



THE ARBITRATION LAW OF
THE PEOPLE'S REPUBLIC
OF CHINA

中华人民共和国仲裁法

**THE ARBITRATION LAW
OF THE
PEOPLE'S REPUBLIC OF CHINA**

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FOREIGN LANGUAGES PRESS

外文出版社

First Edition 2001

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ISBN 7-119-02747-6

©Foreign Languages Press, Beijing, China, 2001

Published by Foreign Languages Press

24 Baiwanzhuang Road, Beijing 100037, China

<http://www.flp.com.cn>

Distributed by China International Book Trading Corporation

35 Chegongzhuang Xilu, Beijing 100044, China

P. O. Box 399, Beijing, China

Printed in the People's Republic of China

图书在版编目(CIP)数据

中华人民共和国仲裁法:英汉对照. —北京:外文出版社, 2001
ISBN 7-119-02747-6

I. 中… II. … III. 仲裁法-中国-英、汉
IV. D925.7

中国版本图书馆 CIP 数据核字(2000)第 76094 号

责任编辑 余冰清
英文责编 许 荣
封面设计 王 志

外文出版社网址:
<http://www.flp.com.cn>
外文出版社电子信箱:
info@flp.com.cn
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©外文出版社
外文出版社出版
(中国北京百万庄大街 24 号)
邮政编码 100037
北京外文印刷厂印刷
中国国际图书贸易总公司发行
(中国北京车公庄西路 35 号)
北京邮政信箱第 399 号 邮政编码 100044
2001 年(大 32 开)第 1 版
2001 年第 1 版(英汉)第 1 次印刷
ISBN 7-119-02747-6/D·157(外)
06000(精)
6-EC-3404S

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THE ARBITRATION LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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CHAPTER I

GENERAL PROVISIONS

Article 1 This Law is formulated to ensure the arbitration of economic disputes in an impartial and timely manner, protect the legal rights and interests of the parties and safeguard the sound development of the socialist market economy.

Article 2 Contractual disputes and other disputes involving rights and interests of property between equal subjects such as citizens, legal persons and other organizations can be settled by means of arbitration.

Article 3 The following disputes shall not be submitted for arbitration:

(1) Disputes arising from marriage, adoption, guardianship, fosterage and succession;

(2) Administrative disputes that must be handled by administrative organs according to the relevant laws.

Article 4 Parties which resolve their disputes by means of arbitration shall reach an arbitration agreement on a voluntary basis. Without such an agreement, the arbitration commission shall not accept the application for arbitration by any single party.

Article 5 When the parties have reached an arbitration agreement, a people's court shall not accept a lawsuit brought by any party involved, except that the arbitration agreement is invalid.

Article 6 The arbitration commission shall be chosen by the parties through agreement.

Arbitration shall not be subject to jurisdiction by level or territorial jurisdiction.

Article 7 Arbitration awards shall be made on the basis of facts, in compliance with laws, and in an equitable and reasonable manner.

Article 8 Arbitration shall be conducted independently according to law and shall be free from interference by administration departments, social organizations or individuals.

Article 9 An arbitration award is final once the award announcement has been made. Neither an arbitration commission nor a people's court shall accept application for reconsideration of a dispute already decided by any of the parties concerned.

If an arbitration award is canceled or the enforcement is denied by a decision of a people's court according to law, the parties involved can reach a new arbitration agreement and apply for arbitration or file a lawsuit at a people's court.

CHAPTER II

ARBITRATION COMMISSIONS AND ARBITRATION ASSOCIATIONS

Article 10 Arbitration commissions may be established in municipalities directly under the Central Government and in cities where governments of provinces and autonomous regions are located. Arbitration commissions can also be established in other cities divided into districts according to need. Arbitration commissions shall not be established at each level of administrative jurisdiction.

The people's governments of the municipalities mentioned in the preceding paragraph shall arrange for relevant departments and chambers of commerce to organize and establish arbitration commissions in a unified manner.

The arbitration commissions shall be registered with the judicial administration departments of provinces, autonomous regions or municipalities directly under the Central Government.

Article 11 An arbitration commission shall meet the following conditions:

- (1) Have its own name, domicile and articles of association;
- (2) Possess its own necessary assets;

(3) Have its own qualified personnel;

(4) Have appointed arbitrators.

The articles of association of an arbitration commission shall be formulated in accordance with this Law.

Article 12 An arbitration commission shall be composed of one chairman, two to four vice-chairmen and seven to 11 members.

The chairman, vice-chairmen and members of an arbitration commission shall be experts in the legal, economic or trade fields and persons with practical working experience. At least two-thirds of the persons constituting the arbitration commission shall be experts in the legal, economic or trade fields.

Article 13 An arbitration commission shall appoint its arbitrators from among righteous, upright persons.

An arbitrator shall meet one of the following requirements:

(1) Have been engaged in arbitration work for up to eight years;

(2) Have been working as a lawyer for up to eight years;

(3) Have served as a judge for up to eight years; or

(4) Have engaged in legal research or education and held a senior professional title;

(5) Have possessed legal knowledge, and engaged in professional work such as economic relations and trade, etc., and held a senior professional title or had same professional level.

An arbitration commission shall prepare a panel of arbitrators with the appropriate professional qualifications.

Article 14 An arbitration commission shall be independent of and shall have no subordinate relationship with administrative organs. There shall also be no subordinate relationships between the arbitration commissions themselves.

Article 15 The China Arbitration Association has the status of a legal person, and all the separate arbitration commissions are members of the China Arbitration Association. The articles of association of the China Arbitration Association shall be formulated by the National Congress of the Association.

The China Arbitration Association is a self-disciplined organization governing the arbitration commissions. It shall supervise the latter and their members and arbitrators therein in accordance with its articles of association.

The China Arbitration Association shall formulate arbitration rules in accordance with this Law and the relevant prescriptions of the Civil Procedure Law.

CHAPTER III

ARBITRATION AGREEMENTS

Article 16 An arbitration agreement refers to the arbitration clauses stipulated in contracts and other written agreements reached before or after the occurrence of disputes.

An arbitration agreement shall specify the following items:

- (1) The expression of the intention to apply for arbitration;
- (2) The matters which shall be arbitrable;
- (3) The arbitration commission to be selected for the arbitration.

Article 17 Under any of the following circumstances an arbitration agreement shall be null and void:

- (1) The agreed arbitrable matter has exceeded the scope of arbitration prescribed by law;
- (2) The arbitration agreement has been concluded by persons having no capacity or limited capacity for civil conduct;
- (3) One party has coerced the other party into concluding the arbitration agreement by means of intimidation.

Article 18 Where an arbitration agreement fails to specify or to clearly specify matters concerning the arbitration or the choice of the arbitration commission, the parties can reach a supplementary agreement. If such a supplementary agreement can not be reached, the arbitration agreement shall be null and void.

Article 19 The validity of an arbitration agreement shall exist independently. The alteration, rescission, termination or invalidity of a contract shall not affect the validity of the arbitration agreement.

An arbitration tribunal shall have the power to verify the validity of contracts.

Article 20 If a party objects to the validity of an arbitration agreement the party can request an arbitration commission to make a decision or a people's court to issue an order. When one party requests an arbitration commission to make a decision and the other party requests a people's court to issue an order, the people's court shall be the competent authority to issue the order.

Objections to the validity of an arbitration agreement shall be raised by the parties concerned prior to the first hearing by an arbitration tribunal.

CHAPTER IV

ARBITRATION PROCEDURES

SECTION 1 APPLICATION AND ACCEPTANCE

Article 21 A claimant shall meet the following requirements when applying for arbitration:

- (1) There is an arbitration agreement;
- (2) There are specific arbitration claims based on facts and reasons; and
- (3) The application falls within the scope of cases accepted by the arbitration commission.

Article 22 When applying for arbitration the claimant shall submit the arbitration agreement and the application for arbitration in duplicate to an arbitration commission.

Article 23 The application for arbitration shall specify the following items:

- (1) The names, sexes, ages, professions, working units and domiciles of the parties concerned, the names and domiciles of the legal persons or other organizations, and the names and positions of the legal representative or principal leading members;
- (2) The arbitration claims and the facts and reasons on

which the claims are based; and

(3) The evidence, the sources of such evidence, and the names and domiciles of the witnesses.

Article 24 The arbitration commission shall take cognizance of the application for arbitration if it deems the application conforms to the requirements and notify the litigant within five days after receiving the application for arbitration. The arbitration commission shall not take cognizance of the application for arbitration if the claimant does not satisfy the conditions, and a notice of rejection shall be sent giving the reason(s) for rejection.

Article 25 After having taken cognizance of the application for arbitration, the arbitration commission shall, within the period specified in the arbitration rules, send copies of the arbitration rules and the details of the panel of arbitrators to the claimant, and copies of the claimant's application, the arbitration rules and details of the panel of arbitrators to the respondent.

After receipt of the application for arbitration, the respondent shall submit a written defense to the arbitration commission within the period specified in the arbitration rules. After receipt of the written defense, the arbitration commission shall send to the claimant copies of the respondent's defense within the period specified in the arbitration rules. If the respondent fails to submit a written defense, the arbitration proceedings shall not be affected.

Article 26 When the parties concerned have reached an arbitration agreement and one party brings a lawsuit to a people's court without indicating the arbitration agreement, and the other party submits the arbitration agreement before the first hearing, the people's court shall reject the lawsuit, except in the case that the arbitration agreement is invalid. If the other party fails to raise an objection to the acceptance of the case by the court before the first hearing it shall be regarded as having forfeited the arbitration agreement, and the people's court shall continue the hearing.

Article 27 The claimant can renounce or amend his or her arbitration claim. The respondent can accept or refute the arbitration claim and shall have the right to raise a counterclaim.

Article 28 Due to the acts by the respondent or other reasons making a future arbitration award impossible or difficult to execute, the claimant can apply for property preservation measures.

When a claimant has applied for property preservation measures, the arbitration commission shall submit the party's application to a people's court in accordance with the relevant prescriptions of the Civil Procedure Law.

If there is any error in the application, the claimant shall pay compensation for any losses suffered by the respondent as a result of the property preservation measures.