

Arbitration Act

(Act No. 138 of August 1, 2003)

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Chapter I General Provisions

(Purpose)

Article 1 Arbitration procedures of which the place of arbitration is in Japan and procedures carried out by the court for an arbitration procedure are governed by the provisions of this Act in addition to the provisions of other laws and regulations.

(Definitions)

Article 2 (1) The term "arbitration agreement" as used in this Act means an agreement to refer the resolution of all or certain civil disputes which have already arisen or which may arise in the future in respect to a certain legal relationship (irrespective of whether contractual or not) to one or more arbitrators, and to accept the determined award (hereinafter referred to as an "arbitral award").

(2) The term "arbitral tribunal" as used in this Act means a single arbitrator or a panel of two or more arbitrators that carries out proceedings and makes an arbitral award in regard to the subject civil disputes based on an arbitration agreement.

(3) The term "written allegation" as used in this Act means documents which the

parties prepare and submit to the arbitral tribunal in an arbitration procedure, and in which the allegations of the parties are stated.

(Scope of Application)

Article 3 (1) Except for the matters provided for in the following paragraph and Article 8, the provisions of the following Chapter through Chapter VII and the provisions of Chapters IX and X apply to the case in which the place of arbitration is in Japan.

(2) The provisions of Article 14, paragraph (1) and Article 15 apply to the case in which the place of arbitration is in or outside Japan, or has yet to be determined.

(3) The provisions of Chapter VIII apply to the case in which the place of arbitration is in or outside Japan.

(Participation of the Court)

Article 4 The court may exercise its authority over an arbitration procedure only in the case provided for in this Act.

(Jurisdiction of the Court)

Article 5 (1) The cases related to the procedures carried out by the court pursuant to the provisions of this Act are under the exclusive jurisdiction of the following courts:

- (i) the district court determined by an agreement between the parties;
 - (ii) the district court which has jurisdiction over the place of arbitration (limited to the case where an area that belongs only to a jurisdictional district of a single district court is determined to be the place of arbitration);
- or
- (iii) the district court which has jurisdiction over the location of the general venue of the respondent of the case.

(2) Notwithstanding the provisions of the preceding paragraph, a petition on a proceeding carried out by a court pursuant to the provisions of this Act may be filed with the Tokyo District Court and the Osaka District Court if the place of arbitration is in Japan.

(3) If two or more courts have jurisdiction pursuant to the provisions of this Act, the court which first received a petition has jurisdiction.

(4) If the court finds that the whole or part of the case related to the procedures carried out by the court pursuant to the provisions of this Act is not under its jurisdiction, it must transfer the whole or part of that case to the court with jurisdiction, upon petition or on its own initiative.

(5) If it finds it appropriate, the court that has jurisdiction over the case pursuant to the provisions of paragraph (3) may transfer the whole or part of

that case to the court that is not vested with jurisdiction over the case pursuant to the provisions of that paragraph, upon petition or on its own initiative.

(Optional Oral Arguments)

Article 6 A judicial decision on a proceeding carried out by a court pursuant to the provisions of this Act may be made without holding oral arguments.

(Appeal Against Judicial Decision)

Article 7 Any person that has an interest in the judicial decision on a proceeding carried out by a court pursuant to the provisions of this Act may file an immediate appeal against the judicial decision, within an unextendable period of two weeks from the day on which they received a notice of the judicial decision, only in cases in which there are special provisions allowing the appeal in this Act.

(Participation of the Court in the Case in Which the Place of Arbitration Has Yet to Be Determined)

Article 8 (1) The petitions stated in the following items may be filed with a court, even if the place of arbitration has yet to be determined, the place of arbitration is likely to be in Japan, and the location of the general venue of the petitioner or respondent (excluding general venues which are determined by the last domicile) is in Japan. In this case, the provisions stated in the relevant following items apply in accordance with the categories of petition listed in those items:

- (i) the petition referred to in Article 16, paragraph (3): Article 16
- (ii) the petitions referred to in Article 17, paragraphs (2) through (5): Article 17
- (iii) the petition referred to in Article 19, paragraph (4): Articles 18 and 19; and
- (iv) the petition referred to in Article 20: Article 20.

(2) Notwithstanding the provisions of Article 5, paragraph (1), a case related to the petition stated in the items of the preceding paragraph that is filed under the circumstance referred to in that paragraph is under the exclusive jurisdiction of the following courts:

- (i) the district court which has jurisdiction over the location of the general venue provided for in the preceding paragraph; and
- (ii) the Tokyo District Court and the Osaka District Court.

(Inspection of Record of the Case Related to the Proceeding Carried Out by the Court)

Article 9 Any person that has an interest in the proceeding carried out by a court pursuant to the provisions of this Act may file a request with the court

clerk in regard to the following matters:

- (i) inspection or copy of the records of the case;
- (ii) reproduction of a record which is created in an electronic form, a magnetic form, or any other form that cannot be perceived by the human senses that is included in the records of the case;
- (iii) delivery of an authenticated copy, transcript, or extract of the record of the case; and
- (iv) delivery of a certificate for the matters related to the case.

(Summons for Appearance on a Court Date)

Article 9-2 (1) A summons for appearance on a court date in a proceeding carried out by a court pursuant to the provisions of this Act is issued by means of service of a writ of summons, notification of a court date to the person who has appeared for the case concerned, or by any other means that is considered to be appropriate.

(2) If a summons for appearance on a court date is issued by means other than service of a writ of summons and notification of a court date to the person who has appeared for the relevant case, no legal sanction nor any other disadvantage associated with the failure to comply with the court date may be assigned to the person who does not appear on that court date; provided, however, that this does not apply if the person has submitted a paper document indicating receipt of the summons to appear on that court date.

(Means of Service by Publication)

Article 9-3 For a service by publication in a proceeding carried out by a court pursuant to the provisions of this Act, a notice indicating that the court clerk is in possession of the document to be served and can deliver it to the person that is to be served at any time is posted in the posting area of the court.

(Petition by Means of Electronic Data Processing System)

Article 9-4 (1) Among the petitions or other statements related to a proceeding carried out by a court pursuant to the provisions of this Act (hereinafter referred to as a "petition or statement"), those which are to be filed with the court as designated by the Supreme Court (including those to be filed to that court's presiding judge, authorized judge, commissioned judge, or court clerk) by means of paper documents or other prescribed items (meaning a paper document, a transcript, extract, authenticated copy, or duplicate of a document, a duplicate of a bill or note, or any other paper or other tangible object into which information that can be perceived with the human senses, such as characters and shapes, has been entered; hereinafter the same applies in the following paragraph and paragraph (4)) pursuant to the provisions of this Act

or other laws and regulations concerning a petition or statement may be filed by means of electronic data processing systems (meaning electronic data processing systems that connect a computer (including its input and output devices; the same applies hereinafter in this paragraph and paragraph (3)) used by the court and the computer used by the person filing the petition or statement over telecommunication lines) as specified by the Rules of the Supreme Court, notwithstanding the provisions of the laws and regulations.

- (2) The petition or statement filed pursuant to the provisions of the preceding paragraph is deemed to have been filed by means of a paper document or other prescribed item as prescribed in the provisions of the laws and regulations concerning a petition or statement that provide that the petition or statement in question is to be filed by means of a paper document or other prescribed item, and the provisions of the laws and regulations concerning a petition or statement apply to the petition or statement in question.
- (3) The petition or statement filed pursuant to the provisions of paragraph (1) is deemed to have arrived at the court when it is recorded in a file stored on the computer used by a court as referred to in that paragraph.
- (4) Notwithstanding the provisions of other laws and regulations concerning a petition or statement, in the case of paragraph (1), in order to file the petition or statement that is to bear a signature or other identifying information (meaning the relevant person's signature, name, seal, or other expressions of the relevant person's name or trade name in paper documents or other prescribed items; hereinafter the same applies in this paragraph) pursuant to the provisions of other laws and regulations concerning the petition or statement, a person filing the petition or statement must take measures to clarify their name or trade name, in lieu of affixing the signature or other identifying information, as provided for by the rules of the Supreme Court.
- (5) When a petition or statement filed pursuant to paragraph (1) has been recorded in the file prescribed in paragraph (3), the court referred to in paragraph (1) must output the contents of the data recorded in the file in the form of paper documents.
- (6) In order to inspect or copy a case record or have an authenticated copy, transcript, or extract of a case record issued pursuant to the provisions of this Act or other laws or regulations in relation to a petition or statement that is filed pursuant to paragraph (1), the paper documents referred to in the preceding paragraph are to be used. The same applies to service or delivery of a document in connection with the petition or statement.

(A Written Judgment)

Article 9-5 (1) When drafting a written judgment of a judicial decision on a proceeding carried out by a court pursuant to the provisions of this Act, the

court must state the main text, the parties and legal representatives, and the court of the judicial decision in the written judgement.

(2) If the written judgment referred to in the preceding paragraph is served, an authenticated copy of the written decision is delivered.

(Application Mutatis Mutandis of the Code of Civil Procedure to the Proceeding Carried Out by the Court)

Article 10 Except as otherwise provided, the provisions of Part I through Part IV (excluding the provisions of Article 71, paragraph (2), Article 87-2, Article 91-2, Article 92, paragraph (9) and paragraph (10), Article 92-2, paragraph (2), Article 94, Article 100, paragraph (2), Part I, Chapter 5, Section 4, Subsection 3, Article 111, Part I, Chapter 7, Article 133-2, paragraph (5) and paragraph (6), Article 133-3, paragraph (2), Article 151, paragraph (3), Article 160, paragraph (2), Article 185, paragraph (3), Article 187, paragraph (3) and paragraph (4), Article 205, paragraph (2), Article 215, paragraph (2), Article 227, paragraph (2) and Article 232-2) of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the proceeding carried out by the court pursuant to the provisions of this Act, unless contrary to the nature thereof. In this case, each term or phrase listed in the middle column of the appended table that appears in the provisions listed in the left hand column of that table is deemed to be replaced with the corresponding term or phrase listed in the right hand column of that table.

(Rules of the Supreme Court)

Article 11 Beyond what is provided for in this Act, necessary particulars related to the proceeding carried out by the court pursuant to the provisions of this Act are specified by the Rules of the Supreme Court.

(Notice to Be Given by Means of Documents)

Article 12 (1) Unless otherwise agreed between the parties, if a notice in an arbitration procedure is to be given by means of documents, the notice is deemed to have been given at the time when the addressee directly receives the document or the time when the document is delivered to the addressee's domicile, habitual residence, business office, office, or place of delivery (meaning the place designated by the addressee as the place of delivery of documents from the sender; hereinafter the same applies in this Article).

(2) With regard to the notice to be given by means of documents in an arbitration procedure, if it is possible to deliver the document to the addressee's domicile, habitual residence, business office, office, or place of delivery of the addressee, but it is difficult for the sender to obtain the materials that prove the fact of delivery, and the court finds it necessary, it may decide that it will serve the

document by itself, upon the petition of the sender. The provisions of Article 104, and Articles 110 through 113 of the Code of Civil Procedure do not apply to the service in this case.

- (3) The provisions of the preceding paragraph not apply if an agreement to the effect that the service referred to in that paragraph will not be made has been reached between the parties.
- (4) Notwithstanding the provisions of Article 5, paragraphs (1) and (2), a case related to the petition referred to in paragraph (2) is under the exclusive jurisdiction of the courts stated in paragraph (1), items (i) and (ii) of that Article and the district court which has jurisdiction over the location of the addressee's domicile, habitual residence, business office, office, or place of delivery.
- (5) Unless otherwise agreed between the parties, if a notice in an arbitration procedure is to be given by means of documents, and the addressee's domicile, habitual residence, business office, office, and place of delivery are all impossible to find after making a reasonable inquiry, it is sufficient for the sender to send the document to the addressee's last-known domicile, habitual residence, business office, office, or place of delivery by registered mail or any other means by which they can certify that they have attempted to deliver it. In this case, the notice is deemed to have been given at the time when the document should normally have arrived.
- (6) The provisions of paragraph (1) and the preceding paragraph do not apply to the case in which a notice is to be given in the proceeding carried out by the court pursuant to the provisions of this Act.

Chapter II Arbitration Agreement

(Validity of Arbitration Agreement)

- Article 13 (1) Except as otherwise provided for in laws and regulations, an arbitration agreement is effective only when its subject is a civil dispute (excluding disputes of divorce or dissolution of adoptive relation) which can be settled between the parties.
- (2) An arbitration agreement must be in writing, such as in the form of a document signed by all the parties, letters or telegrams exchanged between the parties (including those sent by facsimile device or other communication measures for parties at a distance which provides the recipient with a written record of the communicated content), or other documents.
 - (3) If a document containing a clause of an arbitration agreement is quoted in a contract concluded in writing as constituting part of the contract, that arbitration agreement is deemed to be made in writing.
 - (4) If an arbitration agreement is made in an electronic or magnetic record

(meaning a record used computerized information processing which is created in an electronic form, magnetic form, or any other form that cannot be perceived by the human senses; the same applies in paragraph (6)) recording its contents, that arbitration agreement is deemed to be made in writing.

- (5) In an arbitration procedure, if a written allegation that a party has submitted contains the contents of an arbitration agreement, and another written allegation that the other party has submitted in response to the allegation in question does not contain anything to dispute the contents of the arbitration agreement, the arbitration agreement is deemed to be made in writing.
- (6) If a document or electronic or magnetic record including a clause written of an arbitration agreement is quoted in a contract that is not concluded in writing as constituting a part of that contract, the arbitration agreement is deemed to be made in writing.
- (7) In regard to a contract containing an arbitration agreement, even if the clauses of the contract other than that of the arbitration agreement are not valid due to nullity or rescission or for any other reasons, the validity of the arbitration agreement is not automatically impaired.

(Arbitration Agreement and Suit on the Merits)

Article 14 (1) If an action is filed for a civil dispute which is subject to an arbitration agreement, the court in charge of the case must dismiss the action without prejudice upon the petition of the defendant; provided, however, that this does not apply to the following cases:

- (i) if the arbitration agreement is not valid due to nullity or rescission or for any other reasons;
 - (ii) if it is impossible to carry out an arbitration procedure based on an arbitration agreement; and
 - (iii) if the petition was filed after the defendant presented oral arguments concerning the merits or made statements concerning the merits in preparatory proceedings.
- (2) Even while a suit related to the action referred to in the preceding paragraph is pending in the court, an arbitral tribunal may commence or continue the arbitration procedure and make an arbitral award.

(Arbitration Agreement and Provisional Order by the Court)

Article 15 An arbitration agreement does not preclude the parties from filing a petition for a provisional order with the court before the commencement or during the course of the arbitration procedure in regard to the civil dispute that is the subject of the arbitration agreement, and does not preclude the court that has received the petition from issuing a provisional order.

Chapter III Arbitrator

(Number of Arbitrators)

Article 16 (1) The number of arbitrators are as prescribed by the agreement of the parties.

(2) If there are two parties, and an agreement referred to in the preceding paragraph has not been reached, there will be three arbitrators.

(3) If there are three or more parties, and an agreement referred to in paragraph (1) has not been reached, the number of arbitrators is provided by the court, upon the petition of a party.

(Appointment of Arbitrators)

Article 17 (1) The procedure for appointing an arbitrator is as provided by the agreement of the parties; provided, however, that this does not apply to what is provided for in paragraph (5) or (6).

(2) If there are two parties and three arbitrators, and an agreement referred to in the preceding paragraph has not been reached, each party will appoint one arbitrator, and the two arbitrators appointed by the parties will appoint the third arbitrator. In this case, if one party fails to appoint an arbitrator within 30 days from the day on which it received a request for appointing an arbitrator from the other party that has already appointed an arbitrator, the court will appoint the arbitrator upon the petition of that other party, and if the two arbitrators appointed by the parties fail to appoint the third arbitrator within 30 days from their appointment, the court will appoint the arbitrator upon the petition of one of the parties.

(3) If there are two parties and one arbitrator, an agreement referred to in paragraph (1) has not been reached, and the parties are unable to reach an agreement for the appointment of the arbitrator, the court will appoint the arbitrator upon the petition of one of the parties.

(4) If there are three or more parties, and the agreement referred to in paragraph (1) has not been reached, the court will appoint the arbitrator upon the petition of a party.

(5) Even if a procedure for appointing an arbitrator has been provided by the agreement referred to in paragraph (1), if it becomes impossible to appoint an arbitrator under the procedure for appointing an arbitrator due to the fact that the act provided under the procedure is not performed or for any other reason, one of the parties may file a petition for the appointment of an arbitrator with the court.

(6) In appointing an arbitrator under the provisions of paragraph (2) through the preceding paragraph, the court must pay due consideration to the following matters:

- (i) the requirements for the arbitrator as provided by the agreement of the parties;
- (ii) the impartiality and independence of the person to be appointed; and
- (iii) if there is one arbitrator, or if the two arbitrators appointed by the parties are to appoint an arbitrator, whether it is appropriate or not to appoint a person whose nationality is different from those of both parties.

(Grounds for a Challenge)

Article 18 (1) If the following grounds are found with respect to an arbitrator, the parties may challenge the arbitrator:

- (i) the arbitrator fails to satisfy the requirements provided by the agreement of the parties; or
 - (ii) there are reasonable grounds to doubt the impartiality or independence of the arbitrator.
- (2) A party that has appointed an arbitrator or that has made a recommendation for appointment or otherwise similarly participated in the appointment of the arbitrator may challenge that arbitrator only if they do so on grounds that they become aware of after the appointment.
- (3) A person who has been requested to assume the post of an arbitrator and intends to accept the negotiation must disclose to the person that made the request all facts that would be likely to give rise to doubts as to their impartiality or independence.
- (4) An arbitrator must disclose all the facts that would be likely to give rise to doubts as to their impartiality or independence (excluding those which have already been disclosed) to the parties without delay during the course of the arbitration procedure.

(Challenge Procedure)

Article 19 (1) The procedure for challenging an arbitrator is as provided by the agreement of the parties; provided, however, that this does not apply to what is provided for in paragraph (4).

- (2) If an agreement referred to in the preceding paragraph has not been reached, the decision on the challenge of the arbitrator is to be made by the arbitral tribunal, upon the petition of a party.
- (3) A party that intends to file a petition referred to in the preceding paragraph must submit a written petition stating the grounds for the challenge to the arbitral tribunal within 15 days from the day on which they became aware that the arbitral tribunal had been organized or the day on which they became aware of the existence of any grounds referred to in the items of paragraph (1) of the preceding Article, whichever comes later. In this case, if the arbitral tribunal finds grounds for challenging the arbitrator, it must decide that the

challenge is well-grounded.

- (4) If a decision is made to the effect that the challenge of an arbitrator is groundless in the challenge procedure provided in the preceding three paragraphs, the party that challenged may file a petition for the challenge of the arbitrator with the court, within 30 days from the day of receipt of notice of the decision. In this case, if the court finds grounds for challenging the arbitrator, it must decide that the challenge is well-grounded.
- (5) Even while the case subject to the petition for the challenge referred to in the preceding paragraph is pending in court, the arbitral tribunal may commence or continue the arbitration procedure, and make an arbitral award.

(Petition for Dismissal)

Article 20 If the following grounds are found, a party may file a petition to dismiss the arbitrator with the court. In this case, if the court finds that grounds related to the petition apply to the arbitrator, it must decide to dismiss the arbitrator:

- (i) the arbitrator has become legally or practically unable to perform their duties; or
- (ii) except for the case set forth in the preceding item, the arbitrator unjustly delays the performance of their duties.

(End of the Arbitrator's Duties)

Article 21 (1) The arbitrator's duties end for the following reasons:

- (i) the death of the arbitrator;
 - (ii) the resignation of the arbitrator;
 - (iii) the dismissal of the arbitrator by the agreement of the parties;
 - (iv) a decision finding a challenge to be well-grounded, which has been made in the challenge procedure provided for in Article 19, paragraphs (1) through (4); and
 - (v) a decision to dismiss the arbitrator under the preceding Article.
- (2) It is prohibited to presume that the grounds stated in the items of Article 18, paragraph (1) or the items of the preceding Article are found regarding the relevant arbitrator from the mere fact that the arbitrator resigned or was dismissed by the agreement of the parties during the course of the challenge procedure provided for in Article 19, paragraphs (1) through (4), or the procedure for dismissal under the preceding Article.

(Method of Appointing the Successor Arbitrator)

Article 22 Unless otherwise agreed by the parties, if the arbitrator's duties have ended for the reasons stated in the items of the preceding Article, paragraph (1), the method of appointing a successor arbitrator is the appointment method

applied to the appointment of the arbitrator whose duties have ended.

Chapter IV Special Authority of Arbitral Tribunal

(Competence of Arbitral Tribunal to Rule on Its Jurisdiction)

Article 23 (1) An arbitral tribunal may rule on its own jurisdiction (meaning the authority to carry out proceedings in an arbitration procedure and to make an arbitral award; hereinafter the applies in this Article), including a ruling on any allegations on the existence or validity of an arbitration agreement.

(2) In an arbitration procedure, an allegation that an arbitral tribunal does not have jurisdiction must be made promptly after the occurrence of the cause for the allegation if the cause has occurred during the course of the arbitration procedure, or, in any other case, an allegation must be made by the time of submission of the first written allegation on the merits (including the time of orally making the first allegation on the merits in oral hearings); provided, however, that this does not apply when the arbitral tribunal finds justifiable grounds for a delay in making an allegation that the arbitral tribunal does not have jurisdiction.

(3) A party may make the allegation referred to in the preceding paragraph even if the party has appointed an arbitrator, or has made a recommendation for an arbitrator or otherwise similarly participated in the appointment of an arbitrator.

(4) If the allegation referred to in paragraph (2) has been made lawfully, an arbitral tribunal must rule on the allegation by the decision or arbitral award provided for in the following items for each category of ruling set forth in those items:

(i) when ruling that the arbitral tribunal has jurisdiction: by an independent decision made before an arbitral award or by an arbitral award; and

(ii) when ruling that the arbitral tribunal does not have jurisdiction: by a decision to end the arbitration procedure.

(5) If an arbitral tribunal has ruled that it has jurisdiction in its independent decision made before an arbitral award, a party may petition a court to rule on whether the arbitral tribunal has jurisdiction within 30 days of receipt of notice of the decision. In this case, even if a case related to said petition is pending in the court, the arbitral tribunal may continue the arbitration procedure and make an arbitral award.

(Interim Measures)

Article 24 (1) Until an arbitral award is made, unless otherwise agreed by the parties, upon the petition of a party, an arbitral tribunal may order the other party to take the following measures:

- (i) to prohibit the disposal of or any other change to property necessary for the payment of money, when it is likely that an enforcement regarding a claim for payment of money will not be possible, or it is likely that significant difficulties will arise in implementing enforcement;
 - (ii) to prohibit the disposal of or any other change to any property which is the subject of a claim to seek provision of property benefits, when it is likely that the exercise of the right regarding the claim to seek provision of property benefits (excluding payment of money) will not be possible or will be extremely difficult;
 - (iii) to prevent any substantial loss or imminent danger from arising that would occur to the party that filed the petition with regard to the property or relationship of rights which is the subject matter of the dispute, take necessary prevention measures, or restore the status quo of the property or relationship of rights if it has been changed, in order to avoid the loss or danger in question;
 - (iv) to prohibit actions that cause harm or prejudice to the proceedings in the arbitration procedure (excluding the actions stated in the following item); or
 - (v) to prohibit actions such as disposing, erasing or altering evidence necessary for the proceedings in the arbitration procedure.
- (2) When filing a petition referred to in the preceding paragraph (excluding item (v) of that paragraph), a party must make a prima facie showing of the rights or relationship of rights that must be preserved and the fact constituting the grounds for the petition.
- (3) In issuing an order to take measures stated in the items in paragraph (1) (hereinafter referred to as "order for interim measures"), if it finds it necessary, the arbitral tribunal may order the provision of appropriate security.
- (4) If it is found that the grounds of the rights or relationship of rights that must be preserved or the grounds for the petition referred to in paragraph (1) do not exist or cease to exist or if there has been any other change in circumstances, upon petition, the arbitral tribunal may revoke, amend or suspend the order for interim measures.
- (5) Beyond the case referred to in the preceding paragraph, if the arbitral tribunal finds that there are special circumstances, the arbitral tribunal may revoke, amend or suspend the order for interim measures on its own initiative, after notifying the parties to that effect.
- (6) When it considers that there has been a change in circumstances referred to in paragraph (4), the arbitral tribunal may order the parties to promptly disclose whether there has been a change in circumstances and, if so, the content of the change in circumstances.
- (7) If a party that filed a petition for an order for interim measures (referred to as a "petitioner" in the following paragraph) does not comply with the order

under the preceding paragraph, for the purpose of application of the provisions in paragraph (4), a change in circumstances stated in that paragraph is deemed to have taken place.

- (8) When the arbitral tribunal revokes, amend or suspends an order for interim measures pursuant to the provisions of paragraph (4) or (5), and it finds that the order for interim measures was issued due to grounds attributable to the petitioner, upon petition by the person who received the order for interim measures, it may order the petitioner to compensate for any damage that the person who received the order for interim measures has consequently suffered; provided, however, that this does not apply if the parties have agreed otherwise.
- (9) The order under the preceding paragraph has the effect of an arbitral award.
- (10) The provisions of Article 39 apply mutatis mutandis to the order under paragraph (8), and the provisions of paragraphs (1) and (3) of that Article apply mutatis mutandis to the order for interim measures and other orders (excluding the order under paragraph (8)) or decisions under this Article.

Chapter V Commencement of Arbitration Procedure and Proceedings in Arbitration Procedure

(Equal Treatment of Parties)

- Article 25 (1) The parties must be treated equally in an arbitration procedure.
- (2) The parties must be given a full opportunity to explain their case in an arbitration procedure.

(Rules of Arbitration Procedure)

- Article 26 (1) The rules of an arbitration procedure which the arbitral tribunal should observe are as provided by the agreement of the parties; provided, however, that these rules must not violate the provisions concerning public order provided in this Act.
- (2) If an agreement referred to in the preceding paragraph has not been reached, the arbitral tribunal may carry out the arbitration procedure in the manner it finds appropriate, unless the manner violates the provisions of this Act.
- (3) If an agreement referred to in paragraph (1) has not been reached, the power conferred upon the arbitral tribunal includes the power to determine the admissibility of the evidence as evidence, necessity of its examination, and its probative value.

(Waiver of Right of Objection)

- Article 27 In an arbitration procedure, if a party that knows that any provisions of this Act or rules of an arbitration procedure which have been provided by the

agreement of the parties (limited to those unrelated to public order) have not been complied with does not state their objection without delay (or if a period within which an objection should be stated is provided for, within the period), the party is deemed to have waived their right to object, unless otherwise agreed between the parties.

(Place of Arbitration)

- Article 28 (1) The place of arbitration is as provided by the agreement of the parties.
- (2) If an agreement referred to in the preceding paragraph has not been reached, the arbitral tribunal is to decide the place of arbitration by taking into consideration the circumstances of the dispute, including the convenience of the parties.
- (3) Notwithstanding the place of arbitration under the preceding two paragraphs, unless otherwise agreed by the parties, an arbitral tribunal may carry out the following procedures at any place it considers appropriate:
- (i) consultation within an arbitral tribunal which is a panel;
 - (ii) hearing of statements of the parties, experts, or third parties; and
 - (iii) inspection of goods or documents.

(Commencement of Arbitration Procedure, and Postponement of Expiry of Prescription Period and Renewal of Prescription Period)

- Article 29 (1) Unless otherwise agreed by the parties, an arbitration procedure regarding a particular civil dispute commences on the date on which one party notifies the other party that the arbitration procedure is to be applied to the civil dispute.
- (2) A request in an arbitration procedure has the effect of postponement of expiration of the prescription period and renewal of the prescription period; provided, however, that this does not apply to cases in which the arbitration procedure has been ended without an arbitral award.

(Language)

- Article 30 (1) The languages to be used in an arbitration procedure and the procedures to be carried out by using those languages are as provided by the agreement of the parties.
- (2) If an agreement referred to in the preceding paragraph has not been reached, the arbitral tribunal determines the languages to be used in the arbitration procedure and the procedures to be carried out by using those languages.
- (3) If the agreement referred to in paragraph (1) or the determination referred to in the preceding paragraph does not provide for the procedures to be carried out by using the languages specified, the procedures to be carried out by using

those languages are to be as follows:

- (i) oral procedure;
 - (ii) statement or notice in writing by the parties; and
 - (iii) decision (including an arbitral award) or notice in writing by the arbitral tribunal.
- (4) An arbitral tribunal may order that any documentary evidence is to be accompanied by a translation into the languages provided by the agreement referred to in paragraph (1) or determination referred to in paragraph (2) (or if the languages to be used for a translation are provided, into the languages).

(Time Limit of Statements by the Parties)

Article 31 (1) An arbitration petitioner (meaning a party that carried out acts to commence the arbitration procedure; the same applies hereinafter) must state the object of a petition, the facts supporting their petition and points of the dispute within the period determined by the arbitral tribunal. In this case, the arbitration petitioner may submit all documentary evidence they consider necessary to be examined or quote documentary evidence or other evidence they plan to submit.

(2) An arbitration respondent (meaning the party to the arbitration procedure other than the arbitration petitioner; the same applies hereinafter) must state their allegation regarding the matters stated pursuant to the provisions of the preceding paragraph, within the period determined by the arbitral tribunal. In this case, the provisions of the second sentence of that paragraph apply *mutatis mutandis*.

(3) All parties may amend or supplement their statements during the course of the arbitration procedure; provided, however, that if the amendment or supplement has been made outside the appropriate time, the arbitral tribunal may decide not to allow that amendment or supplement.

(4) The provisions of the preceding three paragraphs do not apply in cases where otherwise agreed by the parties.

(Proceedings)

Article 32 (1) An arbitral tribunal may hold oral hearings to have the parties produce evidence or state their opinions; provided, however, that if one party makes the request referred to in Article 34, paragraph (3) or otherwise petitions to hold oral hearings, the arbitral tribunal must hold the oral hearings at an appropriate stage of the arbitration procedure.

(2) The provisions of the preceding paragraph do not apply if otherwise agreed by the parties.

(3) If the arbitral tribunal holds an oral hearing to hear opinions or inspect goods or documents, it must notify the parties of the date, time and place of the oral

- hearing, leaving a reasonable period of time before the date of the oral hearing.
- (4) If a party has submitted a written allegation, documentary evidence or any other records to the arbitral tribunal, the party must take measures to enable the other party to know their contents.
 - (5) An arbitral tribunal must take measures to enable all the parties to know the content of the report of the expert and other evidentiary material which should serve as the basis for the arbitral award or other decisions by the arbitral tribunal.

(Treatment in Case of Default of a Party)

- Article 33 (1) If an arbitration petitioner violates the provisions of Article 31, paragraph (1), the arbitral tribunal must make a decision to end the arbitration procedure; provided, however, that this does not apply to cases in which there are justifiable grounds for that violation.
- (2) Even if an arbitration respondent has violated the provisions of Article 31, paragraph (2), the arbitral tribunal must continue the arbitration procedure without treating that violation as being the arbitration respondent's admission of the arbitration petitioner's allegations.
 - (3) If one party fails to appear on the date of oral hearings or to produce documentary evidence, the arbitral tribunal may make an arbitral award on the evidence collected by that time; provided, however, that this does not apply to cases in which there are justifiable grounds for the party to fail to appear at the oral hearings or to produce documentary evidence.
 - (4) The provisions of the preceding three paragraphs do not apply if otherwise agreed by the parties.

(Appointment of Expert by Arbitral Tribunal)

- Article 34 (1) An arbitral tribunal may appoint one or more experts, and may have them conduct an expert examination concerning necessary matters and report the results in writing or orally.
- (2) In the case referred to in the preceding paragraph, the arbitral tribunal may require the parties to carry out the following acts:
 - (i) to provide the experts with the information necessary for an expert examination; and
 - (ii) to submit documents and other items necessary for an expert examination to the expert, or enable the expert to inspect them.
 - (3) If the parties request or the arbitral tribunal finds it necessary, an expert must appear on the date of the oral hearing after delivering the report referred to in paragraph (1).
 - (4) The parties may carry out the following acts on the date of the oral hearing referred to in the preceding paragraph:

- (i) to ask the expert questions; and
 - (ii) to have a person who has expert knowledge and whom the party has appointed make statements concerning the matters related to the expert examination.
- (5) The provisions of the preceding paragraphs do not apply if otherwise agreed by the parties.

(Examination of Evidence by the Court)

Article 35 (1) An arbitral tribunal or party may petition the court to implement the commission of an investigation, examination of a witness, examination by an expert, examination of documentary evidence (excluding the examination which the parties conduct in the documents which they submit) and observation (excluding the observation in which the parties present the subject matter) provided for in the provisions of the Code of Civil Procedure and found necessary by the arbitral tribunal; provided, however, that this does not apply to cases in which the parties have agreed not to petition the implementation of all or part of these procedures.

- (2) In order to file a petition referred to in the preceding paragraph, the party must obtain the consent of the arbitral tribunal.
- (3) Notwithstanding the provisions of Article 5, paragraphs (1) and (2), the case subject to the petition referred to in paragraph (1) is under the exclusive jurisdiction of the following courts:
- (i) the courts stated in Article 5, paragraph (1), item (ii);
 - (ii) the district court which has jurisdiction over the domicile or residence of the person to be examined or the person that possesses the document, or the location of the subject matter of the observation;
 - (iii) the district court which has jurisdiction over the general venue of the petitioner or respondent (limited to cases in which there is no court set forth in the preceding two items); and
 - (iv) the Tokyo District Court and the Osaka District Court.
- (4) An immediate appeal may be filed against the decision on the petition referred to in paragraph (1).
- (5) If the court implements the examination of evidence upon the petition referred to in paragraph (1), an arbitrator may inspect the document, verify the subject matter of the observation, or may ask the witness or expert (meaning the expert provided for in Article 213 of the Code of Civil Procedure) questions by obtaining the permission of the presiding judge.
- (6) A court clerk must prepare records concerning the examination of evidence to be implemented by the court upon the petition referred to paragraph (1).

Chapter VI Arbitral Award and End of Arbitration Procedure

(Applicable Law to be Applied in Arbitral Award)

Article 36 (1) The laws which the arbitral tribunal should comply with in making an arbitral award are as provided by the agreement of the parties. In this case, if laws and regulations of a given State have been designated, that designation is deemed not to designate the laws and regulations of the State providing the application of conflicting domestic and foreign laws and regulations but rather the laws and regulations of the State which are to be directly applied to the case, unless a contrary intention has been clearly indicated.

(2) If an agreement referred to in the preceding paragraph has not been reached, the arbitral tribunal must apply the laws and regulations of a State which has the closest relationship to the civil dispute that has been referred to the arbitration procedure and which should be directly applied to the case.

(3) Notwithstanding the provisions of the preceding two paragraphs, if both parties have stated a clear request, the arbitral tribunal is to decide *ex aequo et bono*.

(4) An arbitral tribunal must make decisions in accordance with the terms of the contract related to the civil dispute which has been referred to the arbitral procedure, if the contract exists, and take into account the practices applicable to the relevant civil dispute, if any practices exist.

(Decision of the Arbitral Tribunal Which is a Panel)

Article 37 (1) An arbitral tribunal which is a panel must appoint a presiding arbitrator, who is to be elected from among the arbitral tribunal members.

(2) The decision of an arbitral tribunal which is a panel is made by the majority of the arbitrators constituting the arbitral tribunal.

(3) Notwithstanding the provisions of the preceding paragraph, the procedural matters in an arbitration procedure may be decided by the arbitrator who is the presiding arbitrator, if agreed to by both of the parties or delegated by all the other arbitrators.

(4) The provisions of the preceding three paragraphs do not apply if otherwise agreed by the parties.

(Settlement)

Article 38 (1) During the course of the arbitration procedure, if a settlement is arranged between the parties with regard to a civil dispute which has been referred to an arbitration procedure and both the parties have so petitioned, the arbitral tribunal may make a decision based on the agreed matters in the settlement.

(2) The decision referred to in the preceding paragraph has the effect of an

arbitral award.

- (3) In making the decision referred to in paragraph (1), an arbitral tribunal must prepare a written decision in accordance with the provisions of paragraphs (1) and (3) of the following Article and indicate that the written decision is an arbitral award.
- (4) If the consent of both parties has been obtained, an arbitral tribunal or one or more arbitrators who have been appointed by the arbitral tribunal may attempt to arrange a settlement for the civil dispute which has been referred to an arbitral procedure.
- (5) The consent referred to in the preceding paragraph or the revocation of the consent must be made in writing, unless otherwise agreed by the parties.

(Written Arbitral Award)

Article 39 (1) For an arbitral award to be made, a written arbitral award must be prepared and signed by the arbitrators who has made the arbitral award; provided, however, that if the arbitral tribunal is a panel, it will be sufficient that the written arbitral award is signed by the majority of the arbitrators constituting the arbitral tribunal and states the reasons for the signatures of other arbitrators being omitted.

- (2) A written arbitral award must state its reasons; provided, however, that this does not apply if otherwise agreed by the parties.
- (3) A written arbitral award must state the date of the preparation and the place of arbitration.
- (4) An arbitral award is deemed to have been made at the place of arbitration.
- (5) If an arbitral award has been made, the arbitral tribunal must notify each party of the arbitral award by sending a copy of the written arbitral award signed by the arbitrators.
- (6) The provisions of the proviso to paragraph (1) apply mutatis mutandis to the copy of the written arbitral award referred to in the preceding paragraph.

(End of Arbitration Procedure)

Article 40 (1) An arbitration procedure ends when an arbitral award or a decision to end the arbitration procedure has been made.

- (2) Beyond what is provided for in the provisions of Article 23, paragraph (4), item (ii) or Article 33, paragraph (1), if any of the following grounds exist, an arbitral tribunal must make a decision to end the arbitration procedure:
 - (i) if the arbitration petitioner has withdrawn their petition; provided, however, that this does not apply to cases in which the arbitration respondent has stated their objection against the withdrawal, and the arbitral tribunal recognizes a legitimate interest on the part of the arbitration respondent in resolving the civil dispute which has been referred to an arbitration

- procedure;
- (ii) if both the parties have reached an agreement to end the arbitral procedure;
 - (iii) if a settlement has been arranged between the parties in regard to the civil dispute which has been referred to an arbitration procedure (excluding the case in which the decision referred to in Article 38, paragraph (1) has been made); and
 - (iv) beyond the cases set forth in the preceding three paragraphs, if the arbitral tribunal has found that it is unnecessary or impossible to continue the arbitration procedure.
- (3) When the arbitration procedure has ended, the duties of the arbitral tribunal end; provided, however, that the acts under the following Article through Article 43 may be carried out.

(Correction of Arbitral Award)

- Article 41 (1) An arbitral tribunal may correct any miscalculation, clerical error or any other error similar to them in the arbitral award, upon the petition of the parties or on its own initiative.
- (2) The petition referred to in the preceding paragraph must be filed within 30 days from the date of receipt of the notice of arbitral award, unless otherwise agreed by the parties.
 - (3) If the party makes a petition referred to in paragraph (1), they must issue a notice containing the contents of the petition to the other party, in advance of or at the same time as the petition.
 - (4) The arbitral tribunal must make a decision on the petition referred to in paragraph (1) within 30 days from the date of that petition.
 - (5) If it finds it necessary, the arbitral tribunal may extend the period referred to in the preceding paragraph.
 - (6) The provisions of Article 39 apply mutatis mutandis to the decision to correct the arbitral award and the decision to dismiss the petition referred to in paragraph (1) without prejudice.

(Interpretation of Arbitral Award by Arbitral Tribunal)

- Article 42 (1) The parties may petition the arbitral tribunal to give an interpretation of a specific part of the arbitral award.
- (2) The petition referred to in the preceding paragraph may be filed only if an agreement has been reached between the parties that the petition may be filed.
 - (3) The provisions of the preceding Article, paragraphs (2) and (3) apply mutatis mutandis to the petition referred to in paragraph (1), and the provisions of Article 39 and the preceding Article, paragraphs (4) and (5) apply mutatis mutandis to the decision on the petition referred to in paragraph (1).

(Additional Arbitral Award)

Article 43 (1) If the award regarding a petition in an arbitration procedure is not stated in the arbitral award, the parties may petition the arbitral tribunal to make an arbitral regarding the petition, unless otherwise agreed by the parties. In this case, the provisions of Article 41, paragraphs (2) and (3) apply *mutatis mutandis*.

(2) The arbitral tribunal must make a decision on the petition referred to in the preceding paragraph within 60 days from the date of the petition. In this case, the provisions of Article 41, paragraph (5) apply *mutatis mutandis*.

(3) The provisions of Article 39 apply *mutatis mutandis* to the decision referred to in the preceding paragraph.

Chapter VII Setting Aside of Arbitral Award

Article 44 (1) If any of the following grounds exist, the parties may file a petition with the court to set aside the arbitral award:

- (i) the arbitration agreement is not valid due to the limitation on the legal capacity of a party;
- (ii) the arbitration agreement is not valid on grounds other than the limitation on the legal capacity of a party pursuant to the laws and regulations designated by the agreement of the parties as those which should be applied to the arbitration agreement (or if the designation has not been made, pursuant to Japanese laws and regulations);
- (iii) the petitioner did not receive the notice that is required pursuant to Japanese laws and regulations (or if the parties have reached an agreement on the matters concerning the provisions unrelated to public order in those laws and regulations, pursuant to the agreement) in the procedure of appointing arbitrators or in the arbitration procedure;
- (iv) the petitioner was unable to conduct a defense in the arbitration procedure;
- (v) the arbitral award contains a decision concerning matters beyond the scope of the arbitration agreement or of the petition presented in the arbitration procedure;
- (vi) the composition of the arbitral tribunal or the arbitration procedure is in violation of Japanese laws and regulations (or if the parties have reached an agreement regarding the matters concerning the provisions unrelated to public order in those laws and regulations, the agreement);
- (vii) a petition filed in the arbitration procedure is concerned with a dispute which may not be subject to an arbitration agreement pursuant to the provisions of Japanese laws and regulations; or
- (viii) the content of the arbitral award is contrary to public policy in Japan.

- (2) The petition referred to in the preceding paragraph may not be filed when three months have elapsed from the date on which the notice was given through sending of a copy of the written arbitral award (including the written decision made by the arbitral tribunal under Article 41 through the preceding Article), or when the enforceability order under Article 46 has become final and binding.
- (3) An immediate appeal may be filed against the decision under Article 5, paragraph (4) or (5) with regard to the case related to the petition referred to in paragraph (1).
- (4) The court may not make a decision on the petition referred to in paragraph (1) without holding an oral argument or a hearing which both parties can attend.
- (5) If the petition referred to in paragraph (1) has been filed, and the court finds that any of the grounds stated in the items of the paragraph exist (for the grounds set forth in items (i) through (vi) of that paragraph, limited to the case in which the applicant has proved the existence of the grounds), it may set aside the arbitral award.
- (6) If the grounds stated in paragraph (1), item (v) exist, and the part concerning the matters provided for in that item can be separated from the other parts of the arbitral award, the court may set aside only the relevant part of the arbitral award.
- (7) An immediate appeal may be filed against the decision on the petition referred to in paragraph (1).

Chapter VIII Recognition and Enforceability Order of Arbitral Award

(Recognition of Arbitral Award)

Article 45 (1) An arbitral award (irrespective of whether or not the place of arbitration is in Japan; hereinafter the same applies in this Chapter) has the same effect as a final and binding judgment; provided, however, that a civil enforcement based on the arbitral award requires an enforceability order under the following Article.

- (2) The provisions of the preceding paragraph do not apply if any of the following grounds exist (for the grounds stated in items (i) through (vii), limited to the case in which any of the parties has proved the existence of the grounds):
 - (i) the arbitration agreement is not valid due to the limitation on the legal capacity of a party;
 - (ii) the arbitration agreement is not valid on grounds other than the limitation on the legal capacity of a party pursuant to the laws and regulations designated by the agreement of the parties as those which should be applied to the arbitration agreement (or if the designation has not been made,

- pursuant to the laws and regulations of the country to which the place of arbitration belongs);
- (iii) the party did not receive the notice that is required pursuant to the laws and regulations of the country to which the place of arbitration belongs (or if the parties have reached an agreement on the matters concerning the provisions unrelated to public order in those laws and regulations, pursuant to the agreement) in the procedure of appointing arbitrators or in the arbitration procedure;
 - (iv) the party was unable to conduct a defense in the arbitration procedure;
 - (v) the arbitral award contains a decision concerning matters beyond the scope of the arbitration agreement or of a petition in the arbitration procedure;
 - (vi) the composition of the arbitral tribunal or the arbitration procedure is in violation of the laws and regulations of the country to which the place of arbitration belongs (or if the parties have reached an agreement concerning the matters concerning the provisions unrelated to public order in those laws and regulations, in violation of the agreement);
 - (vii) the arbitral award is not final and binding, or the arbitral award has been set aside or its effect has been suspended by a judicial body of that country, according to the laws and regulations of the country to which the place of arbitration belongs (or if the laws and regulations applied to the arbitration procedure are laws and regulations of a country other than the country to which the place of arbitration belongs, according to the laws and regulations of the other country);
 - (viii) the petition filed in the arbitration procedure is concerned with a dispute which may not be subject to an arbitration agreement pursuant to the provisions of Japanese laws and regulations; or
 - (ix) the content of the arbitral award is contrary to public policy in Japan.
- (3) If the grounds stated in item (v) of the preceding paragraph exist, and the part concerning the matters provided for in that item can be separated from the other parts of the arbitral award, the relevant part and the other parts of the arbitral award are respectively deemed to be independent arbitral awards, and the provisions of the paragraph apply.

(Enforceability Order of Arbitral Award)

- Article 46 (1) A party that intends to process a civil enforcement based on an arbitral award may file a petition with the court for an enforceability order (meaning an order allowing the civil enforcement based on an arbitral award; the same applies hereinafter), designating the obligor as the respondent.
- (2) In filing the petition referred to in the preceding paragraph, the party must submit a copy of the written arbitral award, a document proving that the content of the copy are the same as that of the written arbitral award, and a

Japanese translation of the written arbitral award (excluding one prepared in Japanese; hereinafter the same applies in this paragraph); provided, however, that if the court finds it appropriate, after hearing the opinions of the respondent the court may decide not to require the submission of the Japanese translation of the whole or part of the written arbitral award.

- (3) If a petition for setting aside the arbitral award or suspending its effect is filed with the judicial body provided for in the preceding Article, paragraph (2), item (vii) and the court with which the petition referred to in paragraph (1) is filed finds it necessary to do so, the court may suspend the procedure related to the petition referred to in paragraph (1). In this case, the court may order the respondent to provide security, upon the petition of the person that filed the petition referred to in the paragraph.
- (4) Notwithstanding the provisions of Article 5, paragraphs (1) and (2), the case subject to the petition referred to in paragraph (1) is under the exclusive jurisdiction of the following courts:
 - (i) the courts set forth in the items of Article 5, paragraph (1);
 - (ii) the district court which has jurisdiction over the location of the subject matter of the claim or the seizable property of the respondent; and
 - (iii) the Tokyo District Court and the Osaka District Court (limited to the cases in which the place of arbitration, the location of the general venue of the respondent, or the location of the subject matter of the claim or the seizable property of the respondent is in Japan).
- (5) An immediate appeal may be filed against the decision under Article 5, paragraph (4) or (5) with regard to a case related to the petition referred to in paragraph (1).
- (6) The court is required to make an enforceability order, except the case in which it dismisses the petition referred to in paragraph (1) without prejudice pursuant to the provisions of the following paragraph or paragraph (8).
- (7) If the petition referred to in paragraph (1) has been filed, the court may dismiss the petition without prejudice only when it finds that any of the grounds stated in the items of paragraph (2) of the preceding Article exist (for the grounds stated in items (i) through (vii) of that paragraph, limited to the case in which the respondent has proved the existence of the grounds).
- (8) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the application of the provisions of the preceding paragraph if the grounds stated in the Article, paragraph (2), item (v) exist.
- (9) The provisions of Article 44, paragraphs (4) and (7) apply mutatis mutandis to the decision concerning the petition referred to in paragraph (1).

(Enforcement Approval Order of Orders for Interim Measures)

Article 47 (1) With the person that received an order for interim measures

(irrespective of whether or not the place of arbitration is in Japan; hereinafter the same applies in this Chapter) as the respondent, in accordance with the categories stated in each of the following items, a person that filed a petition for the order for interim measures may file a petition with the court to issue the orders specified in those items (hereinafter referred to as "enforcement approval orders"):

- (i) an order for interim measures that orders taking measures stated in Article 24, paragraph (1), item (iii): an order allowing the civil enforcement based on the order for interim measures; and
 - (ii) an order for interim measure that orders taking measures stated in Article 24, paragraph (1), items (i), (ii), (iv) or (v): an order allowing issuance of an order for payment of money stated in Article 49, paragraph (1), if the court finds that the respondent violates or is likely to violate the order for interim measures.
- (2) When filing the petition referred to in the preceding paragraph, the party must submit a copy of the written order for interim measures, a document certifying that the content of the copy is the same as that in the written order for interim measures, and a Japanese translation of the written order for interim measures (excluding one prepared in Japanese; hereinafter the same applies in this paragraph); provided, however, that if the court finds it appropriate, after hearing the opinions of the respondent, the court may decide not to require the submission of the whole or part of the Japanese translation of the written order for interim measures.
- (3) If the court with which the petition referred to in paragraph (1) is filed has come to acknowledge that a petition for revoking, amending or suspending the order for interim measures is filed with the arbitral tribunal or judicial body (limited to the case in which the judicial body of the country to which the place of arbitration belongs has authority, according to the laws and regulations of that country (or if the laws and regulations applied to the arbitration procedure are laws and regulations of a country other than the country to which the place of arbitration belongs, according to the laws and regulations of that other country)) and finds it necessary to do so, the court may suspend the procedure for the petition referred to in the preceding paragraph. In this case, the court may order the respondent to provide security, upon the petition of the person that filed the petition referred to in that paragraph.
- (4) Notwithstanding the provisions of Article 5, paragraphs (1) and (2), the case subject to the petition referred to in paragraph (1) is under the exclusive jurisdiction of the following courts:
- (i) the courts stated in the items of Article 5, paragraph (1);
 - (ii) the district court which has jurisdiction over the location of the subject matter of the claim or the seizable property of the respondent; and

- (iii) the Tokyo District Court and the Osaka District Court (limited to the case in which the place of arbitration, the location of the general venue of the respondent, or the location of the subject matter of the claim or the seizable property of the respondent is in Japan).
- (5) An immediate appeal may be filed against the decision under Article 5, paragraph (4) or (5) with regard to a case related to the petition referred to in paragraph (1).
- (6) The court is required to make an enforcement approval order, except the case in which it dismisses the petition referred to in paragraph (1) without prejudice pursuant to the provisions of the following paragraph or paragraph (8).
- (7) If a petition referred to in paragraph (1) has been filed, the court may dismiss the petition without prejudice only when it finds that any of the grounds stated in the following items exist (for the grounds stated in items (i) through (viii), limited to the case in which the respondent has proved the existence of the grounds):
- (i) the arbitration agreement is not valid due to the limitation on the legal capacity of a party;
 - (ii) the arbitration agreement is not valid on grounds other than the limitation on the legal capacity of a party pursuant to the laws and regulations designated by the agreement of the parties as those which should be applied to the arbitration agreement (or if the designation has not been made, pursuant to the laws and regulations of the country to which the place of arbitration belongs);
 - (iii) the party did not receive the notice that is required pursuant to the laws and regulations of the country to which the place of arbitration belongs (or if the parties have reached an agreement on the matters concerning the provisions unrelated to public order in those laws and regulations, pursuant to the agreement) in the procedure of appointing arbitrators or in the arbitration procedure (limited to the part which concerns an order for interim measures; the same applies in the following item and item (vi));
 - (iv) the party was unable to conduct a defense in the arbitration procedure;
 - (v) the order for interim measures was issued concerning matters beyond the scope of the arbitration agreement or other agreement concerning an order for interim measures or concerning matters beyond the scope of a petition for an order for interim measures;
 - (vi) the composition of the arbitral tribunal or the arbitration procedure is in violation of the laws and regulations of the country to which the place of arbitration belongs (or if the parties have reached an agreement concerning the matters concerning the provisions unrelated to public order in those laws and regulations, in violation of the agreement);

- (vii) when the arbitral tribunal has ordered the party requesting an order for interim measures to provide appropriate security, and the party is in violation of the order and is not providing appropriate security;
 - (viii) the order for interim measures has been revoked, amended or suspended by the arbitral tribunal or the judicial body stated in paragraph (3);
 - (ix) the petition filed in the arbitration procedure is concerned with a dispute which may not be subject to an arbitration agreement pursuant to the provisions of Japanese laws and regulations; or
 - (x) the content of the order for interim measures is contrary to public policy in Japan.
- (8) If the grounds stated in item (v) of the preceding paragraph exist, and the part concerning the matters provided for in that item can be separated from the other parts of the order for interim measures, the relevant part and the other parts of the order for interim measures are respectively deemed to be independent orders for interim measures, and the provisions of that paragraph apply.
- (9) An enforcement approval order is not effective until it becomes final and binding.
- (10) The provisions of Article 44, paragraphs (4) and (7) apply *mutatis mutandis* to the decision on the petition referred to in paragraph (1).

(Civil Enforcement Based on an Order for Interim Measures)

Article 48 Civil enforcement based on an order for interim measures (limited to the orders to take measures stated in Article 24, paragraph (1), item (iii)) may be processed only when there is an enforcement approval order stated in the preceding Article.

(Order for Payment of Penalty Regarding Order for Interim Measures)

Article 49 (1) When there is a final and binding enforcement approval order regarding an order for interim measures (limited to the orders to take measures stated in article 24, paragraph (1), item (i), (ii), (iv) and (v); hereinafter the same applies in this Article) and the court finds that the person that received the order for interim measures (hereinafter referred to as a "respondent" in this Article) violates or is likely to violate it, upon the petition of the person that filed the petition for the order for interim measures (referred to as a "petitioner" in paragraph (6)), the court may order the respondent to pay to the petitioner money of a certain amount that is found to be reasonable (subject to the violation of the order for interim measures, when it finds that the respondent is likely to violate it), taking into consideration the content and nature of the interest that would be harmed by the violation of the order for interim measures and also in what manner and to what extent that interest

would be harmed.

- (2) Notwithstanding the provisions of the preceding paragraph, the court may issue an order for payment of money under the paragraph (hereinafter referred to as an "order for payment of penalty" in this Article) at the same time it issues an enforcement approval order. In this case, the order for payment of penalty is not finalized until the enforcement approval order is finalized.
- (3) Notwithstanding the provisions of article 5, paragraphs (1) and (2), the case subject to the petition referred to in paragraph (1) is under the exclusive jurisdiction of the court that issued the enforcement approval order or the court before which the case subject to the petition referred to in Article 47, paragraph (1) (limited to the case referred to in item (ii) of that paragraph; the same applies in the following paragraph) is pending.
- (4) If the court has issued an order for payment of penalty and an enforcement approval order simultaneously pursuant to the first sentence of paragraph (2), and a judicial decision that sets aside the enforcement approval order becomes final and binding or the petition referred to in Article 47, paragraph (1) is withdrawn, it must set aside the order for payment of penalty on its own initiative.
- (5) An order for payment of penalty is not effective until it becomes final and binding.
- (6) If there has been payment of money that was ordered pursuant to the order for payment of penalty, and the amount of damages that resulted from violation of the order for interim measures exceeds the amount of payment, the petitioner is not precluded from claiming compensation for damages for the amount in excess.
- (7) If the order for interim measures has been revoked, amended or suspended by the arbitral tribunal or the judicial body stated in Article 47, paragraph (3) after the order for payment of penalty was issued, upon the petition of the respondent, the court that issued the order for payment of penalty may set aside the order for payment of penalty.
- (8) The provisions of Article 47, paragraph (3) apply mutatis mutandis to the petition referred to in paragraph (1), and the provisions of Article 44, paragraphs (4) and (7) apply mutatis mutandis to the decision concerning the petition referred to in paragraph (1) and the preceding paragraph.

Chapter IX Miscellaneous Provisions

(Compensation for Arbitrator)

- Article 50 (1) An arbitrator may receive compensation as provided by the agreement of the parties.
- (2) If an agreement referred to in the preceding paragraph has not been reached,

the arbitral tribunal is to decide on the compensation for the arbitrator. In this case, the compensation must be a reasonable amount.

(Prepayment of Arbitration Expenses)

Article 51 (1) An arbitral tribunal may provide a reasonable period and order the parties to prepay the amount provided by the arbitral tribunal as the estimated amount of the expenses for the arbitration procedure, unless otherwise agreed by the parties.

(2) If an arbitral tribunal ordered the prepayment pursuant to the provisions of the preceding paragraph, and the prepayment has not been made, it may suspend or end the arbitral procedure, unless otherwise agreed by the parties.

(Sharing of Arbitration Expenses)

Article 52 (1) The sharing of expenses paid by the parties in relation to the arbitration procedure between the parties is as provided by the agreement of the parties.

(2) If an agreement referred to in the preceding paragraph has not been reached, each party is to bear the expenses they paid in relation to the arbitration procedure.

(3) If the parties have reached an agreement, pursuant to the agreement, an arbitral tribunal may specify the sharing of expenses paid by the parties in relation to the arbitration procedure between the parties and the amount which one party should reimburse the other party based on said sharing, in an arbitral award or in an independent decision.

(4) If the matters provided for in the preceding paragraph have been provided in an independent decision, the decision has the effect of an arbitral award.

(5) The provisions of Article 39 apply mutatis mutandis to the decision referred to in the preceding paragraph.

Chapter X Penal Provisions

(Acceptance of Bribes; Acceptance upon Request; Acceptance in Advance of Assumption of Office)

Article 53 (1) An arbitrator who accepts, solicits, or promises to accept a bribe in connection with their duties is subject to imprisonment for not more than five years. In this case, when the official agrees to perform an act in response to a request, imprisonment for not more than seven years is imposed.

(2) If a person seeking to be appointed as an arbitrator has accepted a request to perform an act, and accepts, solicits or promises to accept a bribe in connection with a duty that they are to assume, and if the person is appointed as an arbitrator, that person is subject to imprisonment for not more than five years.

(Passing of Bribes to a Third Party)

Article 54 If an arbitrator that has accepted a request to perform an act in connection with their duties causes a bribe to be given to a third party or solicits or promises that bribe to be given to a third party, the arbitrator is subject to imprisonment for not more than five years.

(Aggravated Acceptance; Acceptance after Resignation of Office)

Article 55 (1) If an arbitrator commits a crime referred to in the preceding two Articles and consequently acts illegally or refrains from acting in the exercise of their duty, the arbitrator is subject to imprisonment for a definite term of not less than one year.

(2) The provisions of the precedent paragraph also apply if an arbitrator accepts, solicits or promises to accept a bribe, or causes a bribe to be given to a third party or solicits or promises a bribe to be given to a third party, in connection with having acted illegally or having refrained from acting in the exercise of their duty.

(3) If a person who was an arbitrator accepts, solicits or promises to accept a bribe in connection with having acted illegally or having refrained from acting in the exercise of their duties in response to a request, the person is subject to imprisonment for not more than five years.

(Confiscation and Collection of a Sum of Equivalent Value)

Article 56 A bribe accepted by an offender or by a third party who knows the circumstances is to be confiscated. When the whole or a part of the bribe cannot be confiscated, the value of that bribe is to be collected.

(Offer of Bribes)

Article 57 A person who gives, offers or promises to give a bribe provided for in Articles 53 through 55 is subject to imprisonment for not more than three years or a fine of not more than 2,500,000 yen.

(Crimes Committed outside Japan)

Article 58 (1) The provisions of Articles 53 through 56 apply to a person who has committed the crimes provided for in Articles 53 through 55 outside Japan.

(2) The crimes referred to in the preceding Article are governed by the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

the main text of Article 112, paragraph (1)	the measure under the provisions of the preceding Article was commenced	the posting was made, in the posting area of the court, of a notice that the court clerk is in possession of the document to be served and can deliver it to the person that is to be served at any time
the proviso of Article 112, paragraph (1)	the measure under the provisions of the preceding Article was commenced.	the posting was made
Article 113	a document or electronic or magnetic record	a document
	contains a statement or record	contains a statement
	the measure under the provision of Article 111 was commenced	the posting was made, in the posting area of the court, of a notice that the court clerk is in possession of the document to be served and can deliver it to the person that is to be served at any time
Article 133-3, paragraph (1)	a paper document or electronic or magnetic record detailing or recording	a paper document detailing
	the paper document or electronic or magnetic record	the paper document
	or electronic or magnetic record, and any other case records, etc. a, paper document or electronic or magnetic record similar thereto them	and any other paper document similar to them
Article 151, paragraph (2) and Article 231-2, paragraph (2)	by way of ... or using an electronic data processing system specified by the Rules of the Supreme Court	by way of

Article 160, paragraph (1)	an electronic statement (meaning an electronic or magnetic record prepared by a court clerk pursuant to the provisions of this Act and any other laws and regulations for the purpose of recording and public authentication of the formality, details, progress, etc. of proceedings conducted on the court date or any other date; the same applies hereinafter) as provided for by the Rules of the Supreme Court.	a record
Article 160, paragraph (3)	to the particulars of the electronic statement recorded in a file pursuant to the provisions of the preceding paragraph	in the record
Article 160, paragraph (4)	the electronic statement recorded in a file pursuant to the provisions of paragraph (2)	the record
	the electronic statement	the record
Article 160-2, paragraph (1)	an electronic statement recorded in a file pursuant to the provisions of paragraph (2) of the preceding Article	the record
Article 160-2, paragraph (2)	be made by making the entry of to that effect in a file	be made by preparing a record
Article 205, paragraph (3)	the matters, or the particulars recorded in a file or the particulars recorded in a recording medium under the preceding paragraph, pursuant to the provisions of the preceding paragraph	the matters

Article 215, paragraph (4)	the matters, or the particulars recorded in a file pursuant to the provisions of paragraph (2) or the particulars recorded in a recording medium as referred to in that paragraph	the matters
Article 231-3, paragraph (2)	or sending a recording medium storing the electronic or magnetic record or using an electronic data processing system specified by the Rules of the Supreme Court	or sending
Article 261, paragraph (4)	an electronic statement	a record
	shall record	must state