreement was in conflict with any mandatory provision of this Act from which the parties can not derogate, or failing such agreement, were not in accordance with this Act;

2. The court finds on its own initiative that:

(a) The subject-matter of the dispute is not capable of settlement by arbitration under the law of the Republic of Korea;

(b) The award is in conflict with the good morals and other forms of social order of the Republic of Korea.

(3) An action for setting aside an arbitral award shall be raised within three months from the date on which the party making such application has received the duly authenticated copy of the award or the duly authenticated copy of a correction or interpretation or an additional award under Article 34.

(4) No party may file a lawsuit to seek the setting aside of an arbitral award after a decision rendered by a court of the Republic of Korea on the recognition or execution of the relevant arbitral award becomes final and conclusive. *<Amended by Act No. 14176, May 29, 2016>*

Article 37 (Recognition or Enforcement of Arbitral Awards)

(1) An arbitral award shall be recognized, unless a ground to deny recognition under Article 38 or 39 exists: Provided, That a court may render a decision to recognize an arbitral award upon the request of the parties. <Amended by Act No. 14176, May 29, 2016>

(2) An arbitral award may be enforced only by a court's decision to enforce it upon the request of the parties. <Newly Inserted by Act No. 14176, May 29, 2016>

(3) The party applying for the recognition or enforcement of an arbitral award shall submit the authentic copy or a copy of the arbitral award: Provided, That, if an arbitral award is written in a foreign language, it shall be accompanied by a translation in Korean: <Amended by Act No. 14176, May 29, 2016>

1. and 2. Deleted. <by Act No. 14176, May 29, 2016>

(4) Upon receipt of an application filed under the proviso to paragraph (1) or paragraph (2), a court shall determine the date for pleading or the date for examination, on which both participants can participate in the proceeding, and shall notify the parties of such date. <Newly Inserted by Act No. 14176, May 29, 2016>

(5) A decision rendered under the proviso to paragraph (1) or paragraph (2) shall contain the reasons therefor: Provided, That a decision may contain only the summary of reasons, if a decision is rendered without hearings. <Newly Inserted by Act No. 14176, May 29, 2016>

(6) Either party may file an immediate complaint against a decision rendered under the proviso to paragraph (1) or paragraph (2). <Newly Inserted by Act No. 14176, May 29, 2016>

(7) An immediate complaint filed under paragraph (6) has no effect of suspending enforcement: Provided, That the appellate court (referring to the lower court, if trial records are still in the lower court) may suspend the enforcement of the decision rendered by the lower court, issue an order to suspend the proceeding of enforcement completely or partially, with or without an asset provided by the party filing the complaint as security until a decision is rendered on the immediate complaint, or issue an order to continue the enforcement of the decision with an asset provided as security. <Newly Inserted by Act No. 14176, May 29, 2016>

(8) No protest may be made against a decision rendered under the proviso to paragraph (7). <Newly Inserted by Act No. 14176, May 29, 2016>

Article 38 (Domestic Arbitral Awards)

Arbitral awards made in the Republic of Korea shall be recognized or enforced, unless any of the following grounds exists: <Amended by Act No. 14176, May 29, 2016>

1. If either party to an arbitral award proves any of the following facts:

(a) The fact referred to in any item of Article 36 (2) 1;

(b) Any of the following facts:

2. If the case falls within Article 36 (2) 2.

Article 39 (Arbitral Awards in Foreign Country)

(1) Recognition or enforcement of a foreign award which is 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 the recognition or execution of a foreign arbitral award which is not subject to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Article 40 (Assistance to Commercial Arbitration Institutions)

In order to ensure impartial and rapid settlement of domestic or international commercial disputes and to establish the order in international transactions pursuant to this Act, the Government may fully or partially subsidize an incorporated association designated by the Minister of Trade, Industry and Energy as one that conducts commercial arbitration for necessary expenses. <Amended by Act No. 11690, Mar. 23, 2013>

Article 41 (Enactment and Approval of Arbitration Rules)

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

ADDENDA

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

(2) (Transitional Measures concerning Arbitration Cases in Process) Cases for which arbitral proceedings are in progress before this Act enters into force shall be governed by the former provisions.

(3) (Transitional Measures Arising out of Designation of Commercial Arbitration 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 conducting 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 4 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 six months after the date of its promulgation.

Article 2 (Transitional Measures concerning Cases Pending in Arbitral Proceedings)

Notwithstanding the amended provisions of Articles 7, 8, 12, 17, 18, 18-2 through 18-8, and 28, former provisions shall apply to the form of an arbitration agreement for cases pending in arbitral proceedings at the time this Act enters into force, the appointment of arbitrators, the challenge against the jurisdiction of the arbitral tribunal, an interim measure, and the request for cooperating in the examination of evidence.

