

**LAW**

**ON COMMERCIAL ARBITRATION**

*Pursuant to 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10; The National Assembly promulgates the Law on Commercial Arbitration.*

**Chapter 1**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Law provides for the jurisdiction of commercial arbitration, forms of arbitration, arbitration institutions and arbitrators; arbitration order and procedures; rights, obligations and responsibilities of parties in arbitral proceedings; courts' jurisdiction over arbitral activities; organization and operation of foreign arbitrations in Vietnam, and enforcement of arbitral awards.

**Article 2. Arbitration's jurisdiction to settle disputes**

1. Disputes among parties which arise from commercial activities.
2. Disputes among parties at least one of whom conducts commercial activities.
3. Other disputes among parties which are stipulated by law to be settled by arbitration.

**Article 3. Interpretation of terms**

In this Law, the terms below are construed as follows:

1. *Commercial arbitration* means a mode of dispute settlement agreed by the parties and to be conducted under this Law.
2. *Arbitration agreement* means an agreement between the parties to settle by arbitration a dispute which may arise or has arisen.
3. *Disputing parties* means Vietnamese and foreign individuals, agencies or organizations that participate in arbitral proceedings in the capacity as plaintiffs and defendants.
4. *Dispute involving foreign elements* means a dispute arising in commercial relationships or other legal relationships involving foreign elements as defined in the Civil Code.
5. *Arbitrator* means a person selected by the parties or designated by an arbitration center or a court to settle a dispute under this Law.
6. *Institutional arbitration* means a form of dispute settlement at an arbitration center under this Law and rules of proceedings of such arbitration center.

7. *Ad hoc arbitration* means a form of dispute settlement under this Law and the order and procedures agreed by the parties.

8. *Venue for dispute settlement* means a place in which an arbitration council settles disputes which is selected as agreed by the parties or as decided by the arbitration council if the parties have no such agreement. If a venue for dispute settlement is within the Vietnamese territory, the award must be regarded as having been pronounced in Vietnam regardless of the place in which the arbitration council holds a meeting to issue such award.

9. *Arbitral decision* means a decision of the arbitration council issued during the process of dispute settlement.

10. *Arbitral award* means a decision of the arbitration council settling the entire dispute and terminating the arbitral proceedings.

11. *Foreign arbitration* means an arbitration formed under a foreign law on arbitration and selected as agreed by the parties to settle a dispute outside or within the Vietnamese territory.

12. *Foreign arbitral award* means an award pronounced by a foreign arbitration outside or within the Vietnamese territory which is selected as agreed by the parties to settle their disputes.

#### **Article 4. Principles of dispute settlement by arbitration**

1. Arbitrators must respect the parties agreement if such agreement neither breaches prohibitions nor contravenes social ethics.

2. Arbitrators must be independent, objective and impartial and shall observe law.

3. Disputing parties are equal in their rights and obligations. The arbitration council shall create conditions for disputing parties to exercise their rights and fulfill their obligations.

4. Dispute settlement by arbitration shall be conducted in private, unless otherwise agreed by the parties.

5. Arbitral awards are final.

#### **Article 5. Conditions for dispute settlement by arbitration**

1. A dispute shall be settled by arbitration if the parties have an arbitration agreement. An arbitration agreement may be made either before or after a dispute arises.

2. When one of the parties being an individual to an arbitration agreement dies or loses his/her act capacity, such arbitration agreement remains valid for his/her heir or representative at law. unless otherwise agreed by the parties.

3. When one of the parties being an institution to an arbitration agreement has to terminate its operation, goes bankrupt, or is dissolved, consolidated, merged, divided, split up or reorganized, such arbitration agreement remains valid for an institution that takes over the rights and obligations of the institution to such arbitration agreement, unless otherwise agreed by the parties.

#### **Article 6. Courts' refusal to accept cases in which there is an arbitration agreement**

In case the disputing parties have reached an arbitration agreement but one party initiates a lawsuit at a court, the court shall refuse to accept the case, unless the arbitration agreement is invalid or unrealizable.

#### **Article 7. Identification of courts which have competence over arbitral activities**

1. In case the parties have agreed to select a specific court, the competent court is the selected court.

2. In case the parties have no agreement to select a court, the court's competence shall be determined as follows:

a/ For the designation of arbitrators to form an ad hoc arbitration council, the competent court is the court in the place in which the defendant resides if the defendant is an individual or the place in which the defendant has its head office if the defendant is an institution. If there are many defendants, the competent court is the court in the place in which one of these defendants resides or has its head office.

If the defendant resides or has its head office in a foreign country, the competent court is the court in the place in which the plaintiff resides or has its head office;

b/ For the change of an arbitrator of an ad hoc arbitration council, the competent court is the court in the place in which the arbitration council settles the dispute:

c/ For a request to settle a complaint about the arbitration council's decision that the arbitration agreement was invalid or unrealizable or about the arbitration council's jurisdiction, the competent court is the court in the place in which the arbitration council issued such decision;

d/ For a request for the court to collect evidence, the competent court is the court in the place in which exists evidence to be collected;

e/ For a request for the court to apply interim urgent measures, the competent court is the court in the place in which such measures need to be applied;

f/ For summoning a witness, the competent court is the court in the place in which the witness resides;

g/ For a request to cancel an arbitral award or register an ad hoc arbitral award, the competent court is the court in the place in which the arbitration council pronounced such arbitral award.

3. Courts with competence over arbitral activities specified in Clauses 1 and 2 of this Article are people's courts of provinces or centrally run cities.

#### **Article 8. Identification of judgment enforcement agencies competent to enforce arbitral awards or decisions of arbitration councils on the application of interim urgent measures**

1. Civil judgment enforcement agencies competent to enforce arbitral awards are civil judgment enforcement agencies of provinces or centrally run cities in which arbitration councils issue the awards.

2. Civil judgment enforcement agencies competent to enforce decisions of arbitration councils on the application of interim urgent measures are civil judgment enforcement agencies of provinces or centrally run cities in which the interim urgent measures need to be applied.

#### **Article 9. Negotiation and conciliation during arbitral proceedings**

During arbitral proceedings, the parties may freely negotiate and agree with each other on the settlement of their dispute or request an arbitration council to conduct conciliation for the parties to reach agreement on the settlement of their dispute.

#### **Article 10. Language**

1. For disputes involving no foreign element, the language to be used in arbitral proceedings is Vietnamese, except disputes to which at least one party is a foreign-invested enterprise. When a disputing party cannot use Vietnamese, it may use an interpreter.

2. For disputes involving foreign elements or disputes to which at least one party is a foreign-invested enterprise, the parties shall reach agreement on the language to be used in arbitral proceedings. If they have no such agreement, the arbitration council shall decide on the language to be used in arbitral proceedings.

#### **Article 11. Venues for dispute settlement by arbitration**

1. The parties may reach agreement on venues for dispute settlement. If no agreement is made, the arbitration council shall decide on such venue. A venue for dispute settlement may be within or outside the Vietnamese territory.

2. Unless otherwise agreed by the parties, the arbitration council may hold a meeting at a venue regarded as appropriate for its members to exchange opinions, for taking witnesses' statements, consulting experts or for assessing goods, assets or other documents.

#### **Article 12. Sending of notices and order of sending**

Unless otherwise agreed by the parties or provided by the arbitration center's rules of proceedings, the mode and order of sending notices in arbitral proceedings are specified as follows:

1. Each party's written explanations, correspondence papers and other documents shall be sent to the arbitration center or arbitration council in sufficient copies so that every member of the arbitration council and the other party has one copy, and one copy is preserved at the arbitration center;

2. Notices and documents to be sent by the arbitration center or arbitration council to the parties shall be sent to the addresses or to their representatives at the correct addresses notified by the parties;

3. Notices and documents may be sent by the arbitration center or arbitration council directly, in registered or ordinary mails, by fax, telex, telegram, email, or other modes which acknowledge such sending;

4. Notices and documents sent by the arbitration center or arbitration council will be regarded as having been received on the date the parties or their representatives receive them or if such notices and documents have been sent under Clause 2 of this Article:

5. The time limit for receiving notices and documents shall be counted from the date following the date such notices and documents are regarded as having been received. If the following date falls on a holiday or day off under regulations of the country or territory in which the notices and documents have been received, this time limit shall be counted from the subsequent first working day. If the last day of this time limit falls

on a holiday or day off under regulations of such country or territory, the time of expiration is the end of the subsequent first working day.

### **Article 13. Loss of the right to protest**

A party that detects to have a violation of this Law or the arbitration agreement but continues to conduct arbitral proceedings and does not protest the violation within the time limit set by this Law will lose its right to protest at the arbitration or court.

### **Article 14. Applicable laws for dispute settlement**

1. For a dispute involving no foreign element, the arbitration council shall apply Vietnamese law for settling the dispute.

2. For a dispute involving foreign elements, the arbitration council shall apply the law selected by the parties. If the parties have no agreement on the applicable law, the arbitration council shall decide to apply a law it sees the most appropriate.

3. When the Vietnamese law or law selected by the parties contains no specific provisions concerning the dispute, the arbitration council may apply international practices for settling the dispute, provided such application or consequence of such application does not contravene the fundamental principles of Vietnamese law.

### **Article 15. State management of arbitration**

1. State management of arbitration covers:

a/ Promulgating, and guiding the implementation of, legal documents on arbitration;

b/ Granting and revoking establishment licenses and operation registration papers of arbitration centers; or branches and representative offices of foreign arbitration institutions in Vietnam;

c/ Announcing lists of arbitrators of arbitration institutions operating in Vietnam;

d/ Propagating and disseminating the arbitration law; entering into international cooperation on arbitration; and guiding the training and retraining of arbitrators;

e/ Examining, inspecting, and handling violations of the arbitration law;

f/ Settling complaints and denunciations related to the activities specified at Points b, c, d and e of this Clause.

2. The Government shall perform the unified state management of arbitration.

3. The Ministry of Justice shall take responsibility before the Government for performing the state management of arbitration.

4. Provincial-level Justice Departments shall assist the Ministry of Justice in performing several tasks under the Government's regulations and this Law.

## **Chapter II**

### **ARBITRATION AGREEMENTS**

#### **Article 16. Forms of arbitration agreement**

1. An arbitration agreement may be made in the form of an arbitral clause in a contract or in the form of a separate agreement.

2. An arbitration agreement must be in writing. The following forms of agreement may also be regarded as written form:

a/ Agreement made through communication between the parties by telegram, fax, telex, email or other forms provided for by law;

b/ Agreement made through exchange of written information between the parties;

c/ Agreement recorded in writing by a lawyer, notary public or competent institution at the request of the parties:

d/ In their transactions, the parties make reference to a document such as a contract, document, company charter or other similar documents which contains an arbitration agreement;

e/ Agreement made through exchange of petitions and self-defense statements which reflect the existence of an agreement proposed by a party and not denied by the other party.

#### **Article 17. Consumer right to select dispute settlement modes**

For disputes between goods or service providers and customers, though an arbitral clause has been included in general conditions on goods and service provision drafted by goods or service providers, consumers may select arbitration or a court to settle these disputes. Goods or service providers may initiate lawsuits at arbitration only if so consented by consumers.

#### **Article 18. Invalid arbitration agreements**

1. Disputes arise in the domains falling beyond the arbitration's jurisdiction defined in Article 2 of this Law.

2. The arbitration agreement maker has no competence defined by law.

3. The arbitration agreement maker has no civil act capacity under the Civil Code.

4. The form of the arbitration agreement is incompliant with Article 16 of this Law.

5. A party is deceived, intimidated or compelled in the course of making the arbitration agreement and requests a declaration that such arbitration agreement is invalid.

6. The arbitration agreement breaches prohibitions specified by law.

#### **Article 19. Independence of arbitration agreement**

An arbitration agreement is entirely independent from the contract. Any modification, extension, cancellation, invalidation or nonperformance of the contract will not invalidate the arbitration agreement.

### **Chapter III**

### **ARBITRATORS**

#### **Article 20. Criteria of arbitrators**

1. A person who satisfies all the following criteria may act as arbitrator:

a/ Having the full civil act capacity under the Civil Code;

b/ Possessing a university degree and having at least 5 years\* work experience in the trained discipline:

c/ In special cases, an expert who has high professional qualifications and much practical experience, though not satisfying the requirement specified at Point b of this Clause, may also be selected as arbitrator.

2. Persons who satisfy all the conditions specified in Clause 1 of this Article but fall into either of the following cases may not act as arbitrators:

a/ Incumbent judges, procurators, investigators, enforcement officers or civil servants of peoples courts, peoples procuracies, investigative agencies or judgment enforcement agencies:

b/ The accused, defendants, persons serving criminal sentences or having served the sentences but having their criminal records not yet remitted.

3. Arbitration centers may set criteria for their arbitrators which are higher than those specified in Clause 1 of this Article.

#### **Article 21. Rights and obligations of arbitrators**

1. To accept or refuse to settle disputes.

2. To be independent in dispute settlement.

3. To refuse to provide dispute-related information.

4. To enjoy remuneration.

5. To keep secret the circumstances of disputes they settle, unless they have to provide information to competent state agencies under law.

6. To ensure impartial, fast and prompt settlement of disputes.

7. To adhere to the rules of professional ethics.

#### **Article 22. The arbitration association**

The arbitration association is a socio-professional organization of arbitrators and arbitration centers nationwide. The establishment and operation of the arbitration association comply with the law on professional associations.

### **Chapter IV**

#### **ARBITRATION CENTERS**

**Article 23.** Functions of arbitration centers Arbitration centers have the function to organize and coordinate the settlement of disputes by institutional arbitration and assist arbitrators in administrative, office and other affairs during arbitral proceedings.

#### **Article 24. Conditions and procedures for the establishment of arbitration centers**

1. An arbitration center may be established when at least 5 founding members being Vietnamese citizens who satisfy all the criteria of arbitrators specified in Article 20 of this Law request such establishment and this center is granted an establishment license by the Minister of Justice.

2. A dossier of request for establishment of an arbitration center comprises:

a/ A written request;

b/ Draft charter of the arbitration center, made according to a form issued by the Ministry of Justice:

c/ List of founding members and enclosed papers evidencing their eligibility under Article 20 of this Law.

3. Within 30 days after receiving a complete and valid dossier, the Minister of Justice shall grant an arbitration center establishment license and approve the arbitration center's charter. In case of refusal, he/she shall issue a written reply clearly stating the reason.

#### **Article 25. Registration of the operation of arbitration centers**

Within 30 days after receiving its establishment license, an arbitration center shall register its operation at the provincial-level Justice Department of the locality in which it has its head office. Past this time limit, if the arbitration center fails to register its operation, its license will no longer be valid.

The provincial-level Justice Department shall grant an operation registration paper for an arbitration center within 15 days after receiving a written request for registration.

#### **Article 26. Announcement of the establishment of arbitration centers**

1. Within 30 days after obtaining its operation registration paper, an arbitration center shall publish in 3 consecutive issues of a central daily or a local daily of the locality in which it registers its operation the following principal details:

a/ Name and address of its head office;

b/ Its operations;

c/ Serial number of the operation registration paper, issuer and date of issuance;

d/ Time of commencing its operation.

2. An arbitration center shall post up at its head office the details specified in Clause 1 of this Article and the list of its arbitrators.

#### **Article 27. Legal entity status and structure of arbitration centers**

1. Arbitration centers have the legal entity status and their own seals and bank accounts.

2. Arbitration centers operate for not-for-profit purposes.

3. Arbitration centers may set up their branches and representative offices at home and abroad.

4. An arbitration center has the Executive Board and Secretariat. The structure and apparatus of an arbitration center shall be prescribed in its charter.

The Executive Board of an arbitration center is composed of the chairman, vice chairman (chairmen) and may also include a secretary general appointed by the chairman. The chairman is an arbitrator.

5. An arbitration center has a list of arbitrators.

#### **Article 28. Rights and obligations of arbitration centers**

1. To draft their charter and rules of proceedings which must be in accordance with this Law.



2. To set out criteria for arbitrators and processes of selection and listing arbitrators and deleting names of arbitrators from their lists of arbitrators.
3. To send their lists of arbitrators and modifications to these lists to the Ministry of Justice for announcement.
4. To designate arbitrators for forming arbitration councils in the cases specified in this Law.
5. To provide arbitration services, conduct conciliation and apply other modes of settling commercial disputes under law.
6. To provide administrative, office and other services for dispute settlement.
7. To collect arbitration charges and other lawful amounts related to arbitral operations.
8. To pay remuneration and other expenses to arbitrators.
9. To train arbitrators for raising their dispute settlement qualifications and skills.
10. To annually report on their operation to provincial-level Justice Departments of localities in which they register their operation.
11. To preserve dossiers and provide copies of arbitral decisions at the request of disputing parties or competent state agencies.

#### **Article 29. Termination of the operation of arbitration centers**

1. An arbitration center shall terminate its operation:
  - a/ In the cases specified in its charter;
  - b/ Upon revocation of its establishment license or operation registration paper.
2. The Government shall detail cases subject to revocation of establishment licenses or operation registration papers and the order and procedures for terminating the operation of arbitration centers.

### **Chapter V**

#### **INITIATION OF LAWSUITS**

##### **Article 30. Petitions and enclosed documents**

1. When a dispute is settled at an arbitration center, the plaintiff shall file a petition with the arbitration center. When a dispute is settled by ad hoc arbitration, the plaintiff shall make a petition and send it to the defendant.
2. A petition contains:
  - a/ Date of its making;
  - b/ Names and addresses of the parties; names and addresses of witnesses, if any;
  - c/ Summary of the circumstances of the dispute;
  - d/ Grounds and evidence for initiating the lawsuit, if any;
  - e/ Specific requirements of the plaintiff and the value of the dispute;
  - f/ Name and address of the person whom the plaintiff selects as arbitrator or requests to be designated as arbitrator.

3. Enclosed with the petition shall be the arbitration agreement and the originals or copies of relevant documents.

### **Article 31. Time of commencing arbitral proceedings**

1. When a dispute is settled by an arbitration center, unless otherwise agreed by the parties, the time of commencing arbitral proceedings is the time the arbitration center receives the plaintiff's petition.

2. When a dispute is settled by ad hoc arbitration, unless otherwise agreed by the parties, the time of commencing arbitral proceedings is the time the defendant receives the plaintiff's petition.

### **Article 32. Notification of petitions**

Unless otherwise agreed by the parties or provided by the rules of proceedings of an arbitration center, within 10 days after receiving the plaintiff's petition, enclosed documents and arbitration charge receipt, the arbitration center shall send to the defendant copies of the petition and documents specified in Clause 3. Article 30 of this Law.

### **Article 33. Statute of limitations for initiating a lawsuit for dispute settlement by arbitration**

Unless otherwise provided by discrete laws, the statute of limitations according to arbitral procedures is 2 years from the time of infringement of lawful rights and interests.

### **Article 34. Arbitration charge**

1. Arbitration charge is a revenue from the provision of services for dispute settlement by arbitration. The arbitration charge covers:

a/ Remuneration and travel and other expenses for arbitrators:

b/ Charge for expert consultation and other assistance at the request of the arbitration council: c/Administrative charge;

d/ Charge for designation of the arbitration centers ad hoc arbitrators at the request of the disputing parties:

e/ Charge for use of other services provided by the arbitration center.

2. The arbitration charge shall be set by the arbitration center. When a dispute is settled by ad hoc arbitration, the arbitration charge shall be set by the arbitration council.

3. The losing party shall bear the arbitration charge, unless otherwise agreed by the parties or provided by the rules of arbitral proceedings or allocated by the arbitration council.

### **Article 35. Self-defense statements and the sending thereof**

1. A self-defense statement contains:

a/ Date of making;

b/ Name and address of the defendant;

c/ Grounds and evidence, if any. for self-defense;

d/ Name and address of the person whom the defendant selects as arbitrator or requests for designation as arbitrator.

2. For a dispute to be settled at an arbitration center, unless otherwise agreed by the parties or provided by the arbitration center's rules of proceedings, within 30 days after receiving a petition and enclosed documents, the defendant shall send to the arbitration center a self-defense statement. At the request of one party or all parties, this time limit may be extended by the arbitration center based on the particular circumstances of the case.

3. For a dispute to be settled by ad hoc arbitration, unless otherwise agreed by the parties, within 30 days after receiving the plaintiff's petition and enclosed documents, the defendant shall send to the plaintiff and arbitrator the self-defense statement and name and address of the person whom the defendant selects as arbitrator.

4. When the defendant assumes that the dispute falls beyond the jurisdiction of arbitration, or there is no arbitration agreement, or the arbitration agreement is invalid or unrealizable, the defendant shall clearly indicate such in the self-defense statement.

5. If the defendant fails to submit the self-defense statement under Clauses 2 and 3 of this Article, the dispute settlement will still proceed.

#### **Article 36. Defendants' counter-claims**

1. The defendant may counter-claim the plaintiff on matters related to their dispute.

2. The defendant's counter-claim shall be sent to the arbitration center. When a dispute is settled by ad hoc arbitration, such counter-claim shall be sent to the arbitration council and plaintiff. The counter-claim shall be submitted simultaneously with a self-defense statement.

3. Within 30 days after receiving a counter claim, the plaintiff shall send the self-defense statement to the arbitration center. When a dispute is settled by ad hoc arbitration, the plaintiff shall send the self-defense statement to the arbitration council and defendant.

4. The arbitration council that settles the plaintiff's petition shall settle a counter-claim according to the order and procedures for settling plaintiffs' petitions under this Law.

#### **Article 37. Withdrawal of petitions or counter-claims; modification and supplementation of petitions, counter-claims or self-defense statements**

1. Before the arbitration council makes an arbitral award, the parties may withdraw their petition or counter-claim.

2. In the course of arbitral proceedings, the parties may modify and supplement their petition, counter-claim or self-defense statement. The arbitration council has the right to reject such modification and supplementation if seeing that it may be abused to obstruct or delay the making of an arbitral award or falls beyond the scope of the arbitration agreement applicable to the dispute.

#### **Article 38. Negotiation in arbitral proceedings**

From the lime of commencing arbitral proceedings, the parties may themselves negotiate and agree to terminate the dispute settlement.

When the parties agree to terminate the dispute settlement, they may request chairman of the arbitration center to issue a decision suspending the dispute settlement.

## Chapter VI

### ARBITRATION COUNCIL

#### **Article 39. Composition of an arbitration council**

1. An arbitration council may be composed of one or more arbitrators as agreed by the parties.
2. When the parties fail to reach agreement on the number of arbitrators, an arbitration council shall be composed of three arbitrators.

#### **Article 40. Formation of an arbitration council at an arbitration center**

Unless otherwise agreed by the parties or provided by the arbitration center's rules of proceedings, the formation of an arbitration council is specified as follows:

1. Within 30 days after receiving a petition and request for selecting an arbitrator sent by the arbitration center, the defendant shall select an arbitrator and notify such to the arbitration center or request the arbitration center's chairman to designate an arbitrator; otherwise, within 7 days after the expiration of the time limit specified in this Clause, the arbitration center's chairman shall designate an arbitrator for the defendant;
2. For a dispute involving many defendants, within 30 days after receiving a petition sent by the arbitration center, the defendants shall agree to select an arbitrator or to request designation of an arbitrator. If the defendants cannot select an arbitrator, within 7 days after the expiration of the time limit specified in this Clause, the arbitration center's chairman shall designate an arbitrator for the defendants;
3. Within 15 days after being selected by the parties or designated by the arbitration center's chairman, the arbitrators shall elect another arbitrator as the chairman of the arbitration council. Past this time limit, if this election cannot take place, within 7 days the arbitration center's chairman shall designate the chairman of the arbitration council;
4. When the parties agree that their dispute shall be settled by a sole arbitrator but fail to select such arbitrator within 30 days after the defendant receives a petition, the arbitration center's chairman shall, at the request of one party or all parties and within 15 days after receiving such request, designate a sole arbitrator.

#### **Article 41. Formation of ad hoc arbitration councils**

Unless otherwise agreed by the parties, the formation of an ad hoc arbitration council is specified as follows:

1. Within 30 days after receiving the plaintiff's petition, the defendant shall select an arbitrator and notify the selection to the plaintiff. Past this time limit, if the defendant fails to notify the plaintiff of the name of the selected arbitrator and the parties do not otherwise agree on designation of an arbitrator, the plaintiff may request a competent court to designate an arbitrator for the defendant;
2. For a dispute involving many defendants, these defendants shall agree to select an arbitrator within 30 days after receiving the plaintiff's petition and enclosed documents. Past this time limit, if the defendants cannot select an arbitrator and the parties do not otherwise agree on designation of an arbitrator, one party or all parties may request a competent court to designate an arbitrator for the defendants;
3. Within 15 days after being selected by the parties or designated by the court, the arbitrators shall elect another arbitrator as the chairman of the arbitration council.

When the arbitration council's chairman cannot be elected and the parties do not otherwise agree, they may request a competent court to designate the chairman of the arbitration council;

4. When the parties agree that their dispute shall be settled by a sole arbitrator but fail to select such arbitrator within 30 days after the defendant receives a petition, if the parties do not agree to request an arbitration center to designate an arbitrator, the competent court shall, at the request of one party or all parties, designate a sole arbitrator.

5. Within 7 days after receiving the parties' request under Clause 1, 2, 3 or 4 of this Article, the president of the competent court shall assign a judge to designate an arbitrator and notify such to the parties.

#### **Article 42. Change of arbitrators**

1, An arbitrator shall refuse to settle a dispute and the parties may request change of an arbitrator to settle the dispute in the following cases:

a/ The arbitrator is a relative or representative of one party:

b/ The arbitrator has an interest related to the dispute;

c/ There is a clear ground to conclude that the arbitrator is neither impartial nor objective;

d/ The arbitrator was a conciliator, representative or lawyer of one party before the dispute is brought to arbitration for settlement. unless such is consented in writing by the parties.

2. After being selected or designated, the arbitrator shall notify in writing the arbitration center or arbitration council and parties of the circumstances which may affect his/her objectivity or impartiality.

3. For a dispute to be settled at an arbitration center, pending the formation of an arbitration council, the arbitration center's chairman shall decide on the change of an arbitrator. If the arbitration council has been formed, such change shall be decided by other members of the arbitration council. When these members cannot make decision or if the arbitrators or the sole arbitrator refuse(s) to settle the dispute, the arbitration center's chairman shall decide on change of the arbitrator.

4. For a dispute to be settled by an ad hoc arbitration council, change of an arbitrator shall be decided by other members of the arbitration council. When these members cannot make decision or if the arbitrators or the sole arbitrator refuse(s) to settle the dispute, within 15 days after receiving a request from the arbitrator(s) and one disputing party or all disputing parties, the president of the competent court shall assign a judge to decide on change of the arbitrator.

5. The decision of the arbitration center's chairman or court in the cases specified in Clauses 3 and 4 of this Article is final.

6. When the arbitrator cannot continue participating in the settlement of a dispute due to force majeure circumstances or objective obstacles or is changed, the selection or designation of a new arbitrator comply with the order and procedures specified in this Law.

7. After consulting the parties, the newly formed arbitration council may re-consider the matters presented at the former arbitration council's previous dispute settlement meetings.

**Article 43. Consideration of invalid or unrealizable arbitration agreements, jurisdiction of an arbitration council**

1. Before considering the circumstances of a dispute, the arbitration council shall consider the validity of the arbitration agreement and whether such agreement can be realized, and consider its jurisdiction. If the dispute falls within its jurisdiction, the arbitration council shall settle it under this Law. If the dispute falls beyond its jurisdiction or the arbitration agreement is invalid or unrealizable, the arbitration council shall decide to terminate the dispute settlement and immediately notify the parties thereof.

2. In the course of dispute settlement, if detecting that the arbitration council acts ultra vires, the parties may lodge a complaint with the arbitration council. The arbitration council shall consider and decide on this issue.

3. When the parties agree to have their dispute settled by a specific arbitration center, but such center has terminated its operation without any other arbitration institution succeeding it, the parties may agree to select another arbitration center; otherwise, they may bring their dispute to court for settlement.

4. When the parties agree to select an ad hoc arbitrator but at the time their dispute arises, the arbitrator cannot conduct the settlement of the dispute due to force majeure circumstances or objective obstacles, the parties may agree to select another arbitrator in replacement; otherwise, they may bring their dispute to court for settlement.

5. When the parties have an arbitration agreement but fail to indicate the form of arbitration or cannot identify a specific arbitration institution, if a dispute arises, the parties shall agree again on the form of arbitration or a specific arbitration institution to settle the dispute. If no agreement can be reached, the form of arbitration or an arbitration institution to settle the dispute shall be selected at the plaintiff's request.

**Article 44. Complaints and settlement of complaints about an arbitration council's decision on the non-existence, invalidation or unrealizableness of an arbitration agreement, and jurisdiction of the arbitration council**

1. If disagreeing with any decision of the arbitration council specified in Article 43 of this Law, within 5 working days after receiving this decision, the parties may file a request with a competent court to re-consider such decision. The complainant shall concurrently notify such complaint to the arbitration council.

2. A complaint must contain:

a/ Date of making;

b/ Name and address of the complainant;

c/ Details of the request.

3. A complaint shall be enclosed with copies of the petition, arbitration agreement and arbitration council's decision. Enclosed papers in a foreign language shall be translated into Vietnamese and their translations be legally certified.

4. Within 5 working days after receiving a complaint, the president of the competent court shall assign a judge to consider and settle the complaint. Within 10 working days

after being assigned, such judge shall consider the complaint and make a decision. The court's decision is final.

5. While the court is processing the complaint, the arbitration council may continue the dispute settlement.

6. When the court decides that the dispute falls beyond the arbitration council's jurisdiction, or there is no arbitration agreement or the arbitration agreement is invalid or unrealizable, the arbitration council shall decide to terminate the dispute settlement. Unless otherwise agreed by the parties, they may bring the dispute to a court within the statute of limitations specified by law. The period from the date the plaintiff initiates a lawsuit at arbitration to the date the court decides to accept the dispute is not included in the statute of limitations for initiating a lawsuit.

#### **Article 45. The arbitration council's jurisdiction to verify matters**

In the course of dispute settlement, an arbitration council may meet or exchange with one party in the presence of the other party in appropriate forms to clarify matters related to the dispute. The arbitration council may itself or at the request of one party or all parties study a matter from a third person in the presence of the parties or after notifying such to the parties.

#### **Article 46. The arbitration council's jurisdiction to collect evidence**

1. The parties have the right and obligation to provide evidence to the arbitration council to prove matters related to their dispute.

2. At the request of one party or all parties, the arbitration council may request witnesses to provide information and documents relating to the dispute settlement.

3. The arbitration council may itself or at the request of one party or all parties request an appraisal and valuation of assets in the dispute as a basis for settling the dispute. Appraisal and valuation expenses shall be advanced by the appraisal and valuation requester or allocated by the arbitration council.

4. The arbitration council may itself or at the request of one party or all parties consult experts. Expert expenses shall be advanced by the consultation requester or allocated by the arbitration council.

5. If the arbitration council, one party or all parties have applied necessary measures to collect evidence but cannot itself/themselves collect evidence, they may propose in writing the competent court to request agencies, organizations and individuals to provide legible, audible or visible documents or other objects related to the dispute. Such a proposal must clearly indicate the circumstances of the dispute, evidence to be collected, reasons for the failure to collect evidence, names and addresses of agencies, organizations and individuals that manage and preserve such evidence.

6. Within 7 working days after receiving a proposal for evidence collection, the president of the competent court shall assign a judge to consider and deal with this proposal. Within 5 working days after being assigned, such judge shall request in writing agencies, organizations and individuals that are managing and preserving evidence to provide it for the court and send such proposal to the same-level procuracy for the latter to perform its functions and tasks under law.

Agencies, organizations and individuals that are managing and preserving the evidence shall fully and promptly provide such evidence at the court's request within 15 days after receiving the request.

Within 5 working days after receiving the evidence provided by agencies, organizations and individuals, the court shall notify such to the arbitration council and requester for delivery and receipt of evidence.

Past this time limit, if agencies, organizations and individuals fail to provide the evidence as requested, the court shall immediately notify such to the arbitration council and requester and. at the same time, request in writing competent agencies or organizations to handle the failure under law.

#### **Article 47. The arbitration council's jurisdiction to summon witnesses**

1. At the request of one party or all parties and when necessary, the arbitration council may request witnesses to appear at meetings to settle the dispute. Witness expenses shall be borne by the requester for such summon or allocated by the arbitration council.

2. If a witness, though having been properly summoned by the arbitration council, fails to attend the meeting without a plausible reason and his/her absence obstructs the dispute settlement, the arbitration council shall request in writing the competent court to decide to summon the witness to attend the arbitration council's meeting. Such request must clearly indicate the circumstances of the dispute; name and address of the witness; reason for summoning; and time and place for the witness to attend the meeting.

3. Within 7 working days after receiving the arbitration council's written request to summon the witness, the president of the competent court shall assign a judge to consider and deal with such request. Within 5 working days after being assigned, such judge shall issue a decision to summon the witness.

A witness-summoning decision must clearly indicate the name of the arbitration council requesting such summoning; circumstances of the dispute; name and address of the witness; and time and place for the witness to attend the meeting.

The court shall immediately send this decision to the arbitration council, the witness, and concurrently to the same-level procuracy for the latter to perform its functions and tasks under law.

The witness shall strictly observe the court's decision.

Witness expenses comply with Clause 1 of this Article.

## **Chapter VII**

### **INTERIM URGENT MEASURES**

#### **Article 48. Right to request application of interim urgent measures**

1. The disputing parties may request the arbitration council or a court to apply interim urgent measures under this Law and relevant laws, unless otherwise agreed by the parties.

2. A request for a court to apply interim urgent measures shall not be regarded as rejection to the arbitration agreement or waiver of the right to dispute settlement by arbitration.

#### **Article 49. The arbitration council's competence to apply interim urgent measures**



1. At the request of one of the parties, the arbitration council may apply one or more interim urgent measures to the disputing parties.

2. Interim urgent measures include:

a/ Prohibiting any change in the status of assets under dispute;

b/ Prohibiting or forcing any disputing party to commit one or more certain acts to prevent acts which adversely affect the process of arbitral proceedings;

c/ Distraining assets under dispute;

d/ Requesting preservation, storage, sale or disposal of any asset of one disputing party or all disputing parties;

e/ Requesting temporary money payment between the parties;

f/ Prohibiting transfer of the rights to assets under dispute.

3. During the dispute settlement, if one party has requested a court to apply one or more interim urgent measures specified in Clause 2 of this Article but later requests the arbitration council to apply such measures, the arbitration council shall refuse such application.

4. Before applying interim urgent measures, the arbitration council may force the party that requests such application to perform the financial security obligation.

5. The arbitration council which applies other interim urgent measures or those in excess of the requester's request for application of interim urgent measures, thus causing damage to the requester, the party to which these measures are applied or a third person, the damage sufferer may sue for compensation under the civil procedure law.

#### **Article 50. Procedures for the arbitration council to apply interim urgent measures**

1. The requester for application of interim urgent measures shall send a written request to the arbitration council.

2. A written request for application of interim urgent measures must contain:

a/ Date of making;

b/ Name and address of the requester;

c/ Name and address of the party to whom/ which interim urgent measures are to be applied;

d/ Summary of the circumstances of the dispute;

e/ Reason for the application of interim urgent measures;

f/ Interim urgent measures to be applied and specific requirements.

In addition to the request, the requester shall provide the arbitration council with evidence to prove the necessity to apply such interim urgent measures.

3. As decided by the arbitration council, the requester shall deposit a sum of money, precious metal, gemstone or valuable papers of a value set by the arbitration council equivalent to the amount of the loss which could be caused by improper application of interim urgent measures in order to protect the requester's interests. Such a sum of

money, precious metal, gemstone or valuable papers shall be deposited in a blocked account at a bank decided by the arbitration council.

4. Within 3 working days after receiving a request, immediately after the requester has provided the security specified in Clause 3 of this Article, the arbitration council shall consider and decide to apply interim urgent measures. In case of refusal, the arbitration council shall issue a written notice clearly stating the reason to the requester.

5. The enforcement of the arbitration council's decision to apply interim urgent measures complies with the law on enforcement of civil judgments.

#### **Article 51. The arbitration council's jurisdiction and procedures for changing, supplementing or canceling interim urgent measures**

1. At the request of one party, the arbitration council may change, supplement or cancel interim urgent measures at any time during the dispute settlement.

2. Procedures for changing or supplementing interim urgent measures comply with Article 50 of this Law.

3. The arbitration council may cancel the applied interim urgent measures in the following cases:

a/ The requester for application of interim urgent measures requests cancellation of such measures;

b/ The party subject to the enforcement of the decision to apply interim urgent measures has handed over its assets or another person has implemented the obligation security measure towards the requester;

c/ The obligation of the obliged party terminates under law.

4. Procedures for canceling interim urgent measures are specified as follows:

a/ The requester files a request for such cancellation with the arbitration council;

b/ The arbitration council considers and decides to cancel interim urgent measures and considers and decides to allow the requester to receive back the security assets specified in Clause 3, Article 50 of this Law. unless the requester has to compensate for a wrongful request causing damage to the party to which interim urgent measures are applied, or to a third person.

A decision to cancel interim urgent measures shall immediately be sent to the disputing parties and the civil judgment enforcement agency.

#### **Article 52. Responsibilities of requesters for application of interim urgent measures**

A requester for application of interim urgent measures shall take responsibility for his/her request. He/she shall compensate for his/her wrongful request causing damage to the other party or a third person.

#### **Article 53. The court's jurisdiction, order and procedures for applying, changing or canceling interim urgent measures**

1. After filing a petition, if its lawful rights and interests are infringed or in a direct danger of infringement, the filing party may file a request with a competent court to apply one or more interim urgent measures.

2. Within 3 working days after receiving such request, the president of the competent court shall assign a judge to consider and deal with the request. Within 3 working days after being assigned, such judge shall consider and decide to apply or not to apply interim urgent measures. The judge shall decide to apply interim urgent measures immediately after the requester takes the security measure. In case of refusal, the judge shall issue a written notice clearly stating the reason to the requester.

3. A party may request a court to change, supplement or cancel interim urgent measures. The assignment of a judge to consider and deal with such request complies with Clause 2 of this Article.

4. The order and procedures for applying, changing, adding or canceling a court's interim urgent measures and inspecting law observance during the application of these measures comply with the Civil Procedure Code.

5. During the dispute settlement, if one party has requested the arbitration council to apply one or several interim urgent measures but later requests in writing a court to apply these measures, the court shall refuse such request and return the request. unless such request falls beyond the arbitration council's jurisdiction.

## **Chapter VIII**

### **DISPUTE SETTLEMENT MEETINGS**

#### **Article 54. Preparation for dispute settlement meetings**

1. Unless otherwise agreed by the parties or provided by the arbitration center's rules of proceedings, the arbitration council shall decide on the time and venue for holding dispute settlement meetings.

2. Unless otherwise agreed by the parties or provided by the arbitration center's rules of proceedings, summons to a meeting shall be sent to the parties at least 30 days before the meeting starts.

#### **Article 55. Composition and procedures of a dispute settlement meeting**

1. A dispute settlement meeting shall be held in private, unless otherwise agreed by the parties.

2. The parties may personally, or authorize their representatives to. attend dispute settlement meetings and may invite witnesses and persons to protect their lawful rights and interests.

3. When agreed by the parties, the arbitration council may allow others to attend dispute settlement meetings.

4. The order and procedures for holding dispute settlement meetings shall be specified in the arbitration center's rules of arbitral proceedings or agreed by the parties in case of ad hoc arbitration.

#### **Article 56. Absence of the parties**

1. The plaintiff who has properly been summoned to attend a dispute settlement meeting but is absent without a plausible reason or leaves the meeting without the arbitration council's approval will be regarded as having withdrawn his/her petition. In this case, the arbitration council shall proceed with the dispute settlement if the plaintiff so requests or files a counter-claim.

2. In case the defendant who has properly been summoned to attend a dispute settlement meeting but is absent without a plausible reason or leaves the meeting without the arbitration councils approval, the arbitration council shall still proceed with the dispute settlement based on available documents and evidence.

3. At the request of the parties, the arbitration council may base itself on the dossiers to hold a dispute settlement meeting without the parties' presence.

#### **Article 57. Postponement of a dispute settlement meeting**

When having a plausible reason, one party or all parties may request the arbitration council to postpone a dispute settlement meeting. Such a request must be made in writing clearly stating the reason and enclosed with evidence and shall be sent to the arbitration council at least 7 working days before a meeting starts. If the arbitration council receives no request within this time limit, the postponement requester shall bear all expenses, if any. The arbitration council shall consider and decide to accept or not to accept a meeting postponement request and promptly notify such to the parties.

The arbitration council shall decide on the postponement duration.

#### **Article 58. Conciliation and recognition of successful conciliation**

At the request of the parties, the arbitration council shall conduct conciliation for the parties to reach agreement on the settlement of their dispute. If such an agreement can be reached, the arbitration council shall make a record of successful conciliation and have it signed by the parties and certified by the arbitrators. The arbitration council shall issue a decision recognizing the parties' agreement. This decision is final and as valid as an arbitral award.

#### **Article 59. Termination of dispute settlement**

1. Settlement of a dispute shall be terminated in the following cases:

a/ The individual plaintiff or defendant is dead without any heir of his/her rights and obligations:

b/ The institutional plaintiff or defendant has terminated its operation, gone bankrupt, or has been dissolved, consolidated, merged, divided, split up or reorganized without any agency or institution taking over its rights and obligations;

c/ The plaintiff withdraws his/her petition or is regarded as having withdrawn his/her petition under Clause 1. Article 56 of this Law. unless the defendant requests the settlement of the dispute to be continued;

d/ The parties agree to terminate the dispute settlement:

e/ A court has decided that the dispute falls beyond the arbitration council's jurisdiction, or there is no arbitration agreement, or the arbitration agreement is invalid or unrealizable under Clause 6, Article 44 of this Law.

2. The arbitration council shall issue a decision terminating the dispute settlement. If the arbitration council has not yet been formed, the arbitration center's chairman shall issue such decision.

3. When receiving a decision terminating the dispute settlement, the parties may not sue to request the arbitration to re-settle the dispute if there is no change in the plaintiff,

defendant and legal relationships related to the dispute, except the cases specified at Point c and e. Clause 1 of this Article.

## **Chapter IX**

### **ARBITRAL AWARDS**

#### **Article 60. Principles of issuance of awards**

1. The arbitration council shall issue an arbitral award on the basis of majority vote.
2. In case a majority vote cannot be obtained, an arbitral award shall be issued based on the opinion of the arbitration council's chairman.

#### **Article 61. Contents, form and validity of an arbitral award**

1. An arbitral award must be in writing and contain the following principal details:
  - a/ Date and place of issuance;
  - b/ Names and addresses of the plaintiff and defendant;
  - c/ Name and address of the arbitrator;
  - d/ Summary of the circumstances of the petition and matters under dispute;
  - e/ Grounds for issuing the award, unless the parties agree that it is unnecessary to indicate these grounds;
  - f/ Results of the dispute settlement;
  - g/ Time limit for enforcement of the award;
  - h/ Allocation of arbitration and other relevant expenses;
  - i/ The arbitrator's signature.
2. When the arbitrator fails to sign the arbitral award, the arbitration council's chairman shall indicate such failure in the arbitral award and clearly state the reason. In this case, the arbitral award remains effective.
3. An arbitral award shall be issued right at a meeting or within 30 days after the end of the last meeting.
4. An arbitral award shall be sent to the parties immediately after the date of its issuance. The parties may request the arbitration center or ad hoc arbitration council to issue copies of the arbitral award.
5. An arbitral award is final and takes effect on the date of its signing.

#### **Article 62. Registration of ad hoc arbitration's awards**

1. At the request of one disputing party or all disputing parties, an award of ad hoc arbitration shall be registered at the court in the place in which the arbitration council issued the award before requesting a competent civil judgment enforcement agency to organize enforcement of such award. Registration or non-registration of an arbitral award does not affect the contents and legal validity of the award.
2. Within 1 year after an arbitral award is issued, the party requesting registration of an award of ad hoc arbitration shall file an application for such registration to the competent court defined in Clause 1 of this Article, enclosed with originals or true copies of the following documents:

- a/ Arbitral award issued by the ad hoc arbitration council:
- b/ Minutes of the ad hoc arbitration council's dispute settlement meeting, if any;
- c/ Original or certified copy of the arbitration agreement.

The requester shall take responsibility for the truthfulness of the documents sent to the court.

3. Within 5 working days after receiving an application for award registration, the court president shall assign a judge to consider such application. Within 10 days after being assigned, such judge shall examine the truthfulness of the documents enclosed with the application and make registration. If identifying that the arbitral award is untrue, the judge shall refuse to make registration, return the application and enclosed documents and immediately notify such to the requester clearly slating the reason. Within 3 working days after receiving the court's notice, the requester may lodge a complaint with the court president about the refusal to make registration. Within 3 working days after receiving the complaint, the court president shall consider and issue a decision settling the complaint. The court president's dispute settlement decision is final.

4. Contents of registration of an arbitral award:

- a/ Time and place of registration;
- b/ Name of the court making registration;
- c/ Name and address of the requester for registration;
- d/ The registered award; e/ Signature of the competent person and seal of the court.

### **Article 63. Correction and explanation of awards; additional awards**

1. Within 30 days after receiving an award, unless otherwise agreed by the parties, a party may request the arbitration council to correct obvious spelling errors or erroneous or incorrectly calculated data in the award but shall immediately notify the other party thereof. If the arbitration council considers this request reasonable, it shall correct the errors within 30 days after receiving the request.

2. Within 30 days after receiving an award, unless otherwise agreed by the parties, a party may request the arbitration council to explain details of the award but shall immediately notify the other party thereof. If the arbitration council considers this request reasonable, it shall give an explanation within 30 days after receiving the request. Such explanation constitutes part of the award.

3. Within 30 days after issuing an award, the arbitration council may on its own initiative correct errors specified in Clause 1 of this Article and shall immediately notify such to the parties.

4. Unless otherwise agreed by the parties, within 30 days after receiving an award, a party may request the arbitration council to issue an additional award for the requirements presented in the course of proceedings but not recorded in the award and shall immediately notify such to the other party. If the arbitration council considers such request reasonable, it shall issue an additional award within 45 days after receiving the request.

5. When necessary, the arbitration council may extend the time limits for correction or explanation of awards or issuance of additional awards specified in Clauses I. 2 and 4 of this Article.

#### **Article 64. Preservation of dossiers**

1. An arbitration center shall preserve dossiers of disputes it has accepted. Dossiers of disputes settled by ad hoc arbitration shall be preserved by the parties or arbitrators.
2. Arbitration dossiers shall be preserved for 5 years after the issuance of the arbitral award or decision terminating the dispute settlement by arbitration.

### **Chapter X**

#### **ENFORCEMENT OF ARBITRAL AWARDS**

##### **Article 65. Voluntary compliance with arbitral awards**

The State encourages the parties to voluntarily comply with arbitral awards.

##### **Article 66. Right to request compliance with arbitral awards**

1. Past the time limit for complying with an arbitral award, if the party to comply with the award fails to voluntarily comply with it and does not request cancellation of the award under Article 69 of this Law, the party in favor of whom/which the arbitral award is issued may request in writing the competent civil judgment enforcement agency to enforce the award.
2. For ad hoc arbitration's awards, the creditor may request in writing the competent civil judgment enforcement agency to enforce the award after it is registered under Article 62 of this Law.

##### **Article 67. Enforcement of arbitral awards**

Arbitral awards shall be enforced under the law on enforcement of civil judgments.

### **Chapter XI**

#### **CANCELLATION OF ARBITRAL AWARDS**

##### **Article 68. Grounds for cancellation of arbitral awards**

1. The court shall consider the cancellation of an arbitral award at the request of one of the parties.
2. An arbitral award shall be cancelled in any of the following cases:
  - a/ There is no arbitration agreement or the arbitration agreement is invalid;
  - b/ The arbitration council's composition or procedures of arbitral proceedings is/are non-compliant with the parties' agreement or this Law;
  - c/ The dispute falls beyond the arbitration council's jurisdiction: when an arbitral award contains the details falling beyond the arbitration council's jurisdiction, such details shall be cancelled;
  - d/ The evidence provided by the parties on which the arbitration council bases to issue the award is counterfeit: an arbitrator receives money, assets or other material benefits from one disputing party, thus affecting the objectivity and impartiality of the award;
  - e/ The award contravenes the fundamental principles of Vietnamese law.

3. When the court considers request for cancellation of an arbitral award, the burden of proof shall be determined as follows:

a/ The requester for cancellation of an arbitral award in any of the cases specified at Points a, b, c and d. Clause 2 of this Article has the burden to prove that the arbitration council has issued the award falling into any of these cases;

b/ For a request to cancel an arbitral award on the ground specified at Point e. Clause 2 of this Article, the court shall itself collect and verify evidence in order to decide to cancel or not to cancel the arbitral award.

#### **Article 69. Right to request cancellation of arbitral awards**

1. Within 30 days after receiving an arbitral award, if a party has sufficient grounds for evidencing that the arbitration council has issued the award falling into any of the cases specified in Clause 2, Article 68 of this Law. it may file a request with the competent court for cancellation of such award. Such request must be enclosed with documents and evidence proving that such request is grounded and lawful.

2. When a request is lodged beyond the set time limit due to force majeure circumstances, the period in which such circumstances exist will not be included in the time limit for requesting cancellation of an arbitral award.

#### **Article 70. Written requests for cancellation of arbitral awards**

1. A written request for cancellation of an arbitral award must contain:

a/ Date of making;

b/ Name and address of the requester;

c/ Request and grounds for cancellation of the award.

2. A written request must be enclosed with the following papers:

a/ Original or certified copy of the arbitral award;

b/ Original or certified copy of the arbitration agreement.

Enclosed papers in a foreign language shall be translated into Vietnamese and such translations shall be legally certified.

#### **Article 71. Examination by courts of written requests for cancellation of arbitral awards**

1. After accepting a written request for cancellation of an arbitral award, the competent court shall immediately notify such to the arbitration center or arbitrators of the ad hoc arbitration council, the disputing parties and the procuracy of the same level.

2. Within 7 working days after accepting a written request, the court president shall designate an examination council which is composed of three judges, including one to act as the chair as assigned by the court president.

Within 30 days after being designated, the examination council shall hold a meeting to examine the written request for cancellation of an arbitral award. The court shall, within 7 working days before opening the meeting, transfer the dossier to the procuracy of the same level for study before attending this meeting. Upon the expiration of this time limit, the procuracy shall return the dossier to the court for opening a meeting to examine the written request.



3. A meeting shall be conducted in the presence of the disputing parties and their lawyers, if any, and a procurator of the procuracy of the same level. If one of the parties is absent or has been properly summoned but is absent without a plausible reason or leaves the meeting without the council's consent, the council shall still examine the written request.

4. When examining the written request, the council shall base itself on Article 68 of this Law and enclosed documents to consider and make decision: it will not review the dispute already settled by the arbitration council. After examining the written request and enclosed documents and hearing opinions of the summoned persons, if any, and after the procurator presents the procuracy's opinions, the council shall discuss and make decision by majority vote.

5. The examination council may decide to cancel or not to cancel an arbitral award. When the requester withdraws the request or has been properly summoned but is absent without a plausible reason or leaves the meeting without the council's consent, the council shall decide to terminate the examination of such request.

6. Within 5 working days after issuing a decision, the court shall send it to the parties, the arbitration center or ad hoc arbitrator and the procuracy of the same level.

7. At the request of one of the parties and when appropriate, the examination council may suspend the examination and processing of a request for not more than 60 days in order to facilitate the arbitration council in correcting errors of the arbitral proceedings in its viewpoint in order to remove the grounds for canceling the arbitral award. The arbitration council shall notify the court of such correction. If the arbitration council fails to correct errors in the proceedings, the examination council shall continue examining the written request.

8. If the examination council issues a decision canceling the arbitral award, the parties may reach new agreement to bring their dispute to arbitration or any of them may initiate a lawsuit at court. If the examination council does not cancel the arbitral award, such award shall be enforced.

9. In all cases, the time for dispute settlement at arbitration and for carrying out procedures to cancel an arbitral award at court will not be included in the statute of limitations for initiating a lawsuit.

10. The courts decision is final and effective for enforcement.

#### **Article 72. Court fees related to arbitration**

Fees for requesting a court to designate an arbitrator or apply interim urgent measures, requesting cancellation of arbitral awards or registering arbitral awards, and other fees comply with the law on legal costs and court fees.

## **Chapter XII**

### **ORGANIZATION AND OPERATION OF FOREIGN ARBITRATIONS IN VIETNAM**

#### **Article 73. Conditions for foreign arbitration institutions to operate in Vietnam**

Foreign arbitration institutions which are lawfully established and operating overseas and respect the Constitution and laws of the Socialist Republic of Vietnam may operate in Vietnam under this Law.

## **Article 74. Forms of operation of foreign arbitration institutions in Vietnam**

Foreign arbitration institutions may operate in Vietnam as:

1. Branch of the foreign arbitration institution (below referred to as branch): or.
2. Representative office of the foreign arbitration institution (below referred to as representative office).

## **Article 75. Branches**

1. Branch is a dependent unit of a foreign arbitration institution and may be established and carry out arbitration activities in Vietnam under this Law.
2. Foreign arbitration institutions and their branches shall take responsibility before Vietnamese law for the operation of these branches.
3. A foreign arbitration institution shall appoint an arbitrator to act as head of its branch. This head is an authorized representative of the foreign arbitration institution in Vietnam.

## **Article 76. Rights and obligations of branches**

1. To rent working offices, hire and purchase facilities and tools necessary for the operation of the branches.
2. To recruit Vietnamese and foreign employees under Vietnamese law.
3. To open Vietnam-dong and foreign-currency accounts at banks licensed to operate in Vietnam for their operation.
4. To remit their incomes abroad under Vietnamese law.
5. To have a seal bearing the name of the branch under Vietnamese law.
6. To designate arbitrators for forming arbitration councils as authorized by the foreign arbitration institution.
7. To provide arbitration services, conduct conciliation and apply other modes of settling commercial disputes under law.
8. To provide administrative, clerical and other services for dispute settlement of foreign arbitration councils.
9. To collect arbitration charges and other lawful amounts.
10. To pay remuneration to arbitrators.
11. To organize retraining courses for arbitrators to raise their dispute settlement qualifications and skills.
12. To preserve dossiers and provide copies of arbitral decisions at the request of the disputing parties or competent Vietnamese state agencies.
13. To operate in the domains stated in their establishment licenses or operation registration papers.
14. To observe Vietnamese law concerning their operation.
15. To annually report on their operation to provincial-level Justice Departments of localities in which they are registered for operation.

## **Article 77. Representative offices**

1. Representative office is a dependent unit of a foreign arbitration institution and may be established and seek and promote arbitration operation opportunities in Vietnam under this Law.
2. Foreign arbitration institutions shall take responsibility before Vietnamese law for the operation of their representative offices.

#### **Article 78. Rights and obligations of representative offices**

1. To seek and promote arbitration operation opportunities of their arbitration institutions in Vietnam.
2. To rent working offices and hire and purchase facilities and tools necessary for their operation.
3. To recruit Vietnamese and foreign employees under Vietnamese law.
4. To open foreign-currency and Vietnam-dong accounts at banks licensed to operate in Vietnam and use these accounts only for their operation.
5. To have a seal bearing the name of the representative office under Vietnamese law.
6. To operate for the purposes, scope and duration stated in their establishment licenses.
7. To refrain from carrying out arbitration operations in Vietnam.
8. To conduct only arbitration operation promotion and advertising activities under Vietnamese law.
9. To observe Vietnamese laws concerning their operation.
10. To annually report on their operation to provincial-level Justice Departments of localities in which they are registered for operation.

#### **Article 79. Operation of branches and representative offices**

The establishment, registration, operation, and termination of the operation of branches and representative offices comply with Vietnamese law and treaties to which the Socialist Republic of Vietnam is a contracting party. The Government shall detail procedures for the establishment, registration, and termination of operation of branches and representative offices.

### **Chapter XIII**

#### **IMPLEMENTATION PROVISIONS**

#### **Article 80. Application of the Law to arbitration centers established before the effective date of this Law**

Arbitration centers established before the effective date of this Law are not required to carry out procedures for re-establishment. Arbitration centers shall modify their charters and rules of arbitral proceedings to comply with this Law within 12 months after it takes effect. Past this time limit, arbitration centers that fail to modify their charters or rules will have their establishment licenses revoked and shall terminate their operation.

#### **Article 81. Effect**

1. This Law takes effect on January 1, 2011.

2. Ordinance No. 03/2003/PL-UBTVQH11 on Commercial Arbitration ceases to be effective on the effective date of this Law.

3. Arbitration agreements concluded before the effective date of this Law shall be implemented under regulations effective at the time of their conclusion.

**Article 82. Implementation detailing and guidance**

The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the ambit of their tasks and powers, detail and guide the Law's articles and clauses assigned to them; and guide other necessary contents of this Law to meet state management requirements.

*This Law was passed on June 17, 2010, by the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 7<sup>th</sup> session*

**CHAIRMAN OF THE NATIONAL ASSEMBLY**

**Nguyen Phu Trong**