

Arbitration Law of the PRC

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Adopted at the 9th Session of the Standing Committee of the 8th National People's Congress on August 31, 1994;
amended in accordance with the Decision on Amending the Arbitration Law of the People's Republic of China
adopted at the 29th Session of the Standing Committee of the 12th National People's Congress on September 1,
2017
Effective: September 1, 1995; Amended September 1, 2017

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Chapter I — General Provisions

Article 1 — This Law is formulated for the purpose of ensuring the fair and timely arbitration of economic disputes, protecting the legitimate rights and interests of the parties, and safeguarding the sound development of the socialist market economy.

Article 2 — Contractual disputes and other disputes concerning rights and interests in property between citizens, legal persons, and other organizations of equal status may be submitted to arbitration.

Article 3 — The following disputes shall not be submitted to arbitration: (1) Disputes concerning marriage, adoption, guardianship, maintenance, and succession; (2) Administrative disputes that are, in accordance with the law, to be handled by administrative authorities.

Article 4 — In submitting a dispute to arbitration, the parties shall do so on the basis of their voluntary agreement to arbitrate. Where there is no arbitration agreement, where one party applies for arbitration, the arbitration commission shall not accept the case.

Article 5 — Where the parties have reached an arbitration agreement but one party brings a lawsuit before a people's court, the people's court shall not accept the case, unless the arbitration agreement is invalid.

Article 6 — The arbitration commission shall be selected by the parties by agreement. Arbitration shall not be subject to the jurisdiction of administrative regions at any level.

Article 7 — Disputes shall be resolved by arbitration on the basis of the facts and in compliance with the law, with fairness and reasonableness.

Article 8 — Arbitration shall be conducted independently in accordance with the law and shall be free from interference by administrative authorities, social organizations, or individuals.

Article 9 — An arbitration award shall be final and binding. Where a party applies for arbitration again or brings a lawsuit before a people's court in respect of the same dispute after an arbitration award has been rendered, the arbitration commission or the people's court shall not accept the case. Where an arbitration award is set aside or enforcement is disallowed by a people's court in accordance with the law, a party may apply for arbitration again on the basis of a re-concluded arbitration agreement, or may bring a lawsuit before a people's court.

Chapter II — Arbitration Commissions and Arbitration Associations

Article 10 — Arbitration commissions may be established in centrally-administered municipalities, cities where the people's governments of provinces or autonomous regions are located, or in other districted cities according to need. Arbitration commissions shall not be established at each level of administrative division. A people's government of a city specified in the preceding paragraph and the chamber of commerce shall organize the relevant departments to form an arbitration commission uniformly. The establishment of an arbitration commission shall be registered with the judicial administrative authority of the relevant province, autonomous region, or centrally-administered municipality.

Article 11 — An arbitration commission shall meet the following conditions: (1) Having a name, domicile, and articles of association; (2) Having necessary property; (3) Having members; (4) Having arbitrators appointed.

Article 12 — An arbitration commission shall be composed of one chairman, two to four vice-chairmen, and seven to eleven members. The chairman, vice-chairmen, and members of an arbitration commission shall be persons with expertise in law, economics and trade, and persons with practical experience. The number of persons with expertise in law, economics and trade shall not be less than two-thirds of the total membership of an arbitration commission.

Article 13 — An arbitration commission shall appoint its arbitrators from among fair and upright persons. An arbitrator shall meet one of the following conditions: (1) Having been engaged in arbitration work for at least eight years; (2) Having worked as a lawyer for at least eight years; (3) Having served as a judge for at least eight years; (4) Having been engaged in legal research or teaching and having a senior professional title; (5) Having legal knowledge and having been engaged in economic and trade or other professional work and having a senior professional title or equivalent professional level.

Article 14 — Arbitration commissions shall be independent of administrative authorities and shall have no subordinate relationships with administrative authorities. Arbitration commissions shall have no subordinate relationships between one another.

Article 15 — The China Arbitration Association is a self-regulatory organization of arbitration commissions. The China Arbitration Association shall, in accordance with its articles of association, exercise supervision over arbitration commissions and their members and arbitrators for their breach of discipline. The China Arbitration Association shall formulate arbitration rules in accordance with this Law and the Civil Procedure Law.

Chapter III — Arbitration Agreement

Article 16 — An arbitration agreement shall include arbitration clauses contained in contracts and any other form of agreement concluded before or after a dispute arises for submission of the dispute to arbitration. An arbitration agreement shall contain the following particulars: (1) Expression of intention to seek arbitration; (2) Matters to be submitted to arbitration; (3) The arbitration commission selected.

Article 17 — An arbitration agreement shall be null and void under any of the following circumstances: (1) The agreed matters to be submitted to arbitration exceed the scope of arbitration as prescribed by law; (2) The arbitration agreement is concluded by a person without the capacity for civil acts or with restricted capacity for civil acts; (3) One party has forced the other party to conclude an arbitration agreement by means of duress.

Article 18 — Where the matters to be submitted to arbitration or the arbitration commission is not agreed upon or the agreement is unclear in an arbitration agreement, the parties may conclude a supplemental agreement. If no supplemental agreement is reached, the arbitration agreement shall be null and void.

Article 19 — An arbitration agreement shall exist independently. The amendment, rescission, termination, or invalidity of a contract shall not affect the validity of the arbitration agreement. An arbitration tribunal shall have the power to determine the validity of a contract.

Article 20 — Where a party raises an objection to the validity of an arbitration agreement, it may apply to the arbitration commission for a decision or to a people's court for a ruling. Where one party applies to the arbitration commission for a decision and the other party applies to a people's court for a ruling, the people's court shall rule. A challenge to the validity of an arbitration agreement must be raised before the first hearing in the arbitration tribunal.

Chapter IV — Arbitration Procedure

Article 21 — In applying for arbitration, a party shall satisfy the following conditions: (1) Having an arbitration agreement; (2) Having a specific claim, facts, and reasons; (3) The matter falls within the jurisdiction of the arbitration commission.

Article 22 — A party applying for arbitration shall submit to the arbitration commission the arbitration agreement, the application for arbitration, and copies thereof.

Article 23 — An application for arbitration shall set forth the following particulars: (1) The name, sex, age, occupation, domicile, and contact information of the parties; the name, domicile, and legal representative or person in charge of a legal person or other organization; (2) The claim for arbitration and the facts and reasons on which the claim is based; (3) Evidence and the source of evidence, and the name and domicile of witnesses.

Article 24 — Where an arbitration commission finds that the conditions for acceptance are satisfied upon receipt of the application for arbitration, it shall accept the application within five days from the date of receipt and notify the parties. Where the conditions are not satisfied, it shall notify the parties in writing within five

days that the application is not accepted and explain the reasons.

Article 25 — After accepting an application for arbitration, the arbitration commission shall serve the arbitration rules and the register of arbitrators on the applicant within the time limit prescribed by the arbitration rules, and serve a copy of the application for arbitration, the arbitration rules, and the register of arbitrators on the respondent. Upon receipt of a copy of the application for arbitration, the respondent shall submit a statement of defense to the arbitration commission within the time limit prescribed by the arbitration rules. The arbitration commission shall serve a copy of the statement of defense on the applicant within the time limit prescribed by the arbitration rules. Failure by the respondent to submit a statement of defense shall not affect the conduct of the arbitration proceedings.

Article 26 — Where the parties have concluded an arbitration agreement but one party brings a lawsuit before a people's court without stating the existence of the arbitration agreement, the people's court shall not accept the case if the other party submits the arbitration agreement before the first hearing, unless the arbitration agreement is null and void. If the other party does not raise an objection to the acceptance of the case by the people's court before the first hearing, it shall be deemed to have waived the arbitration agreement and the people's court shall continue the proceedings.

Article 27 — The applicant may waive or amend its claim. The respondent may accept or refute the claim and shall have the right to make a counterclaim.

Article 28 — A party may apply for property preservation where the enforcement of the award may become impossible or difficult as a result of the conduct of the other party or for other reasons. Where a party applies for property preservation, the arbitration commission shall submit the party's application to a people's court in accordance with the relevant provisions of the Civil Procedure Law. Where an application for property preservation is erroneous, the applicant shall compensate the respondent for any losses incurred as a result of the property preservation.

Article 29 — A party or statutory agent may retain a lawyer or other agent to participate in arbitration activities. To retain a lawyer or other agent to participate in arbitration activities, a power of attorney shall be submitted to the arbitration commission.

Article 30 — An arbitration tribunal may consist of three arbitrators or one arbitrator. Where an arbitration tribunal consists of three arbitrators, an umpire shall be appointed.

Article 31 — Where the parties agree to form an arbitration tribunal consisting of three arbitrators, each party shall select or entrust the chairman of the arbitration commission to appoint one arbitrator, and the third arbitrator shall be selected jointly by the parties or appointed by the chairman of the arbitration commission jointly entrusted by the parties. The third arbitrator shall be the umpire. Where the parties agree to have a sole arbitrator form the arbitration tribunal, the parties shall jointly select or jointly entrust the chairman of the arbitration commission to appoint the sole arbitrator.

Article 32 — Where the parties fail to agree on the composition of the arbitration tribunal or fail to select the arbitrators within the time limit prescribed by the arbitration rules, the chairman of the arbitration commission shall make the determination.

Article 33 — After the arbitration tribunal is formed, the arbitration commission shall notify the parties in writing of the composition of the tribunal.

Article 34 — An arbitrator shall withdraw, and a party shall have the right to apply for withdrawal of an arbitrator, under any of the following circumstances: (1) The arbitrator is a party to the case or a close relative of a party or agent in the case; (2) The arbitrator has an interest in the case; (3) The arbitrator has other relationship with a party or agent in the case that may affect the impartiality of the arbitration; (4) The arbitrator has met with a party or agent privately or accepted a treat or gift from a party or agent; (5) Other circumstances where withdrawal is required by law.

Article 35 — Where a party applies for the withdrawal of an arbitrator, it shall state its reasons and submit the application before the first hearing. If the grounds for withdrawal become known after the first hearing, the application may be submitted before the conclusion of the final hearing.

Article 36 — The withdrawal of an arbitrator shall be decided by the chairman of the arbitration commission; where the chairman is to serve as an arbitrator, the decision shall be made by the arbitration commission collectively.

Article 37 — Where an arbitrator is unable to perform his duties due to withdrawal or other reasons, a new arbitrator shall be selected or appointed in accordance with the provisions of this Law. After a new arbitrator is selected or appointed, the parties may apply for the resumption of the arbitration proceedings; whether the proceedings shall be resumed shall be decided by the arbitration tribunal. The arbitration tribunal may also decide on its own whether to resume the proceedings.

Article 38 — An arbitration tribunal shall conduct a hearing. Where the parties agree not to hold a hearing, the arbitration tribunal may render an award on the basis of the application for arbitration, the statement of defense, and other documents.

Article 39 — An arbitration shall be conducted in private. Where the parties agree to hold a public hearing, the hearing may be held in public, except for cases involving state secrets.

Article 40 — An arbitration commission shall notify both parties of the date of the hearing within the time limit prescribed by the arbitration rules. A party may apply for a postponement of the hearing if it has justified reasons within the time limit prescribed by the arbitration rules. Whether to postpone the hearing shall be decided by the arbitration tribunal.

Article 41 — Where the applicant fails to appear before the arbitration tribunal without justified reasons after receiving the written notice of the hearing, or leaves the hearing midway without the consent of the arbitration tribunal, the application for arbitration shall be deemed withdrawn. Where the respondent fails to appear before the arbitration tribunal without justified reasons after receiving the written notice of the hearing, or leaves the hearing midway without the consent of the arbitration tribunal, an award by default may be rendered.

Article 42 — A party shall provide evidence in support of its claim. The arbitration tribunal may, on its own initiative, collect evidence that it deems necessary.

Article 43 — Where an arbitration tribunal considers it necessary to have a specialized issue evaluated, it may submit the issue to an evaluation institution agreed upon by the parties; where there is no such agreement, the issue shall be submitted to an evaluation institution designated by the arbitration tribunal. An evaluation report shall be issued by the evaluation institution upon request of the arbitration tribunal, and the evaluator shall participate in the hearing if the arbitration tribunal deems it necessary. Upon permission of the arbitration tribunal, the parties may question the evaluator.

Article 44 — Evidence shall be presented at the hearing and may be cross-examined by the parties.

Article 45 — Where there is a likelihood that evidence may be destroyed or lost, or may become difficult to obtain at a later time, a party may apply for evidence preservation. Where a party applies for evidence preservation, the arbitration commission shall submit the party's application to the basic people's court at the place where the evidence is located.

Article 46 — In the course of the hearing, the parties shall have the right to debate. Upon conclusion of the debate, the umpire or the sole arbitrator shall seek the final opinions of the parties.

Article 47 — The arbitration tribunal shall record the hearing in writing. Where the parties or other participants in the arbitration proceedings find something omitted or erroneous in the written record of their statements, they shall have the right to apply for correction. In the absence of such an application, the record

shall be deemed correct. The arbitrators, the recorder, the parties, and other participants in the arbitration proceedings shall sign or affix their seals on the written record.

Article 48 — A party may withdraw its application for arbitration after it has been submitted. If the arbitration tribunal has been formed before the applicant withdraws its application, the withdrawal shall be decided by the arbitration tribunal. Where an application for arbitration is withdrawn, the applicant may still submit another application in respect of the same dispute.

Article 49 — The parties may voluntarily conciliate on their own. Where the parties voluntarily conciliate, the arbitration tribunal shall conciliate. Where conciliation fails, the arbitration tribunal shall promptly render an award. Where an agreement is reached through conciliation, the arbitration tribunal shall prepare a conciliation statement or an award based on the conciliation agreement. A conciliation statement shall have the same legal effect as an award.

Article 50 — Where a conciliation statement is prepared, it shall set forth the claim and the conciliation agreement. The conciliation statement shall be signed by the arbitrators, sealed by the arbitration commission, and served on both parties. Once signed and accepted by both parties, the conciliation statement shall become legally effective. Where a party reneges before the conciliation statement is signed and accepted, the arbitration tribunal shall promptly render an award.

Article 51 — Where the arbitration tribunal is composed of three arbitrators, the award shall be rendered on the basis of the majority opinion, and the minority opinion may be recorded in the written record. Where a majority opinion cannot be formed, the award shall be rendered on the basis of the opinion of the umpire.

Article 52 — An award shall set forth the claim, the facts of the dispute, the reasons for the award, the result of the award, the allocation of the arbitration costs, and the date of the award. Where the parties agree not to set forth the facts of the dispute and the reasons for the award, they may be omitted. The award shall be signed by the arbitrators and sealed by the arbitration commission. An arbitrator who disagrees with the award may either sign or not sign the award.

Article 53 — An arbitration tribunal may, where it deems it necessary, render an interlocutory award on part of the case, or a partial award on part of the facts that are already clarified.

Article 54 — An omission of matters to be adjudicated or any typographical, computational, or similar error in the award shall be corrected by the arbitration tribunal. A party may, within 30 days from the date of receipt of the award, apply to the arbitration tribunal for correction. The arbitration tribunal shall make a correction within 30 days from the date of receipt of the application.

Article 55 — An award shall take legal effect from the date it is rendered.

Chapter V — Application to Set Aside an Arbitral Award

Article 56 — A party may apply to the intermediate people's court at the place where the arbitration commission is located to set aside an award if the party adduces evidence proving that: (1) There is no arbitration agreement; (2) The matters adjudicated fall outside the scope of the arbitration agreement or are not within the jurisdiction of the arbitration commission; (3) The composition of the arbitration tribunal or the arbitration procedure is contrary to the statutory procedure; (4) The evidence on which the award is based is forged; (5) The other party has concealed evidence that is sufficient to affect the impartiality of the award; (6) The arbitrator has demanded or accepted bribes, committed malpractices for personal gain, or intentionally rendered an award contrary to the law in the course of arbitration. The people's court shall form a collegial panel to verify the matter. Where it is verified that the award involves any of the circumstances specified in the preceding paragraph, it shall rule to set aside the award. Where the people's court determines that the award is contrary to the public interest, it shall rule to set aside the award.

Article 57 — An application to set aside an award shall be submitted within six months from the date of receipt of the award.

Article 58 — A people's court shall, within two months from the date of acceptance of an application to set aside an award, render a ruling to set aside the award or to reject the application.

Article 59 — Where a party applies for re-arbitration after an award is set aside by a people's court, the parties shall re-conclude an arbitration agreement.

Chapter VI — Enforcement

Article 60 — The parties shall perform the award. Where one party fails to perform the award, the other party may apply to a people's court for enforcement in accordance with the relevant provisions of the Civil Procedure Law. The people's court to which the application is made shall enforce the award.

Article 61 — Where a party adduces evidence that the award falls under one of the circumstances specified in Article 56 of this Law, it may apply to the intermediate people's court at the place where the arbitration commission is located for non-enforcement of the award, after acceptance of the application for enforcement by a people's court but before a ruling on enforcement is rendered. The people's court shall form a collegial panel to verify the matter and render a ruling to enforce or not to enforce the award.

Article 62 — Where an application for enforcement of an award is made, enforcement shall be suspended if a party applies to set aside the award. Where the application to set aside the award is overruled, enforcement shall be resumed. Where the award is set aside, enforcement shall be terminated.

Chapter VII — Special Provisions on Foreign-Related Arbitration

Article 63 — The provisions of this Chapter shall apply to the arbitration of disputes arising from international economic, trade, transport, and maritime matters. Where this Chapter does not provide, other relevant provisions of this Law shall apply.

Article 64 — Foreign-related arbitration commissions may be established by the China Chamber of International Commerce. Foreign-related arbitration commissions shall consist of one chairman, several vice-chairmen, and several members. The chairman, vice-chairmen, and members of a foreign-related arbitration commission may be appointed by the China Chamber of International Commerce.

Article 65 — A foreign-related arbitration commission may appoint arbitrators from among foreigners with expertise in law, economics and trade, science and technology, or other specialized fields.

Article 66 — Where a foreign-related arbitration commission considers it necessary to take property preservation measures in respect of a party's property, it shall submit the party's application to the intermediate people's court at the place where the respondent is domiciled or at the place where the property is located.

Article 67 — A foreign-related arbitration tribunal may record the hearing in writing or make an audio recording of the hearing. The arbitration tribunal may prepare written summaries to be included in the record. The arbitrators, the recorder, the parties, and other participants in the arbitration proceedings shall sign or affix their seals on the written record and written summaries.

Article 68 — A foreign-related arbitration commission shall submit relevant materials of the case to the intermediate people's court at the place where the foreign-related arbitration commission is located for the record after the case is concluded.

Article 69 — Where a party applies for enforcement of a legally effective award rendered by a foreign-related arbitration commission of the People's Republic of China, if the respondent or its property is not within the territory of the People's Republic of China, the party shall apply directly to a competent foreign court for

recognition and enforcement.

Article 70 — The specific arbitration rules for foreign-related arbitration shall be formulated by the China Chamber of International Commerce in accordance with this Law and the relevant provisions of the Civil Procedure Law.

Chapter VIII — Supplementary Provisions

Article 71 — Where laws provide for the time limits for arbitration, those provisions shall apply. Where there are no such provisions, the time limits prescribed by the arbitration rules shall apply.

Article 72 — Where parties are required to pay fees as prescribed, the parties shall pay the fees in accordance with the provisions.

Article 73 — This Law shall not apply to labor dispute arbitration and agricultural contract dispute arbitration within agricultural collective economic organizations. Separate provisions shall be formulated for labor dispute arbitration and agricultural contract dispute arbitration.

Article 74 — Where arbitration provisions in laws enacted before this Law comes into force are inconsistent with the provisions of this Law, the provisions of this Law shall prevail.

Article 75 — Arbitration commissions established before this Law comes into force that do not comply with the provisions of this Law shall be reorganized within one year from the date this Law comes into force. Those not meeting the conditions specified in this Law shall be dissolved. The arbitration commissions established before this Law comes into force shall, within one year from the date this Law comes into force, complete the transition of arbitration cases accepted before this Law comes into force in accordance with the provisions of this Law.

Article 76 — The arbitration fees shall be collected in accordance with the measures formulated by the price administration authorities and the finance department.

Article 77 — This Law shall come into force on September 1, 1995.

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