

**ORDINANCE  
ON COMMERCIAL ARBITRATION**

(No. 08/2003/PL-UBTVQH of February 25, 2003)

In order to contribute to settling disputes arising from commercial activities, ensure the rights to business freedom, protect the rights and legitimate interests of the involved parties, and develop the market economy along the socialist orientation;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under the 10th National Assembly's Resolution No. 51/2001/QH10 of December 25, 2001 at its 10th session;

Pursuant to the 11th National Assembly's Resolution No. 12/2002/QH11 of December 16, 2002 at its second session on the law- and ordinance-making programs for the 11th term (2002-2007) and for 2003;

This Ordinance provides for commercial arbitration,

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Ordinance provides for the arbitration organization and procedures for settling disputes arising from commercial activities as agreed upon by the involved parties.

**Article 2. Interpretation of terms**

In this Ordinance the following terms are construed as follows:

1. Arbitration is a mode of settling disputes that arise from commercial activities, which is agreed upon by the involved parties and carried out according to the proceeding order and procedures prescribed by this Ordinance.
2. Arbitration agreement is an agreement between the involved parties pledging to settle through arbitration disputes which may arise or have arisen in commercial activities.
3. Commercial activities means the performance of one or many trading acts by business people or organizations, including goods purchase and sale, service provision; distribution; trade representation and agency; consignment; renting and lease; hire purchase; construction; consultancy; technology; licensing; investment; financing; banking; insurance; exploration and exploitation; transport of goods and passengers by air, sea, rail, land, and other commercial acts as prescribed by law.
4. Disputes involving foreign elements are those arising from commercial activities with one participating party or all participating parties being foreigners, foreign legal persons, or those with the bases for establishing, changing or terminating disputed relationships arising abroad or with involved properties situated abroad.
5. Arbitrators are those who satisfy all conditions specified in Article 12 of this Ordinance, are

selected by the involved parties or appointed by Arbitration Centers or competent courts to settle disputes.

6. Relatives are those who belong to the three inheritance ranks prescribed by the Civil Code.

7. *Force majeure* events are events occurring objectively, unforeseeably and irremediably though every possible necessary measure has been taken

**Article 3. Principles for dispute settlement through arbitration**

1. Disputes shall be settled through arbitration if the involved parties reach an arbitration agreement before or after the disputes arise

2. When settling disputes, arbitrators must be independent, objective and impartial, comply with law and respect the involved parties agreement.

**Article 4. Forms of dispute settlement through arbitration**

Disputes between the involved parties shall be settled at the Arbitration Council organized by the Arbitration Centers or at the Arbitration Councils set up by the involved parties under the provisions of this Ordinance.

An Arbitration Council shall be composed of three arbitrators or a sole arbitrator as, agreed upon by the involved parties.

**Article 5. Jurisdiction to settle disputes in cases where there is arbitration agreement**

For cases of dispute where there is arbitration agreement, if one party initiates a lawsuit at a court, the court must refuse to handle them, unless such arbitration agreement is invalid.

**Article 6. Effect of arbitral awards**

Arbitral awards shall be final and binding on all the involved parties, except where they are cancelled by courts under the provisions of this Ordinance.

**Article 7. Principles for application of laws to settling disputes**

1. For disputes between Vietnamese parties, the Arbitration Councils shall apply Vietnamese laws to settling them.

2. For disputes involving foreign elements, the Arbitration Councils shall apply the laws selected by the involved parties. The selection and application of foreign laws must not contravene the fundamental principles of Vietnamese law.

Where the involved parties fail to select laws for settling their disputes, the Arbitration Councils shall make decision.

**Article 8. Application of international agreements**

If an international agreement which the Socialist Republic of Vietnam has signed or acceded to contains provisions different from those of this Ordinance, the provisions of such international agreement shall apply.

**Chapter II**

**ARBITRATION AGREEMENT**

**Article 9. Forms of arbitration agreement**

1. The arbitration agreements must be made in writing. Arbitration agreements reached through mails, telegrams, telex, fax, electronic mails or other written forms clearly expressing the wills of the involved parties to settle their disputes through arbitration shall be regarded as written arbitration agreements.

2. Arbitration agreement may be an arbitration clause in contracts or a separate agreement.

**Article 10. Invalid arbitration agreements**

Arbitration agreements shall be invalid in the following cases, where:

1. Disputes arise not from commercial activities specified in Clause 3, Article 2 of this Ordinance;
2. The signers of the arbitration agreement are not competent to sign according to the law provisions;
3. One signer of the arbitration agreement does not have full civil act capacity;
4. The arbitration agreement fails to specify or specifies unclearly the disputed objects, or the arbitration institution competent to settle the dispute, but later the involved parties have no additional agreement;
5. The arbitration agreement has not been made under the provisions of Article 9 of this Ordinance;
6. The signers of the arbitration agreement are cheated, intimidated and request the arbitration agreement to be declared invalid; the statute of limitations for making such requests is six months as from the date of signing of the arbitration agreement but must be prior to the date on which the Arbitration Council holds the first meeting to settle the dispute under the provisions of Article 30 of this Ordinance.

**Article 11. Relationship between the arbitration clause and contracts**

The arbitration clause exists independently from contracts. The modification, extension, cancellation or invalidity of contracts shall not affect the effect of the arbitration clause.

**Chapter III**

**ARBITRATORS**

**Article 12. Arbitrators**

1. Vietnamese citizens may act as arbitrators if they fully satisfy the following conditions:
  - a/ Having full civil act capacity;
  - b/ Having good moral quality, being honest, impartial and objective;
  - c/ Possessing university diplomas and having worked in the branches of their study majors for five years or more.
2. Those who are under administrative probation, examined for penal liability or have been convicted but not yet enjoyed remission of criminal records shall be prohibited to act as arbitrators.
3. Judges, prosecutors, investigators, executioners and public employees working at the Peoplesquo;s Courts, Peoplesquo;s Procuracies, investigating agencies and judgment-executing agencies shall not be allowed to act as arbitrators.

**Article 13. Rights and obligations of arbitrators**

1. Arbitrators shall have the following rights:
  - a/ To accept or refuse to settle disputes;
  - b/ To work independently in the settlement of disputes;
  - c/ To refuse to supply information related to disputes;
  - d/ To enjoy remuneration.
2. Arbitrators shall have the following obligations:
  - a/ To comply with the provisions of this Ordinance;
  - b/ To be impartial and objective in the settlement of disputes;
  - c/ To refuse to settle disputes in the cases specified in Clause 1, Article 27 of this Ordinance;
  - d/ To keep secret the contents of the disputes they have settled;
  - e/ Not to take bribes or commit other acts in breach of arbitrators' ethics.

**Chapter IV**

**ARBITRATION CENTERS**

**Article 14. Conditions for setting up Arbitration Centers**

1. On the basis of the socio-economic development situation in localities, Arbitration Centers shall be set up in a number of localities under the Government's regulations.
2. The Minister of Justice shall consider and decide to license the setting up of an Arbitration Center when it is so requested by at least five founders who are fully qualified to act as arbitrators under the provisions of Article 12 of this Ordinance and recommended by Vietnam Lawyers Association.
3. A dossier of application for setting up an Arbitration Center includes:
  - a/ The application for setting up an Arbitration Center;
  - b/ Full names, addresses and professions of the founders;
  - c/ The Arbitration Center's charter;
  - d/ Written recommendation of Vietnam Lawyers' Association.
4. The application for setting up an Arbitration Center contains the following details:
  - a/ The date on which the application is made;
  - b/ Full names, addresses and professions of the founders;
  - c/ The operation fields of the Arbitration Center;
  - d/ The expected location of the head office of the Arbitration Center.
5. Within 45 days after receiving valid dossiers, the Minister of Justice shall grant licenses to set up Arbitration Centers and approve their charters; in case of refusal, he/she must reply in writing, clearly stating the reasons therefore.
6. Within 30 days after receiving the establishment licenses, the Arbitration Centers must register their operation at the Justice Services of the provinces or centrally-run cities (hereinafter collectively referred to as the provincial Justice Services) where they are headquartered. Past this time limit, if the Arbitration Centers fail to make such registration, their licenses shall be withdrawn.

The Government shall prescribe the order and procedures for registration of operation of the Arbitration Centers.

**Article 15. Publication on newspapers of the setting up of Arbitration Centers**

1. Within 30 days after being granted the operation registration papers, the Arbitration Centers must publicize on central daily newspapers or local newspapers of the localities where they have made operation registration for three consecutive issues the following major contents:
  - a/ The names and addresses of the head offices of the Arbitration Centers;
  - b/ The operation fields of the Arbitration Centers;
  - c/ The operation registration papers' serial numbers, the granting agencies, and the dates of issuance ;
  - d/ The time of commencement of operation of the Arbitration Centers.
2. The Arbitration Centers must post up at their head-offices the contents specified in Clause 1 of this Article and the lists of arbitrators.

**Article 16. Legal status and organizational structure of Arbitration Centers**

1. Arbitration Centers are non-governmental organizations, having the legal status, own seals and accounts.
  2. Arbitration Centers may set up branches and representative offices.
  3. Arbitration Centers shall have executive boards and arbitrators.
- The executive board of an Arbitration Center shall be composed of a president, one or several vice-presidents, and possibly a general secretary appointed by the president.
- Those who are invited by the Arbitration Centers to act as arbitrators must satisfy all conditions

specified in Article 12 of this Ordinance.

**Article 17. Tasks and powers of Arbitration Centers**

The Arbitration Centers shall have the following tasks and powers:

1. To formulate their charters and proceeding rules, which, however, must not be contrary to the provisions of this Ordinance;
2. To invite fully qualified persons as defined in Article 12 of this Ordinance to act as their arbitrators;
3. To appoint arbitrators for setting up Arbitration Councils under the provisions of this Ordinance;
4. To provide administrative and office services for Arbitration Councils to settle disputes;
5. To collect arbitration charges, pay remuneration to arbitrators according to their charters;
6. To draw experiences, foster arbitrators to raise their dispute-settling capabilities and skills;
7. To report periodically on their operation to the Ministry of Justice, Vietnam Lawyers' Association and the provincial Justice Services of the localities where they have made operation registration;
8. To remove the names of arbitrators from the lists of their arbitrators when such arbitrators seriously violate the provisions of this Ordinance and their charters;
9. To archive dossiers, supply copies of the arbitral awards at the requests of the involved parties or competent State bodies;
10. Other tasks and powers as prescribed by law.

**Article 18. Termination of operation of Arbitration Centers**

1. The Arbitration Centers shall terminate their operation in the following cases:
  - a/ The cases specified in their charters;
  - b/ Having their establishment licenses withdrawn.
2. Upon termination of their operation, the Arbitration Centers must return their establishment licenses to the license-granting agencies.
3. The Government shall specify the order and procedures of termination of operation of the Arbitration Centers.

**Chapter V**

**ARBITRAL PROCEEDINGS**

**Article 19. The right to select forms of dispute settlement in the settlement of disputes arbitration**

The involved parties shall have the right to select Arbitration Centers or Arbitration Councils set up by themselves for settling their disputes according to the arbitral proceeding provisions of this Ordinance.

**Article 20. Claims**

1. In order to settle disputes at an Arbitration Center, the claimants must send claims to the Arbitration Center.

Such a claim shall include the following principal contents:

- a/ The date on which the claim is made;
- b/ The names and addresses of the involved parties;
- c/ Summarized contents of the dispute;
- d/ The claimant's requests;
- e/ The property value requested by the claimant;
- f/ The arbitrator at the Arbitration Center, who is selected by the claimant.

2. In order to settle disputes at the Arbitration Centers set up by the involved parties, the claimants

must make claims and send them to the respondents; The contents of such a claim shall comply with the provisions in Clause 1 of this Article.

3. The claimants must enclose their claims with the originals or copies of the arbitration agreements, the originals or copies of documents and evidences. Copies must be duly notarized.

4. For disputes to be settled at the Arbitration Centers set up by the involved parties, the arbitral proceedings shall commence from the time when the Arbitration Centers receive claims of the claimants or when the respondents receive claims from the claimants.

5. Within five working days after receiving the claims, the Arbitration Centers must send to the respondents the copies thereof and documents prescribed in Clause 3 of this Article.

**Article 21. Statute of limitations for initiating dispute settlement through arbitration**

1. For disputes for which the statute of limitations is prescribed by law, such law provisions shall apply.

2. For disputes for which the statute of limitations is not prescribed by law, the statute of limitations for initiating the settlement thereof through arbitration shall be two years as from the date the disputes occur, except for cases of *force majeure* events. The duration not included in the statute of limitations shall be counted from the date such an event occurs to the date it disappears.

**Article 22. Arbitration charges**

1. The claimants must pay an advance of arbitration charge, unless otherwise agreed upon by the involved parties.

2. In case of settlement of disputes at the Arbitration Centers, the executive boards of the Arbitration Centers shall determine arbitration charges according to the Centers' charters.

3. In case of settlement of disputes at the Arbitration Councils set up by the involved parties, the arbitration charges shall be determined by the Arbitration Councils.

4. The losers must pay arbitration charges, unless otherwise agreed upon by the involved parties.

**Article 23. Places of arbitration**

The involved parties may agree upon the places for dispute settlement, if they have no such agreement, the Arbitration Councils shall decide but must ensure convenience for the involved parties in the settlement.

**Article 24. Self-defense statements**

1. For disputes to be settled by the Arbitration Centers selected by the involved parties, the respondents must send their self-defense statements to the Arbitration Centers within 30 days after receiving the claimants claims and enclosed documents sent from the Arbitration Centers, unless otherwise agreed upon by the involved parties.

For disputes to be settled at the Arbitration Councils set up by the involved parties, the respondents must send their self-defense statements to the claimants and the names of the arbitrators selected by themselves within 30 days after receiving the claimants' claims and enclosed documents specified in Clauses 2 and 3, Article 20 of this Ordinance, unless otherwise agreed upon by the involved parties.

2. A self-defense statement must contain the following principal contents:

a/ The date on which the statement is written;

b/ The name and address of the respondent;

c/ Self-defense arguments and evidences, including rejection of part or the whole of the claimant's claim. Apart from the contents specified at this Point, if the respondents hold that the disputes do not fall under the settling jurisdiction of the arbitration, there is no arbitration

agreement or the arbitration agreement is invalid, they may point it out in their self-defense statements.

3. At the respondents requests, the time limit for the respondents to send their self-defense statements enclosed with evidences may be longer than 30 days but must be before the date when the Arbitration Councils meet under the provisions of Article 30 of this Ordinance.

**Article 25. Setting up of Arbitration Councils at the Arbitration Centers**

1. Unless otherwise agreed upon by the involved parties, within five working days after receiving the claims, the Arbitration Centers must send to the respondents the copies thereof, the names of the arbitrators selected by the claimants and enclosed documents together with the lists of arbitrators of the Arbitration Centers. Unless otherwise agreed upon by the involved parties, within 30 days after receiving the claims and enclosed documents sent by the Arbitration Centers, the respondents must select arbitrators from the lists of arbitrators of the Arbitration Centers. and inform the Arbitration Centers thereof or to request the presidents of the Arbitration Centers to appoint arbitrators for them. Past this time limit, if the respondents fail to select arbitrators or to request the presidents of the Arbitration Centers to appoint arbitrators, the presidents of the Arbitration Centers shall appoint arbitrators on the lists of arbitrators of their Arbitration Centers for the respondents within seven working days as from the expiry of the time limit prescribed in this Clause.

2. Where a dispute involves many respondents, the respondents must reach agreement on selecting one arbitrator within 30 days after receiving the Arbitration Centers's request to select an arbitrator. Past this time limit, if the respondents fail to select an arbitrator, the president of the Arbitration Center shall appoint an arbitrator from the list of arbitrators of his/her Arbitration Center for the respondents within seven working days after receiving the request.

3. Within 15 days after two arbitrators are selected by the involved parties or appointed by the president of the Arbitration Center, these arbitrators must select the third arbitrator from the list of arbitrators of the Arbitration Center as chairman of the Arbitration Council. Past this time limit, if the two selected or appointed arbitrators fail to select the third arbitrator, the president of the Arbitration Center shall appoint the third arbitrator from the list of arbitrators of his/her Arbitration Center as chairman of the Arbitration Council within seven working days after the expiry of the time limit.

4. Where the involved parties agree that their dispute shall be settled by a sole arbitrator of the Arbitration Center but fail to select such an arbitrator, the president of the Arbitration Center shall appoint the sole arbitrator for them within 15 days after receiving their request and notify them thereof.

The sole arbitrator shall act as an Arbitration Council. The sole arbitrator's awards shall be as effective as those of an Arbitration Council.

**Article 26. Arbitration Councils set up by the involved parties**

1. Unless otherwise agreed upon by the involved parties, within 30 days after the date on which the claimants send their claims to the respondents, the latter must select arbitrators and notify the claimants thereof. Past this time limit, if the respondents fail to notify the claimants of the names of the selected arbitrators, the claimants may request the courts of the provinces or centrally-run cities (hereinafter referred collectively to as the provincial-level courts) where the respondents are headquartered or reside to appoint arbitrators for the respondents. Within seven working days after receiving such written requests, the chief judges of the courts shall assign one

judge to appoint arbitrators for the respondents and notify the involved parties thereof.

2. Where a dispute involves many respondents, the respondents must reach agreement on selecting one arbitrator within 30 days after receiving the claimants claims and enclosed documents. Past this time limit, if the respondents fail to select an arbitrator, the claimants may request the provincial-level court of the locality where one of the respondents is headquartered or resides to appoint an arbitrator for the respondents. Within seven working days after receiving such written request, the chief judge of the court shall assign one judge to appoint an arbitrator at the request of the claimant and notify the involved parties thereof.

3. Within 15 days after two arbitrators are selected by the involved parties or appointed by the court, these arbitrators must reach agreement on selecting the third arbitrator as chairman of the Arbitration Council. Past this time limit, if the two selected or appointed arbitrators fail to select the third arbitrator, the involved parties may request the provincial court of the locality where the respondent is headquartered or resides to appoint the third arbitrator. Within seven working days after receiving such written request, the chief judge of the court shall assign one judge to appoint the third arbitrator as chairman of the Arbitration Council and notify the involved parties thereof.

4. Arbitrators selected by the involved parties or by courts may be those on or not on the lists of arbitrators of Vietnam's Arbitration Centers.

5. Where the involved parties agree that their disputes shall be settled by a sole arbitrator but fail to select such an arbitrator, at the request of one party, the chief judge of the provincial court of the locality where the respondent is headquartered or resides shall assign one judge to select the sole arbitrator for the involved parties within 15 days after receiving such request, then notify the involved parties thereof.

The sole arbitrator shall act as an Arbitration Council. The sole arbitrator's awards shall be as effective as those of an Arbitration Council.

#### **Article 27. Replacement of arbitrators**

1. Arbitrators must refuse to settle disputes or the involved parties may request change of arbitrators to settle their disputes in the following cases:

a/ Arbitrators are relatives of either party or representatives of such party;

b/ Arbitrators have their interests in the dispute.

c/ There are explicit grounds that arbitrators are not impartial nor objective while performing their duties.

2. From the time of being selected or appointed and during the process of arbitral proceedings, the arbitrators must notify in a public and timely manner any matters that may cause doubts over their impartiality and objectivity.

3. After having selected their arbitrators, should the involved parties discover that their selected arbitrators fall into one of the cases specified in Clause 1 of this Article, they may request such arbitrators to refuse to settle disputes.

4. Replacement of arbitrators shall be decided by the other arbitrators in the Arbitration Councils. Where a decision cannot be made or if both arbitrators refuse or the sole arbitrator refuses to settle the dispute, the change of arbitrator shall be effected as follows:

a/ For disputes to be settled by Arbitration Centers, the presidents of the Arbitration Centers shall decide;

b/ For disputes to be settled by Arbitration Councils set up by the involved parties, at the claimants' requests, the chief judges of the provincial-level courts of the localities where the respondents are



headquartered or reside shall assign one judge to consider and made decision. The courts' decisions are final ones.

5. During the process of arbitral proceedings, if an arbitrator cannot continue his/her participation, the replacement of such arbitrator shall comply with the provisions of Clause 4 of this Article, depending on whether the Arbitration Council is set up by the Arbitration Center or by the involved parties

6. In case of necessity, after consulting the involved parties, the newly-set up Arbitration Councils may review matters already considered in the previous dispute settlement meetings.

**Article 28. Amendment, supplementation or withdrawal of claims**

Claimants may amend, supplement or withdraw their claims before the Arbitration Councils issue arbitral awards.

**Article 29. Counter-claims**

1. The respondents may file counter-claims against the claimants on matters related to the latter's demands.

2. Counter-claims must be sent to the Arbitration Councils and concurrently to the claimants before the date when the Arbitration Councils open meetings to settle the claimants' claims.

The claimants must issue written statements in reply to the counter-claims within 30 days after receiving such counter-claims. Such written statements must be sent to the respondents and the Arbitration Councils.

3. The counter-claim procedures shall be the same as those for settling the claimants claims and simultaneously settled by the Arbitration Councils.

**Article 30. Examination of arbitration agreements, Arbitration Councils jurisdiction to settle disputes**

1. Before considering the disputer's details, if any party lodges a written complaint that the Arbitration Council has no jurisdiction to settle the dispute; the dispute has no arbitration agreement or the arbitration agreement is invalid, the Arbitration Council must consider the written complaint and make decision in the presence of the involved parties, unless otherwise requested by the involved parties. If the complainants, though having been summoned properly, are absent without plausible reasons, they shall be deemed to have withdrawn their complaints. The Arbitration Councils shall continue to consider and settle the dispute.

2. In case of disagreement with the Arbitration Council's decision on the content mentioned in Clause 1 of this Article, within five working days after receiving the Arbitration Council's decision, the involved parties may request the provincial-level court of the locality where the Arbitration Council has made such decision to review such decision. The requesting party must notify concurrently the Arbitration Council thereof.

Such a written request must contain the following principal contents:

- a/ The date on which the request is made;
- b/ The name and address of the requester;
- c/ The request' contents.

The written requests must be enclosed with copies of the claim, arbitration agreement and the Arbitration Council's decision. Copies must be duly notarized.

Within five working days after receiving the written requests, the chief judge of the court shall assign one judge to consider and settle them. Within 10 days after being assigned the task, the judge must consider and make decision. The court decisions are final ones.

In cases where the courts decide that the disputes do not fall under the jurisdiction of the Arbitration Councils, the disputes have no arbitration agreement or the arbitration agreements are invalid, the Arbitration Councils shall issue decisions to stop the settlement of the disputes. Unless otherwise agreed upon, the involved parties may bring their disputes to court. The statute of limitations for initiating lawsuits at court shall comply with the provisions in Article 21 of this Ordinance, excluding the duration between the date when the claimants lodge their claims at the Arbitration Councils and the date when the courts issue decisions under the provisions of this Article.

**Article 31. Examination of dossiers and verification of facts**

1. After being selected or appointed, the arbitrators must examine dossiers and verify facts if deeming it necessary.
2. The Arbitration Councils may meet the involved parties to hear their opinions. At the request of one party or all parties involved or on their own initiative, the Arbitration Councils may inquire into the facts from a third person either in the presence of the involved parties or after notifying them thereof.

**Article 32. Gathering of evidences**

1. The involved parties shall be obliged to provide evidences proving the facts presented by themselves. The Arbitration Councils may request the involved parties to supply evidences related to their disputes.
2. In case of necessity, the Arbitration Councils may gather evidences by themselves; invite expertise at the request of one party or all parties involved, and must notify them thereof. The expertise requestor must pay an advance of the expertise charge; where all the involved parties invite expertise, they shall all pay an advance of the expertise charge.

**Article 33. The right to request the application of interim urgent measures**

While the Arbitration Councils are settling disputes, if their rights and legitimate interests are infringed upon or in danger of being directly infringed upon, the concerned parties may file their written requests at the provincial-level courts of the localities where the Arbitration Councils are receiving and handling the disputes to apply one or a number of the following interim urgent measures:

1. To safely protect evidences in case they are being destroyed or in danger of being destroyed;
2. To inventory the disputed properties;
3. To ban the transfer of the disputed properties
4. To ban any change in the present conditions of the disputed properties;
5. To inventory and seal up the properties at their storing places;
6. To blockade bank accounts.

**Article 34. Procedures for application of interim urgent measures**

1. The requesters of the application of interim urgent measures specified in Article 33 of this Ordinance must send written requests to the provincial-level courts of the localities where the Arbitration Councils which are handling the disputes are based.
2. A written request for the application of interim urgent measures must be enclosed with copies of the claim with full contents as prescribed in Article 20 and the arbitration agreement as prescribed in Article 9 of this Ordinance. These copies must be duly notarized.

Depending on the requested types of interim urgent measures, the requesters must supply to the courts concrete evidences in need of safe protection, evidences that the respondents are

dispersing or hiding properties, which may render the enforcement of arbitral awards impossible.

3. The requesters of the application of interim urgent measures must deposit security money amounts required by the courts, which, however, must not exceed the property obligation the obligees have to fulfill in order to protect the legitimate interests of the respondents and prevent any abuse of interim urgent measures by the requesters. These money amounts shall be deposited at the banks in the places where the courts which have decided on the application of interim urgent measures are headquartered.

4. After receiving the written requests and documents specified in Clauses 1, 2 and 3 of this Article, the chief judges of the provincial-level courts defined in Clause 1 of this Article shall assign one judge to consider and settle them. Within five working days after being assigned such task, the judge must check the accuracy of the documents prescribed in Clause 2 of this Article, and within the scope of the claimants' requests, may decide to apply one or several interim urgent measures specified in Article 33 of this Ordinance. In case of application of one or several measures specified in Clauses 2, 3, 4, 5 and 6, Article 33 of this Ordinance, the properties to which the interim urgent measures are applied must have a value not exceeding the property obligations that the obligees have to fulfill.

5. The decisions on the application of interim urgent measures must be immediately sent to the Arbitration Councils, the disputing parties and the Procuracies of the same level.

The decisions on the application of interim urgent measures shall be executed promptly and in accordance with the law provisions on execution of civil judgments.

6. Within three working days after receiving the decisions on the application of interim urgent measures, the chairmen of the Procuracies of the same level shall be entitled to protest and the respondents shall be entitled to request the chief judges of the courts which have issued such decisions to consider and change, cancel or keep such measures. Within three working days after receiving the protests of the Procuracies or the requests of the respondents, the chief judges of the courts must have decisions and issue replies thereon to the Procuracies or the respondents.

**Article 35. Alteration or cancellation of interim urgent measures**

The requesters of the application of interim urgent measures may requests in writing the alteration or cancellation of the applied interim urgent measures when they are no longer appropriate or necessary.

Within three working days after receiving the written requests for alteration or cancellation of interim urgent measures, the chief judges of the provincial courts which have decided on the application of the interim urgent measures shall assign one judge to consider and decide on the alteration or cancellation of the applied interim urgent measures. Such decisions must be immediately sent to the Arbitration Councils, the disputing parties and the Procuracies of the same level.

In case of cancellation of interim urgent measures, the judge must consider and decide to allow the requesters of the application of such measures to receive back the security money specified in Clause 3, Article 34 of this Ordinance, except for the case specified in Article 36 of this Ordinance.

**Article 36. Responsibilities of the requesters of the application of interim urgent measures**

The requesters of the application of interim urgent measures shall bear responsibility for their requests.

In cases where the requesters of the application of interim urgent measures are wrong and cause damage to the other party or a third party, they must pay compensations therefore.

**Article 37. Conciliation**

1. During the process of arbitral proceedings, the involved parties may conciliate on their own. In case of successful conciliation, the Arbitration Councils shall, at the involved parties requests, stop the proceedings.

2. The involved parties may request the Arbitration Councils to act as conciliator. In case of successful conciliation, the involved parties may request the Arbitration Councils to make records on and issue decisions recognizing the successful conciliation. The successful conciliation records must be signed by the involved parties as well as arbitrators. The Arbitration Councils' decisions recognizing the successful conciliation shall be final ones and implemented under the provisions of Article 57 of this Ordinance.

**Article 38. Meetings to settle disputes**

1. The time for opening meetings to settle disputes shall be decided by the chairmen of the Arbitration Councils, unless otherwise agreed upon by the involved parties.

2. Summons shall be sent to the involved parties to attend a dispute-settling meeting no later than 30 days before the opening date of the meeting, unless otherwise agreed upon by the involved parties.

3. Dispute-settling meetings shall not be conducted publicly. If it is so consented by the involved parties, the Arbitration Councils may permit other persons to attend the meetings.

**Article 39. Attendance of dispute-settling meetings**

The involved parties may directly attend or authorize their representatives to attend dispute-settling meetings. They may invite witnesses and lawyers to protect their rights and legitimate interests.

**Article 40. Absence of the involved parties**

1. If the claimants, though having been summoned to attend dispute-settling meetings, fail to attend the meetings without plausible reasons or leave the meetings without the Arbitration Councils' consent, they shall be deemed as having withdrawn their claims. In this case, the Arbitration Councils shall continue settling the disputes if the respondents so request or lodge counter-claims under the provisions of Article 29 of this Ordinance.

If the respondents, though having been summoned to attend dispute-settling meetings, fail to attend the meetings without plausible reasons or leave the meetings without the Arbitration Councils' consent, the Arbitration Councils shall continue settling the disputes on the basis of available documents and evidences.

2. The Arbitration Councils may base themselves on the dossiers to settle disputes without the presence of the involved parties if it is so requested by the involved parties.

**Article 41. Postponement of dispute-settling meetings**

1. If they have plausible reasons, the involved parties may request the Arbitration Councils to postpone the dispute-settling meetings.

2. The Arbitration Councils must postpone the dispute-settling meetings if they deem that there are not enough grounds for settling disputes.

**Article 42. Principles for issuing arbitral awards**

The Arbitration Councils arbitral awards shall be made on the majority principle, except where disputes are settled by the sole arbitrator. The minority opinions shall be recorded in the meetings minutes.

**Article 43. Minutes of dispute-settling meetings**

1. The minutes of dispute-settling meetings shall be made by the Arbitration Councils and signed by their chairmen.
2. The involved parties may see the minutes contents, ask for amendments and/or supplements thereto. If the Arbitration Councils reject the requests for amendments and/or supplements, they must record such in the minutes.

**Article 44. Arbitral awards**

1. An arbitral award must contain the following principal contents:
  - a/ The date and place of issuance of the arbitral award; for disputes settled by the Arbitration Centers, the arbitral awards must contain the names of the Arbitration Centers;
  - b/ The names and addresses of the claimant and respondent;
  - c/ The full names of arbitrators or the sole arbitrator;
  - d/ Summary of the claim and disputed issues;
  - e/ Bases for issuing the arbitral award;
  - f/ Decision on the dispute; decision on the arbitration charge and other expenses;
  - g/ The time limit for enforcement of the arbitral award;
  - h/ Signatures of the arbitrators or the sole arbitrator.
2. In cases where an arbitrator refuses to sign the arbitral award, the chairman of the Arbitration Council must record such in the arbitral award, clearly stating the reason therefore.
3. The involved parties may request the Arbitration Councils not to include the disputed matters, bases of decisions on the disputes into the arbitral awards.
4. The arbitral awards come into force as from the date of their announcement.

**Article 45. Announcement of arbitral awards**

1. The arbitral awards may be announced right at the final meetings or afterwards but no later than 60 days after the end of the final meeting. The full texts of the arbitral awards must be sent to the involved parties right after the date of their announcement.
2. At the involved parties requests, the Arbitration Centers or Arbitration Councils set up by the involved parties shall issue to the requesting parties copies of the arbitral awards.

**Article 46. Correction of arbitral awards**

1. Within 15 days after receiving the arbitral awards, any involved party may request the Arbitration Council to correct computing, typing, printing or other technical errors. Within 30 days after receiving such request, the Arbitration Council shall correct errors and notify the other party thereof.
2. Correction decisions shall constitute part of the arbitral awards and must be signed by the Arbitration Councils.

**Article 47. Stoppage of dispute settlement**

The Arbitration Councils shall stop the dispute settlement in the following cases:

1. The claimants withdraw their claims or are deemed as having withdrawn their claims under the provisions of Clause 1, Article 40 of this Ordinance, unless the respondents request the Arbitration Councils to continue settling the disputes;
2. The involved parties agree upon the termination of the dispute settlement.

**Article 48. Archival of arbitration dossiers**

1. For disputes the settlement of which is organized by the Arbitration Centers, arbitration dossiers, arbitral awards and/or conciliation written records shall be archived at the Arbitration Centers
2. For disputes settled at the Arbitration Councils set up by the involved parties, within 15 days

after the arbitral awards or conciliation records are announced, the Arbitration Councils must send the arbitral awards or conciliation records together with the dispute settlement dossiers to the provincial-level courts of the localities where they have issued the arbitral awards or made the conciliation records, for archival.

**Article 49. Settlement of disputes involving foreign elements by arbitration**

1. Under the agreement of the involved parties, the disputes involving foreign elements may be settled at the Arbitration Councils organized by the Arbitration Centers or at the Arbitration Councils set up by the involved parties under the provisions of this Ordinance.
2. The Arbitration Councils organized by the Arbitration Centers or set up by the involved parties may apply other proceeding rules, if it is so agreed upon by the involved parties.
3. Arbitrators selected by the involved parties or appointed by courts may be those on or not on the lists of arbitrators of Vietnam's Arbitration Centers or foreign arbitrators according to their countries law provisions on arbitration.
4. Where one party or all parties involved request foreign courts to appoint arbitrators, the courts competent to appoint arbitrators shall be those determined under the law provisions of such foreign countries.
5. The involved parties may agree on selecting laws under the provisions of Clause 2, Article 7 of this Ordinance and/or international commercial practices for settling their disputes.
6. The involved parties may agree on the places for settling their disputes, either in Vietnam or in a foreign country; if they fail to reach such agreement, the Arbitration Councils shall decide on such places but must ensure convenience for the involved parties in the settlement.
7. The involved parties may agree on the language(s) to be used in arbitral proceedings, if they have no agreement thereon, the language used in arbitral proceedings shall be Vietnamese.

**Chapter VI**

**CANCELLATION OF ARBITRAL AWARDS, ENFORCEMENT OF ARBITRAL AWARDS**

**Article 50. The right to request the cancellation of arbitral awards**

Within 30 days after receiving an arbitral award, if any party disagrees with such award, it may lodge a written request at the provincial-level court of the locality where the Arbitration Council issues such award, for cancellation thereof.

Where due to a *force majeure* event, such a written request is filed late, the duration when the *force majeure* event occurs shall not be included in the time limit for requesting the cancellation of arbitral awards.

**Article 51. Written requests for the cancellation of arbitral awards**

1. A written request for the cancellation of an arbitral award must contain the following principal contents:
  - a/ The date on which the written request is made;
  - b/ The name and address of the requester of the cancellation of the arbitral award;
  - c/ The reasons for making the written request for cancellation of the arbitral award.
2. A written request must be enclosed with the following papers:
  - a/ The original or a duly notarized copy of the arbitral award;
  - b/ The original or a duly notarized copy of the arbitration agreement.
3. If papers enclosed with the written requests are in foreign languages, they must be translated into Vietnamese and their Vietnamese translations be duly notarized.

**Article 52. Handling of dossiers**

1. After receiving the full papers specified in Article 51 of this Ordinance, the courts shall immediately notify the requesters to pay a fee.

The courts shall handle the dossiers as from the date the requesters pay the fee.

2. The courts may request the request filers to further explain matters still unclear in their written requests for the cancellation of the arbitral awards.

**Article 53. Courts considering written requests for the cancellation of arbitral awards**

1. After handling the written requests for cancellation of the arbitral awards, the courts notify such to the Arbitration Centers or Arbitration Councils set up by the involved parties, the disputing parties and the Procuracies of the same level. For disputes the settlement of which has been organized by the Arbitration Centers, within seven working days after receiving the courts' notices, the Arbitration Centers must transfer the dossiers to the courts.

2. Within 30 days from the date of handling the dossiers, the chief judges of the courts shall appoint a Trial Council composed of three judges, one of whom shall act as chief judge, and must open court sessions to consider the written requests for the cancellation of the arbitral awards.

The courts must transfer the dossiers to the Procuracies of the same level within seven working days before opening court sessions.

3. A court session shall be held in the presence of the involved parties and their lawyers (if any), and prosecutors of the Procuracies of the same level. If any of the parties asks the court to consider the request in his/her absentia, or, though having been summoned properly, is absent without plausible reasons or leaves the court session without the Trial Council's consent, the Trial Council shall still continue considering the written request for the cancellation of the arbitral award.

4. While considering the written requests, the Trial Councils shall not review the disputes' contents but only check the papers under the provisions of Article 51 of this Ordinance, compare the arbitral awards with the provisions of Article 54 of this Ordinance in order to make decisions.

5. After examining the written requests and enclosed papers, evidences (if any), hearing the opinions of the summoned people and the prosecutors, the Trial Councils shall deliberate and make decision by majority.

The Trial Councils may issue decisions to cancel or not to cancel the arbitral awards, or stop considering the written requests, if the requesters for the cancellation of the arbitral awards withdraw their written requests or are absent without plausible reasons though having been properly summoned, or leave the court sessions without the Trial Councils consent.

Within 15 days after making decisions, the courts must send copies of their decisions to the involved parties, the Arbitration Centers or Arbitration Councils set up by the involved parties and the Procuracies of the same level.

6. If the Trial Councils cancel the arbitral awards, unless otherwise agreed upon, the involved parties may bring their disputes to court for settlement.

7. If the Trial Councils do not cancel the arbitral awards, such arbitral awards shall be enforced under the provisions of Article 57 of this Ordinance.

**Article 54. Bases for cancellation of arbitral awards**

The courts shall issue decisions to cancel the arbitral awards if the requesters are able to prove that the Arbitration Councils have issued such arbitral awards in one of the following cases:

1. There is no arbitration agreement;

2. The arbitration agreement is invalid under the provisions of Article 10 of this Ordinance;

3. The Arbitration Council's composition and/or arbitral proceedings fail to comply with the involved parties' agreements under the provisions of this Ordinance.
4. The dispute does not fall under the jurisdiction of the Arbitration Council; if part of the arbitral award does not fall under the jurisdiction of the Arbitration Council, such part shall be cancelled;
5. The requester is able to prove that during the process of settling the dispute an arbitrator(s) has breached the arbitrator's obligations specified in Clause 2, Article 13 of this Ordinance.
6. The arbitral award runs counter to the public interests of the Socialist Republic of Vietnam.

**Article 55. Appeals and protests against court decisions**

1. Within 15 days after the Courts issue decisions under the provisions of Article 53 of this Ordinance, the involved parties may lodge their appeals. The Procuracies of the same level or the Supreme People's Court may issue protests against such decisions. The time limit for protests of the Procuracies of the same level and protests of the Supreme People's Court is 15 days and 30 days respectively, counting from the date the Courts issue decisions.

Written appeals and protest decisions must clearly state the reasons and requirements for the appeals or protests and must be sent to the Courts which have issued the decisions in question. After receiving the written appeals, the Courts shall immediately notify the appellants to pay an appeal fee.

2. If any party is absent at the first-instance court session, the time limit for appeals specified in Clause 1 of this Article shall be counted from the date the copy of the decision is handed to the absentee; if an appeal is made late due to a *force majeure* event, the time limit shall be counted from the date such *force majeure* event no longer exists.

Within 15 days after receiving the protest decisions or written appeals and the appeal fee payment from the appellants, the courts which have issued the decisions must transfer the dossiers to the Supreme People's Court.

**Article 56. Consideration of appeals and protests**

1. Within 30 days after receiving the dossiers of appeals or protest decisions, the Supreme People's Court must open court sessions to consider and make decision. If it is necessary to ask the appellants or protestors to explain their appeals or protests contents, the time limit for opening such court sessions may be prolonged but must not exceed 60 days after the date of receipt of the appeal or protest dossiers.

The Court must transfer dossiers to the Procuracy of the same level within 7 working days before opening court sessions.

2. A Council for consideration of appeals and/or protests shall be composed of three judges, with one of whom acting as chief judge under the appointment by the Supreme People's Court. A court session shall be held in the presence of the disputing parties, their lawyers (if any), and prosecutors of the Procuracy of the same level.

If the non-appellant party requests the Court to try in its absentia, or is absent though having been summoned properly, without plausible reasons, or leaves the court session without the Trial Council's consent, the Trial Council shall still hold the trial.

After examining the written appeals and/or protest decisions, enclosed documents and evidences (if any), and hearing the opinions of the summoned parties and the prosecutors, the Trial Councils shall deliberate and make decisions by majority.

The Trial Councils may keep intact, revise partially or wholly the decisions of the first-instance courts, stop the consideration of appeals if the Procuracies withdraw their protest decisions, the



appellants withdraw their appeals, or are absent though having been summoned properly, without plausible reasons, or leave the court sessions without the Trial Councils consent.

The Supreme Peoplesquo;s Courts decisions are final ones and have implementation effect.

**Article 57. Enforcement of arbitral awards**

1. Past 30 days from the end of the time limit for enforcement of the arbitral awards, if any party fails to execute such award voluntarily or requests the cancellation thereof under the provisions of Article 50 of this Ordinance, the party in favor of whom the arbitral award is enforced may make a written request to the provincial-level judgment-executing agency of the locality where the party which is bound to execute the arbitral award is headquartered, resides or has its property, to enforce the arbitral award.

2. If one of the parties requests a court to cancel the arbitral award, the arbitral award shall be enforced as from the date the courtsquo;s decision not to cancel the arbitral award takes effect.

3. The order, procedures and time limit for enforcement of arbitral awards shall comply with the law provisions on execution of civil judgments.

**Article 58. Court fees related to arbitration**

Fees for requesting the courts to appoint arbitrators, apply interim urgent measures, requesting the cancellation of arbitral awards and appeals against court decisions and other fees shall be stipulated by the Government.

**Chapter VII**

**STATE MANAGEMENT OVER ARBITRATION**

**Article 59. Contents of State management over arbitration**

1. Promulgating legal documents on arbitration.

2. Guiding the implementation of legal documents on arbitration.

3. Granting and withdrawing establishment licenses and operation registration papers of Arbitration Centers.

4. Organizing and guiding the training, fostering and building of a contingent of arbitrators; undertaking international cooperation in the field of arbitration.

5. Supervising and settling complaints, denunciations, and handling violations of the arbitration legislation.

**Article 60. State management bodies in charge of arbitration**

1. The Government shall perform the unified State management over arbitration.

2. The Ministry of Justice shall be responsible to the Government for performing the State management over arbitration.

3. The Ministry of Justice shall coordinate with Vietnam Lawyers' Association in performing the State management over arbitration.

**Chapter VIII**

**IMPLEMENTATION PROVISIONS**

**Article 61. Application of the Ordinance to arbitration organizations set up before the effective date of this Ordinance**

1. The Arbitration Centers set up before the effective date of this Ordinance are not required to carry out re-establishment procedures. They must amend and supplement their charters and arbitral proceeding rules to make them compliant with this Ordinance within 12 months from the effective date of this Ordinance. Past this time limit, if failing to amend and supplement their charters and arbitral proceeding rules, they must terminate their operation.

2. The arbitration agreements signed before the effective date of this Ordinance shall comply with the law provisions effective at the time they are signed.

3. Arbitral awards of the Arbitration Centers set up and operating under the Government's Decree No. 116/CP of September 5, 1994, arbitral awards of Vietnam International Arbitration Center set up and operating under the Prime Minister's Decision No. 204/TTg of April 28, 1993 and Decision No. 114/TTg of February 16, 1996, if not yet enforced, shall be enforced under the provisions of Articles 6 and 57 of this Ordinance.

**Article 62. Implementation effect**

1. This Ordinance shall take effect as from July 1, 2003.

2. The following legal documents are no longer effective as from July 1, 2003:

a/ The Government's Decree No. 116/CP of September 5, 1994 on organization and operation of Economic Arbitration;

b/ The Prime Minister's Decision No. 204/TTg of April 28, 1993 on organization of Vietnam International Arbitration Center.

c/ The Prime Minister's Decision No. 114/TTg of February 16, 1996 on expanding Vietnam International Arbitration Center's scope of jurisdiction to settle disputes.

**Article 63. Implementation provision**

The Government, the Supreme People's Court and the Supreme People's Procuracy shall, within the scope of their respective tasks and powers, detail and guide the implementation of this Ordinance.