

# **International Commercial Arbitration Act of Iran**

## **PART I GENERAL PROVISIONS**

### **Article 1- Definitions and interpretation rules**

The definitions of the terms used in this Act are as follows:

- a- a- “Arbitration” means the settlement of disputes between litigants out of court by mutually agreed natural or legal persons and or appointed ones.
- b- b- “International arbitration” is when one of the parties is not Iranian national under Iranian law in the time of conclusion of the arbitration agreement.
- c- c- “Arbitration agreement” is an agreement concluded between parties, under which, all or some of the disputes arisen or may be arisen, concerning one or more certain legal relations whether contractual or uncontractual to be referred to arbitration. Arbitration agreement may be included in the contract as an arbitration clause and/or be as a separate contract.
- d- d- “Arbitration” means a sole arbitrator or panel of arbitration.
- e- e- “Court” in this Act means one of the judicial organization courts of the Islamic Republic of Iran.
- f- f- When it is referred to the agreement between parties or the agreement to be concluded later in this Act, it will be subject to the arbitration provisions specified in that agreement.

### **Article 2- Scope of application**

- 1- 1- The arbitration of disputes in international commercial relations, whether purchase and sale of goods and services, transportation, insurance, financial affairs, services, investment, technical assistances, agency, commission agency, contract work and simitar activities, shall be done under to provisions of this Act.
- 2- 2- All persons who have competence to lodge a complaint, may refer their international commercial disputes to arbitration under the provisions of this Act, whether it is raised before legal authorities or not, and

in case of reference at any stages, by mutual agreement.

### **Article 3- Service of papers and notices**

If an agreement is not concluded between parties, concerning procedure and authority of the service of papers in relation of papers in relation to arbitration, it shall be acted through one of the following ways:

- a- a- In institutional arbitration, service procedure and authority shall be in accordance with the provisions of that institution.
- b- b- The arbitrator may directly determine service procedure and authority, and accordingly he dispatches the arbitration papers for parties.
- c- c- Arbitration applicant may dispatch the request for arbitration to the other party by registered mail, facsimile, telex, telegram, declaration and similar things, when such a request is served that:
  - 1- 1- Its receipt to addressee is confirmed,
  - 2- 2- The addressee has taken an action under the provisions of the request,
  - 3- 3- The addressee has negatively or positively given an appropriate reply,

### **Article 4- Commencement of arbitration proceeding**

- a- a- The arbitration proceeding is commenced when the request for arbitration has been served to the addressee or respondent of the arbitration under the provisions of the article (...) of this Act, unless the parties have agreed otherwise.
- b- b- Unless it has been agreed otherwise, the request for arbitration shall include the following points:
  - 1- 1- The request for reference of dispute to arbitration.
  - 2- 2- Names and addresses of the parties.
  - 3- 3- Expression of claim and relief sought.
  - 4- 4- Arbitration clause and/or arbitration agreement.

The request for arbitration may include some information about the number of arbitrators and the way of their appointment as set out in part (3) of this Act and as well may have some information about contracts, agreement and events which have caused disputes.

#### **Article 5- Withdrawal of the right to object**

If each one of the parties wants to continue arbitration with knowledge of disregarding unimperative rules of this Act and the depreciable arbitration agreement conditions and he does not raise his objection immediately and/or in the respite for this purpose, it shall be considered that he has withdrawn the objection right.

#### **Article 6- Supervisory authority**

- 1- 1- Discharging the duties mentioned in article (9) clauses (3) and (4), article (11) clause (3), article (13) clause (1), article (14), clause (3), article (16) article (...) and article (35) are vested in the general court located in the center of province which is the arbitration seat, and until the arbitration seat is not determined, it shall be in the responsibility of Tehran general court.  
In this cases the court decisions are final and unobjectionable
- 2- 2- In institutional arbitrations discharging the duties mentioned in clauses (2), (3) article (1) clause (3), article (13) and clause (1) , article (14) shall be vested in respective arbitral institution.

## **PART II**

### **ARBITRATION AGREEMENT**

#### **Article 7- The form of arbitration agreement**

Arbitration agreement should be signed by the parties in a document, or exchange of letter, telex, telegram or things like that ..., to indicate the existence of such agreement , or one of the parties claims its existence by an exchange of request or statement of defence and the other party accepts it in effect. Reference to a document in the written contract including arbitration clause, shall also be considered as an independent arbitration agreement.

#### **Article 8- Arbitration agreement and case pending before the court**

The court, before which, the dispute of the arbitration agreement is brought, should refer the case to arbitration upon

**request of one of the parties until the end of the first court session, unless the court establishes that arbitration agreement is null and void or unenforceable.**

**Initiating the proceedings in the court shall not prevent commencing or continuing the arbitration proceeding and issuing the arbitration award.**

#### **Article 9- Arbitration agreement and remedy order or provisional injunction**

Before or in the arbitration proceeding, each one of the parties may apply the Justice of the court mentioned in article (6) to issue the remedy order or provisional injunction.

### **PART III**

#### **COMPOSITION OF PANEL OF ARBITRATION**

##### **Article 10- Number of arbitrators**

**The appointment of the number of arbitrators is for the dispute parties, the panel of arbitration shall be composed of three members in case of non- appointment.**

##### **Article 11- The appointment of the arbitrators**

- 1- 1- **Subject to the provisions of clauses (3) and (4) of this article, the dispute parties may agree on the manner of arbitrator appointment. Until any dispute has not arisen, Iranian party may not be bound some how, if any dispute is raised, to refer its settlement to the arbitration of one or more persons, that such person (s) have the same nationality which his party or parties have.**
- 2- 2- **If there is not such an agreement, it shall be applied as follows:**
  - a- a- **Every party appoints his arbitrator to compose the panel of arbitration and the nominated arbitrators shall appoint the chairman. If one of the parties does not appoint his arbitrator and obtain his admission within a period of (30) days as from the commencing**

the arbitration or if the nominated arbitrators may not agree on the chairman and obtain his admission within a period of (30) days as from the nominations, upon request of one of the parties, as the case may be, the appointment of the arbitrator of the abstaining party or the chairman shall be done under the provisions of article (6).

b- b- If the parties fail to agree on the arbitrator appointment in the sole arbitration, the arbitrator shall be appointed upon request of one of the parties by the authority envisaged in article (6).

3- 3- If under the procedure of the appointment of the arbitrator agreed by the parties, one of the parties does not act or the parties and the nominated arbitrators do not agree or third party, whether natural or legal person, does not discharge the duties entrusted with him in this respect, each one of the parties may, for taking a decision, refer to the authority mentioned in article (6), unless the parties agreed otherwise.

4- 4- Appointing authority shall comply with all the conditions envisaged in the agreement by the parties to appoint "arbitrator" , and he should regard arbitrator's independence and impartiality. In and case, the chairman should be appointed from the nationals of third state and the arbitrator of abstaining party shall not be appointed from the nationals of the other party state.

5- 5- If the parties are obliged a certain person or persons should arbitrate when any dispute arisen, and such person or persons will not or may not examine the case, arbitration agreement shall be nullified, unless the parties make a mutual consent to the arbitration of other person(s), or they have agreed otherwise.

6- 6- In cases where arbitration has more than two parties and the parties have not agreed otherwise, the panel of arbitration shall be appointed as follows:

a- a- The claimant shall nominate an arbitrator and in case of being numerous claimants they shall jointly nominate one arbitrator. The arbitrator of respondent(s) shall be nominated by this method.

If the claimants or respondents do not come to an agreement on their arbitrator, the arbitrator of each one of the parties (claimants or respondents) shall be appointed by the authority mentioned in article (6).

b- b- The appointment of the chairman is for the nominated arbitrators. If they do not agree on it, the

chairman shall be appointed by the authority mentioned in article (6).

- c- c- If any dispute arises in respect of being claimant or respondent of one of the arbitration parties, the panel of arbitration composed of three persons shall be appointed by the authority by the authority mentioned in article (6).
- d- d- The other cases in the multilateral arbitrations, including challenge and failure, is subject to the regulations laid down for bilateral arbitrations.

#### **Article 12- The cases of arbitrator challenge**

- 1- 1- An arbitrator may be challenged when existing circumstances and conditions would cause justifiable doubts in respect of his impartiality and independence and or if he does not have the qualification agreed by the parties. Each party may challenge the arbitrator appointed by himself or has participated in the procedure of the appointment.
- 2- 2- The person who has been proposed as an arbitrator, should disclose any kind of the circumstances and conditions that would cause justifiable doubt in respect of his impartiality and independence. The arbitrator should inform the parties any circumstances and conditions that would come to existence at the time of appointment as an arbitrator and also during the arbitration proceeding without and delay, unless he had previously informed them of aforesaid circumstances and conditions.

#### **Article 13- Challenge formalities**

- 1- 1- The parties may agree on arbitrator challenge formalities.
- 2- 2- If there is not such an agreement, the party who wants to challenge the arbitrator should, by a brief, declare the reasons of challenge to arbitrator, within a period of (15) days from the date of information of the convening arbitration or information of any circumstances and conditions mentioned in clause (1) of article (13).  
The arbitrator shall take a decision in respect of challenge, unless the challenged arbitrator is resigned from his office and the adverse party also accepts the challenge.
- 3- 3- If the challenge raised under the clauses (1), (2) of this article, is not accepted, the party who has challenged the arbitrator may apply the authority mentioned in article (6) to

examine and take a decision concerning the challenge, within a period of (30) days after receipt of the notice containing the decision related to the dismissal of challenge. As long as such a request is under consideration, the arbitrator may continue the arbitration proceedings and also issue the award.

#### **Article 14- Failure or impossibility to discharge the duty**

- 1- 1- If an arbitrator is not able to discharge his duty legally or practically, or if he fails to discharge his duty without a justifiable delay under whatever reason, the responsibility of the arbitrator is terminated.

If there is any dispute over realization of said instances between the parties, each of them may apply the authority mentioned an article (6) to take a decision in respect of termination of the arbitrator function.

- 2- 2- The mere resignation or the consent of the other party and / or the termination of the arbitrator function shall not be meant the admission of validity and veracity of the challenge reasons, failure, or lack of ability to discharge the duty.

#### **Article 15- Appointment of the substitute arbitrator**

Whenever the arbitrator duty terminates under the articles (13), (14) or for resignation or agreement of the parties in respect of rescission his duty or for any other reason, the substitute arbitrator shall be appointed under the applicable regulations on the appointment of the substitute arbitrator.

### **PART IV**

#### **COMPETENCE OF ARBITRATOR**

#### **Article 16- Taking a decision on the competence**

- 1- 1- The arbitrator may take a decision in respect of his competence and also on the existence or validity of the arbitration agreement. The arbitration clause which is a part of a contract, shall be considered as an independent agreement in view of this Act, the arbitrator decision concerning the contract being annulled and void would not be considered per se as invalidity of the arbitration clause mentioned in this contract.

- 2- 2- The objection to the arbitrator competence should not be later than the submission of statement of defence. The mere appointment of the arbitrator or participation in his appointment by each party shall not prevent the objection to competence. The objection to the act beyond the arbitrator's (ultra vires) in the arbitration proceeding should be posed as it appears, in any of the aforesaid cases the arbitrator may also accept untimely objection, provided that he determines the delay as justifiable.
- 3- 3- In case of objection to the original competence and/or to the existence and/or to validity of the arbitration agreement (unless the parties have agreed otherwise) the arbitrator as a primary matter before entering the merit of the case should take the decision about it, taking decision, concerning objection to the acts beyond the arbitrator's power (ultra vires) which its cause is created during the proceeding(s), may be done within meritorious award. If the arbitrator comments on his competence as a primary matter, each party may apply the court mentioned in article (6) within (30) days after the receipt of its service to examine the matter and take a decision. As long as the said request is under consideration in the court, the arbitrator may continue to proceed and also issue the award.

#### **Article 17-Power of the arbitrator to issue provisional order**

The arbitrator may issue a provisional order in the affairs related to the dispute which needs to be immediately determined upon the request of each party, unless the parties have agreed otherwise. The arbitrator may lay (town that applicant gives an appropriate security. In both cases, if the other party gives the security that is proportionate to the subject of the provisional order, the arbitrator shall nullify the provisional order.

#### **PART IV**

#### **COMPETENCE OF ARBITRATOR**

#### **Article 16- Taking a decision on the competence**

- 4- 1- The arbitrator may take a decision in respect of his competence and also on the existence or validity of the

arbitration agreement. The arbitration clause which is a part of a contract, shall be considered as an independent agreement in view of this Act, the arbitrator decision concerning the contract being annulled and void would not be considered per se as invalidity of the arbitration clause mentioned in this contract.

- 5- 2- The objection to the arbitrator competence should not be later than the submission of statement of defence. The mere appointment of the arbitrator or participation in his appointment by each party shall not prevent the objection to competence. The objection to the act beyond the arbitrator's (ultra vires) in the arbitration proceeding should be posed as it appears, in any of the aforesaid cases the arbitrator may also accept untimely objection, provided that he determines the delay as justifiable.
- 6- 3- In case of objection to the original competence and/or to the existence and/or to validity of the arbitration agreement (unless the parties have agreed otherwise) the arbitrator as a primary matter before entering the merit of the case should take the decision about it, taking decision, concerning objection to the acts beyond the arbitrator's power (ultra vires) which its cause is created during the proceeding(s), may be done within meritorious award. If the arbitrator comments on his competence as a primary matter, each party may apply the court mentioned in article (6) within (30) days after the receipt of its service to examine the matter and take a decision. As long as the said request is under consideration in the court, the arbitrator may continue to proceed and also issue the award.

#### **Article 17-Power of the arbitrator to issue provisional order**

The arbitrator may issue a provisional order in the affairs related to the dispute which needs to be immediately determined upon the request of each party, unless the parties have agreed otherwise. The arbitrator may lay (down) that applicant gives an appropriate security. In both cases, if the other party gives the security that is proportionate to the subject of the provisional order, the arbitrator shall nullify the provisional order.

### **PART VI TERMINATION OF PROCEEDING AND ISSUING THE AWARD**

### **Article 27- Applicable law**

- 1- 1- 'the arbitrator shall take a decision under the legal rules which the parties have selected in respect of merit of the dispute.

Determination-of law or legal system of one certain state in any way made, shall be considered as a reference to substantive rules of that state, the conflict of laws rules shall not include this rule, unless the parties have agreed otherwise.

- 2- 2- In case of lack of determination of the applicable law by the parties, the arbitrator shall legally examine the merit of dispute that he recognizes it as appropriate under the conflict of laws rules.

- 3- 3- The arbitrator may decide according to what is just and good (ex negno et bono), if the parties have explicitly allowed it.

- 4- 4- The arbitrator shall take a decision in all cases under the contractual clauses and shall lake into consideration the commercial usages of the subject of issue.

### **Article 28- Reconciliation**

If the parties settle their disputes through reconciliation within the proceeding, the arbilralor shall issue tile order of dismissal of the arbitration case; and shall issue, subject to the provisions of article (30), the award under the mutually agreed terms based on reconciliation agreement, if one of the parties requests and the adverse party does not object to it.

### **Article 29- Decision taking by arbitrators group**

In the arbitrations carried out by more than one arbitrator, each decision of the panel of arbitration shall be adopted by the

majority of the members of the panel of arbitration, unless the parties have agreed otherwise.

#### **Article 30- Form and content of award**

- 1- 1- The award should be in written form and signed by the arbitrator(s). If the arbitrator is more than one person, the signature of majority shall be enough, provided that the reason of lack of signature of the other members be mentioned in it.
- 2- 2- The text of award shall include all the reasons that award has been based on them, unless the parties have agreed that not to include the reasons of award, or under the article (28), the award has been issued by mutually agreed terms.
- 3- 3- Award shall be contained the date and place of arbitration mentioned in clause (1) of article (20).
- 4- 4- The copy of the award shall be served to each one of the parties after its signature.

#### **Article 31- Termination of proceeding**

Arbitration proceeding shall be terminated by issuing final award or by the arbitrator order as follows:

- 1- 1- Withdrawal of claim by claimant, unless the respondent objects to it and the arbitrator establishes legal and justifiable benefits in the final settlement of dispute for him.
- 2- 2- Impossibility or unnecessariness to continue proceeding for any reason by the arbitrator's discretion.
- 3- 3- Agreement of the parties to terminate the proceeding.

#### **Article 32- Amendment, interpretation and supplement of the award**

- 1- 1- The arbitrator may, as each one of the parties applies, or directly amend any kind of errors in the calculation, writing or similar errors in the award or remove ambiguity from it.

Respite for parties application is (30) clays as from the award service and the copy of that application should be despatched for the other party. The arbitrator shall proceed to amend or interpret the award within a period of (30) clays as from the receipt of the application at most, and in cases he directly understands the errors or ambiguity within a period of (30) clays as from the award.

- 2- 2- Each one of the parties may, while despatching notifications for the other party, apply the arbitrator to issue supplementary award on the claims raised by him, but are not dealt with in the award, within a period of (30) days as from the award receipt.

If the arbitrator recognizes this request as justifiable, he shall proceed to issue supplementary award within a period of (60) days. If the arbitrator considers it necessary, he may extend such respite.

- 3- 3- The provisions of article (30) are binding in respect of amendment, interpretation and supplement of the award.

## **PART VII**

### **OBJECTION TO THE AWARD**

#### **Article 33- Request to nullify the award**

- 1- 1- The award shall be nullified upon the request of one of the parties by the court mentioned in article (6) in following instances:
  - a- a- If one of the parties lacks competency.
  - b- b- If the arbitration agreement shall not be valid under the applicable law and in case of the silence of applicable law it shall be explicitly contrary to the Iranian laws.

- c- c- If the provisions of this Act have not been observed for serving the notice of the appointment of the arbitrator or request for arbitration.
  - d- d- If applicant for nullification has not been successful to submit his evidences and documents under any reason which has been beyond his control.
  - e- e- If the arbitrator has rendered an award beyond his power (*uhrn vires*). If the matters referred to arbitration are separable, that part of the award is only voidable which is beyond the scope of arbitrator's powers.
  - f- f- If the composition of the panel of arbitration or arbitral procedure is not in accordance with the arbitration agreement and it is contrary to the rules mentioned in this Act and or in case of silence or non existence in the arbitration agreement.
  - g- g- If the award of arbitration consists of concurring and effective opinion of the arbitrator that his challenge is accepted by the authority mentioned in article (6).
  - h- h- If the award of arbitration is based on document which is approved to be forged by a final judgment.
  - i- i- If after issuing the award, documents are found which were evidence to the entitlement of the objector and it is approved that such documents are withheld by the adverse party or he has caused them to be hidden.
- 2- 2- In case of the matter mentioned in clauses (h) and (i) of this article, the party who incurred loss from the forged or withheld documents, before he proceeds to the request for nullification of the award, he may apply the arbitrator to consider again the case, unless the parties have agreed otherwise.
- 3- 3- Request for nullification of the award mentioned in clause (I) of this article should be submitted to the court mentioned in article (6) within a period of three months from the: date of service of (he award whether corrective,

supplementary or interpretative award to objector, otherwise it shall not be heard.

#### **Article 34- Nullification of award**

The arbitrator award is basically void and unenforceable in following cases:

- 1- 1- If the main subject of the dispute shall not be settled through the arbitration under the law of the Islamic Republic of Iran.
- 2- 2- If the provisions of award is contrary to public order or good morals of the state or imperative rules of this Act.
- 3- 3- If the award of arbitration issued in respect of immovable properties located in Iran is contrary to the imperative law of the Islamic Republic of Iran or it is contrary to the provisions of valid official documents, unless the arbitrator has a right to conciliate in the latter.

### **PART VIII**

#### **ENFORCEMENT OF AWARD**

#### **Article 35- Enforcement**

- 1- 1- The awards of arbitration issued in accordance with the provisions of this Act are final and come into force after service, except the matters mentioned in articles (33) and (34) and the arrangements of enforcement of the courts judgments shall be applied in case of written application from the court mentioned in article (6).
- 2- 2- If one of the parties requests the court mentioned in article (6) of this Act to nullify arbitration award and the other party requests the court to recognize or enforce it, the court may lay down that the applicant for annulment to deposit an appropriate security, if the applicant for recognition or enforcement so requests.

### **PART IX**

## **THE OTHER PROVISIONS**

### **Article 36- The other provisions**

- 1- 1- The arbitration of international commercial dispute mentioned in this Act is excluded from the scope of the arbitration rules mentioned in the law of civil procedure and the other rules and provisions.**
- 2- 2- This Act has not any effect in the relation with the other laws of the Islamic Republic of Iran, under which, special disputes may not be referred to arbitration.**
- 3- 3- If in the treaties and agreements concluded between the government of the Islamic Republic of Iran and the other states, the other arrangements and conditions for the arbitrations envisaged in this Act are laid down, the same arrangements and conditions shall be applied.**

**The above Act including (9) parts and (36) articles, has been enacted on wednesday. 17 Sep. 1997 (26/6/1376) in the open-sitting of the Islamic Consultative Assembly and affirmed by the Guardian Council on Oct. 1997 (9/7/1376).**

**A.A NATEGH NURI**

**“ The Speaker of the Islamic Consultative Assembly”**