

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

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

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

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 3 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "arbitration" means a procedure to settle any dispute in private laws, not by the judgment of a court, but by the decision of an arbitrator, as agreed by the parties;
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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 6 (Court Intervention)

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

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 7 (Competent Court)

(1) Matters prescribed in each of the following subparagraphs shall fall under the jurisdiction of the local court designated by arbitration agreement or its branch (hereafter referred to as "court" in this Article), under the competent court of the place of arbitration, if not designated by arbitration agreement, under the competent court of the respondent's domicile or place of business if the place of arbitration is not yet determined, under the competent court of his/her place of abode if none of the respondent's domicile or place of business can be found, or under the competent court of his/her last-known domicile or place of business if his/her place of abode cannot be found:

1. Appointment of an arbitrator 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);

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER II ARBITRATION AGREEMENT

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) Agreement falling under any of the following subparagraphs shall be deemed a written arbitration agreement:

1. Where a document signed by the parties contains arbitration agreement;

2. Where a document exchanged by means of letters, telex, telegrams, fax or other means of communication contains arbitration agreement;

3. Where one party alleges that statements of the document exchanged between the parties contain arbitration agreement, and the other party does not deny it.

(4) Where a contract cites a document containing an arbitration clause, arbitration agreement shall be deemed to have made: *Provided*, That this shall be limited to cases where the contract is prepared in writing, and includes an arbitration clause in the contract.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER III ARBITRAL TRIBUNAL

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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) Failing such agreement under paragraph (2), arbitrators shall be appointed according to the following classification:

1. In arbitration with a sole arbitrator: If the parties are unable to agree on an arbitrator within thirty days after a party has received a request for initiating the procedure for his/her appointment from the other party, he/she shall be appointed, upon request of either party, by the court;

2. In arbitration with three arbitrators: Each party shall appoint one arbitrator, and the two arbitrators thus appointed shall agree on the third arbitrator. In such cases, if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators appointed fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of either party, by the court.

(4) In cases falling under any of the following subparagraphs under an appointment procedure agreed upon in paragraph (2), the appointment shall be made, upon request of a party, by the court:

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 appeal shall be filed against a decision on a matter entrusted by paragraph (3) or (4) to the court.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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 rules as preliminary question that it has jurisdiction under paragraph (5), any party who is dissatisfied with that ruling may request, within thirty days after having received notice thereof, the court to decide on the jurisdiction of the arbitral tribunal.

(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).

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 18 (Interim Measure)

(1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. In such cases, the arbitral tribunal may determine the amount of security to be provided by the respondent in lieu of such interim measure.

(2) The arbitral tribunal may order the party requesting the interim measure to provide appropriate security.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER IV ARBITRAL PROCEEDINGS

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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) Notwithstanding paragraphs (1) and (2), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, places or documents.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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).

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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 information supplied to the arbitral tribunal by a party shall be communicated to the other party.

(4) Any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 28 (Court Assistance in Taking Evidence)

(1) The arbitral tribunal may, *ex officio* or in receipt of the application of the parties, entrust the court with the taking of evidence.

(2) Where paragraph (1) applies, the arbitral tribunal may, in writing, specify the matters to be entered in the report on evidence by the court and others subject to the taking of evidence.

(3) The court from which the arbitral tribunal requests the assistance shall, after taking evidence, send the records with respect to the taking of evidence, such as a certified copy of the report on witnesses examination and transcripts of the report on admissibility of evidence to the arbitral tribunal without delay.

(4) The arbitral tribunal shall pay necessary expenses incurred in taking evidence to the court from which it requests the assistance.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER V MAKING OF ARBITRAL AWARDS

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 International Private Act.

(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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 32 (Form and Details 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), and the original copy of the award shall be sent to and deposited with the competent court, accompanied by a document verifying such delivery.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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](#).

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER VI EFFECT OF ARBITRAL AWARDS AND RECOURSE THEREAGAINST

Article 35 (Effect of Arbitral Awards)

Arbitral awards shall have the same effect on the parties as the final and conclusive judgement of the court.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 36 (Action for Setting Aside Arbitral Awards to Court)

(1) Recourse against an arbitral award may be raised only by an action for setting aside such arbitral award to a court.

(2) An arbitration award may be set aside by the court only if:

1. The party making an application for setting aside an arbitral award furnishes proof 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) A party making the application was not given proper notice of the appointment of an arbitrator or of arbitral proceedings 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) After a final and conclusive judgment for recognition or execution of the relevant award by a court of the Republic of Korea is rendered, no action for setting aside the award may be raised.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER VII RECOGNITION OR ENFORCEMENT OF ARBITRAL AWARDS

Article 37 (Recognition or Enforcement of Arbitral Awards)

(1) Recognition or enforcement of arbitral awards shall be made by recognition or judgment by a court.

(2) The party applying for the recognition or enforcement of an arbitral award shall submit the following documents: *Provided*, That if the award or arbitration agreement is made in a foreign language, a duly certified Korean translation shall be accompanied:

1. The duly authenticated original award or a duly certified copy thereof;
2. The original arbitration agreement or a duly certified copy thereof.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

Article 38 (Domestic Arbitral Awards)

Arbitral awards made in the Republic of Korea shall be recognized or enforced, unless any ground referred to in [Article 36](#) (2) exists.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

CHAPTER VIII SUPPLEMENTARY PROVISIONS

Article 40 (Assistance to Commercial Arbitration Institutions)

In order to secure the impartial and rapid settlement of domestic or international commercial disputes, and to establish order in international transactions pursuant to this Act, the Government may provide an incorporated association conducting commercial arbitration which is designated by the Minister of Knowledge Economy with all or part of its necessary expenses.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.

[This Article Wholly Amended by Act No. 10207, Mar. 31, 2010]

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.