

In the Name of Almighty Allah, the Beneficent,
the Merciful

COMMERCIAL ARBITRATION LAW
CHAPTER ONE
GENERAL PROVISIONS

ARTICLE 1. Purpose:

This Law has been enacted to facilitate and encourage prompt, fair, and neutral resolution of commercial and economic disputes through arbitration, with respect to the agreements signed between Afghanistan and other states on commercial and economic arbitration and to regulate the relevant affairs.

ARTICLE 2. Definitions:

In this Law the following terms shall have the meanings set forth below:

- 1. Arbitrator: is a person who has the arbitration duty in commercial disputes.**
- 2. Arbitration: is a binding proceeding whereby an Arbitrator or Arbitrators perform neutral services pursuant to a request by the parties or Court in order to resolve disputes under contracts for economic or commercial transactions.**
- 3. "Arbitration agreement" is a written agreement between two parties as an article or otherwise for fully or partially transferring of a dispute arising from contract or otherwise to an arbitrator(s) or arbitrator tribunal.**
- 4. Arbitration award: is a final decision taken by Arbitrator(s), Arbitral Tribunal, or Court to settle the dispute.**
- 5. Business Transaction: means all commercial and economic natures and based on contract or otherwise.**
- 6. Court: means the competent Commercial Court of Afghanistan.**
- 7. Central Registry: means an authority office in which all documents related to Arbitration are registered and maintained.**

ARTICLE 3. Arbitration Procedures:

Arbitration can be done in two ways, domestic or international.

An Arbitration is international:

If in the contract it is described as such;

If the transaction occurs between two or more countries although this has not been mentioned in the agreement.

If it has not been mentioned in the agreement, the law of the country where the parties are transacting business, shall be applicable;

In situations not stipulated by paragraph 1) of this article it is called domestic arbitration.

ARTICLE 4. Scope of application:

The provisions of this Law, except ARTICLES 11 and CHAPTER 7, apply only if the place of Arbitration is in Afghanistan.

This Law shall not apply to certain disputes which are not subject to Arbitration or the resolution of which is regulated under other legislation.

ARTICLE 5. Direct Negotiation:

This Law shall not prevent parties to a commercial dispute from negotiating a settlement of their dispute either through direct negotiations or through mediation, or other similar methods of resolving commercial disputes.

ARTICLE 6. Receiving Electronic Correspondence:

Unless otherwise agreed [by the parties], any written communication will be considered to have been received if it is delivered to the addressee personally or if it is delivered to his or her registered place of business in Afghanistan by registered letter or any other means that demonstrates an attempt to deliver it, and the communication will be considered to have been received on the day it is delivered. This ARTICLE applies only to communications regarding arbitration proceedings.

ARTICLE 7. Arbitration Proceeding:

Arbitration shall commence on the day of hearing the case. The Arbitrator shall determine a time period for the parties to respond. A party shall be deemed to have waived his or her right to object if the party does not present its documents within the determined time period.

ARTICLE 8. Intervention Prohibited in Arbitration Affairs:

In matters governed by this Law, no Court or government agency shall intervene except as provided by this Law.

ARTICLE 9. Consolidation of Arbitration Proceedings:

Arbitrators are authorized to consolidate proceedings and obtain agreement of parties to the same dispute or disputes to increase efficiency and avoid conflicting resolutions of disputes.

A Court, upon request by any party or parties to the same dispute or disputes, may order the consolidation of proceedings and joinder of parties if it determines that doing so will promote efficiency and uniformity of Awards.

ARTICLE 10. Maintaining Arbitration Awards:

Unless the parties agree otherwise, all Arbitral proceedings conducted and Awards made pursuant to this Law shall be kept confidential.

A Court shall, upon request by any party or Arbitrator, take reasonable actions to ensure that confidentiality.

ARTICLE 11. Immunity:

Arbitrators shall be immune from any inquiry/interrogation concerning their actions, inactions or Awards as Arbitrators, unless a party alleges that an Arbitrator's actions, inactions or Awards resulted from undue influence, conflict of interest or bribery.

ARTICLE 12. Manner of Activity:

The arbitral tribunal or arbitrator may come into existence for performance of services relevant to settlement of the commercial and economic disputes as partnerships or corporations according to provisions of relevant law and shall be registered with the central registry. The Arbitrator must have at least a degree from a law or theology [Islamic Law] faculty.

The Central Registry, after completion of registry process of the Arbitrator, maintains the files relating to the background, experience and education of each Arbitrator including evidence and showing diploma from the faculty of law or theology or that he is an active member of an arbitral association, which can be publicly accessible under the list of Arbitrators. Everybody can freely evaluate these files during the working hours. With completion of the registry process in the Central Registry, the Arbitrator may advertise and disseminate his/her occupation.

The parties are free to select Arbitrator(s) or arbitral tribunal (domestic or foreign).

Arbitrator(s) or an arbitral tribunal or a chamber of commerce or such others may create arbitral associations.

The Afghan Arbitral Association may ensure contacts and relations with foreign arbitral associations.

CHAPTER TWO ARBITRATION AGREEMENT

ARTICLE 13. Arbitration Agreements:

Arbitration Agreements shall be written. An Agreement is in writing if it is:

- 1. Contained in a document signed by the parties;**
- 2. In an exchange of letters or other written communications (including, but not limited to, electronic mail) which presents a record of the Agreement; or**
- 3. In an exchange of statements of claim and defense in which the existence of an Agreement is alleged by one party and not denied by another.**

ARTICLE 14. Arbitration Mentioned in Contract

Inclusion in a contract of an Arbitration clause or provision constitutes an Arbitration Agreement provided that the contract is in writing.

ARTICLE 15. Court Proceeding in Arbitration :

If an action that is subject to an Arbitration Agreement is brought before a Court, the Court shall refer the matter to Arbitration if any of the parties requests, before timely filing with the Court his or her first substantive statement, and if the Court finds that the Arbitration Agreement meets the requirements of this Law.

If an action referred to in Paragraph 1) of this ARTICLE is brought but not resolved and settled, Arbitral proceedings may nevertheless be commenced or continued, and an Award may be made by the Arbitrator(s) or Arbitral Tribunal. However, the Court shall suspend its proceeding until the Arbitral proceeding is concluded.

During any Arbitral proceedings by an Arbitrator(s) or Arbitral Tribunal, a party may request and a Court may grant interim protection.

ARTICLE 16. Assignment of Dispute to Commercial Arbitration :

If there is no prior arbitration clause or Arbitration Agreement, the parties may nevertheless mutually decide to refer the dispute to the Commercial Arbitration Office. The written notice of such agreement to arbitrate must include:

- 1. Name, residence and business address, or postal address of each of the parties or its authorized agent;**
- 2. Description of the issue in dispute (the claim and its amount), and compensation sought;**
- 3. Reference to the underlying contract or agreement;**
- 4. Arbitrator(s) chosen as well as their ID details.**

CHAPTER THREE COMPOSITION OF ARBITRAL TRIBUNAL

ARTICLE 17. Composition of Arbitral Tribunal:

The parties are free to determine the number of Arbitrators, but if they do not, the number of Arbitrators shall be one, unless one of the parties is a State, in which case the number of Arbitrators shall be three.

ARTICLE 18. Nationality Preclusion in Arbitral Proceeding:

No person shall be precluded by reason of his or her nationality from serving as an Arbitrator, unless otherwise agreed by the parties.

ARTICLE 19. Procedures for the Selection of Arbitrators:

If the Parties have not agreed on a procedure for appointing an Arbitrator or Arbitrators, then:

1. In an Arbitration with three Arbitrators, each party shall appoint one Arbitrator and the two Arbitrators thus appointed shall appoint the third Arbitrator and: (i) if a party fails to appoint an Arbitrator within 30 days of receipt of a request to do so from the other party; or (ii) if the two Arbitrators fail to agree on the third Arbitrator within 30 days of the appointment of the second Arbitrator, then the appointment shall be made within 30 days of either party's written request by the Court;

2. In an Arbitration with a sole Arbitrator, if the parties are unable to agree on the Arbitrator, an Arbitrator shall be appointed by the Court, within 30 days of a written request of a party to the Court.

If the parties have agreed to an appointment procedure: but (i) a party fails to act as required under such procedure; (ii) the parties or Arbitrators are unable to reach an Agreement expected of them under such procedure; or (iii) a third party, including an Arbitral [or other] institution, fails to perform any function entrusted to it under such procedure, then any party may request a Court to take the necessary measure, unless the Agreement on the appointment procedure provides otherwise.

A Court acting pursuant to Paragraph 1) or 2) of this ARTICLE shall have due regard to any qualifications required of the Arbitrator by the Agreement of the parties, to:

the potential Arbitrator's knowledge of the relevant Law and relevant commercial and economic experience,

Independence and impartiality of the Arbitrator

A citizenship other than those of the parties.

A decision by the Court on a matter subject to paragraphs 1) and 2) of this ARTICLE shall not be subject to further appeal.

ARTICLE 20. Introduction of the Arbitrator:

Any person appointed or selected as an Arbitrator, is obliged to provide necessary information to the parties before or upon appointment or during Arbitral proceedings concerning his personality or other personal details that will eliminate doubts as to his/her impartiality or independence, unless s/he has already provided such information.

ARTICLE 21. Challenge of Arbitrator:

An Arbitrator may be challenged only when there are doubts about his or her impartiality or independence or if he or she does not possess qualifications agreed to by the parties.

A party may not challenge an Arbitrator appointed by that party, or to whose appointment that party has consented, for any reason unless the party does not become aware of the absence of its qualifications until after the appointment of the Arbitrator.

The parties may agree on the procedure of refuse or challenge on arbitrator, upon consideration of Article 24 of this law.

ARTICLE 22. Arbitral Tribunal's Decision on the Rejection of the Arbitrator:

If the parties have not agreed on a procedure for challenging an Arbitrator, then a party who intends to challenge an Arbitrator may, within 15 days after becoming aware of the constitution of the Arbitral Tribunal or after becoming aware of any circumstance referred to in ARTICLE 23, send a written statement of the reasons for the challenge to the Arbitral Tribunal and, unless the challenged Arbitrator withdraws from his or her office or the other party agrees to the challenge, the Arbitral Tribunal shall decide on the challenge.

ARTICLE 23. Court Decision on Challenging the Arbitrator:

If a challenge under any procedure agreed upon by the parties or under the procedure of ARTICLE 22 is not successful, then the challenging party may request, within 30 days after having received notice of the decision of the Arbitral Tribunal rejecting the challenge, that a Court decide on the challenge, which decision shall not be subject to further appeal, but while such a request is pending, the Arbitral Tribunal, including the challenged Arbitrator, may continue the Arbitral proceedings and make an Award.

ARTICLE 24. Termination of the Arbitrator's Duty :

1) The parties of the dispute may agree to terminate the duty of the Arbitrator(s) or the Arbitral Tribunal in the following cases:

1- If an Arbitrator refuses to perform the Arbitration;

2- If an Arbitrator fails to carry out his/her duties;

3- If an Arbitrator withdraws or dies;

4- If s/he fails to act without undue delay.

2) If there is a controversy regarding an Arbitrator's(s') inability to perform or act without undue delay, any party may request a Court to decide on terminating the Arbitrator's service on the Arbitral Tribunal, and the Court order is final.

3) If an Arbitrator(s) withdraws from his or her office or a party agrees to the termination of an Arbitrator's service on the Arbitral Tribunal, there shall be no implication as to the ability of the Arbitrator(s) in connection with any future duties.

4) When an Arbitrator's service on an Arbitral Tribunal is terminated, a substitute Arbitrator shall be appointed according to the rules that were applicable to the appointment of the Arbitrator being replaced.

CHAPTER FOUR JURISDICTION OF THE ARBITRAL TRIBUNAL

ARTICLE 25. Jurisdiction of the Arbitral Tribunal:

The Arbitral Tribunal has the following powers:

To resolve any matter within its jurisdiction.

To resolve objections with respect to the existence or validity of the Arbitration Agreement.

A provision or clause that forms part of an Arbitration contract shall be treated as an independent Agreement and a decision by the Arbitral Tribunal that the contract is null and void shall not invalidate that provision or clause of the Arbitration contract.

ARTICLE 26. Claims against Jurisdiction of the Arbitral Tribunal:

A claim by a party that the Arbitral Tribunal does not have jurisdiction may be raised before the statement of defense is filed, except when:

(1) A party that raises jurisdictional claims has appointed, or participated in the appointment of, an Arbitrator(s), or Arbitral Tribunal;

(2) A party's claim that the Arbitral Tribunal is exceeding the scope of its authority is raised when the matter alleged to exceed the scope of its authority arises;

(3) One of the parties claims a delay in Arbitration procedures and the Arbitral Tribunal considers the delay justified.

ARTICLE 27. Decisions of the Arbitral Tribunal

The Arbitral Tribunal may decide on a claim referred to in ARTICLE 42 of this law either when it is raised or in an Award on the case.

ARTICLE 28. Issuance of an Order by a Court

If the Arbitral Tribunal decides on a claim that it has jurisdiction, when it is raised, any party may request, within 30 days after receipt of notice, a ruling from a Court on the matter, which ruling shall not be subject to further appeal and, while such a request is pending, the Arbitral Tribunal may continue the Arbitral proceedings and make an Award.

ARTICLE 29. Taking Precautionary Measures:

1) Unless otherwise agreed by the parties, the Arbitral Tribunal may, at the request of a party, take measures and issue any interim orders it deems necessary during the proceedings to protect the subject matter of the Arbitration, including any measures for protecting the goods and commodities involved in the dispute, such as entrusting such items to third parties or selling perishable goods.

2) The Arbitral Tribunal may require the payment of expenses resulting from such measures mentioned in paragraph 1) of this article.

3) Requests or applications by either party for such an interim order of protection from the Court shall not be deemed inconsistent with the Arbitration Agreement or a waiver of such Agreement.

CHAPTER FIVE

CONDUCT OF THE ARBITRAL PROCEEDINGS

ARTICLE 30. Fair Treatment:

Arbitrator(s) will treat the parties with equality and each party shall be given a full and fair opportunity to present his or her case.

ARTICLE 31. Proceedings According to Procedures:

1) The parties are free to agree on the procedure to be followed by the Arbitral Tribunal in conducting the proceedings.

2) If the parties have not or cannot agree on a procedure to be followed by the Arbitral Tribunal in conducting the proceedings, the Arbitral Tribunal may, subject to the provisions of this Law conduct the Arbitration as is appropriate including making determinations regarding the admissibility, relevance, materiality and weight of any evidence and compelling the production of evidence by sanctioning parties.

ARTICLE 32. Selection of Arbitral Institution :

Absent an Agreement by the parties to conduct an Arbitration without using an Arbitral institution, if the parties do not specify and cannot agree upon an Arbitral institution under which the Arbitration will be conducted, the Arbitral institution shall be determined by a Court, which decision shall not be subject to further appeal.

ARTICLE 33. Selection of Arbitration Location:

1) The parties are free to agree on the place of Arbitration. Failing such Agreement, the place of Arbitration shall be determined by the Arbitral Tribunal having regard to the circumstances of the case, including the convenience of the parties.

2) The Arbitral Tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts, for presence of the parties, or for inspection of goods, other property or documents.

3) For the inspection of goods, other property or documents, the Arbitral Tribunal shall determine a time for any hearing or meeting of the board and shall inform the parties.

ARTICLE 34. Starting of Arbitration Proceeding:

Unless otherwise agreed by the parties, the Arbitral proceedings with respect to a particular dispute shall commence on the date on which a demand for Arbitration is received by the respondent.

ARTICLE 35. Usage of Language in Arbitration Proceeding:

The parties are free to agree on the language or languages to be used in the Arbitral proceedings. Failing such Agreement, the Arbitral Tribunal shall determine the language or languages to be used in the proceedings. Any Agreement or determination as to language, unless otherwise agreed upon by the parties, shall apply to any written statement by a party, any hearing and any Award, decision or other communication by the Arbitral Tribunal. The Arbitral Tribunal may order that any documentary evidence be accompanied by a translation into the language or languages agreed upon by the parties or determined by the Arbitral Tribunal.

ARTICLE 36. Statement of Claim and Defense:

Unless the parties have otherwise agreed as to the elements of statements of claim or defense, within the period of time agreed by the parties or within 15 days of the Arbitration proceeding, the elements of claim or defense shall be stated, in compliance with the following:

(a) The claimant(s) shall state the facts supporting his or her claim(s), the points at issue and the relief or remedy sought;

(b) The respondent(s) shall state his or her defense regarding the points at issue and the relief or remedy sought and shall state the facts supporting counter-claim(s) he or she may have [against any claimant(s)];

(c) The parties may submit with their statements all documents that are relevant to the case to the Arbitral Tribunal.

ARTICLE 37. Correction of the Defense:

Unless otherwise agreed by the parties, either party may amend or supplement his or her claim or defense during the course of the Arbitral proceedings, unless the Arbitral Tribunal, in the interest of fairness or of avoiding undue delay, or is violative of the Arbitration Agreement, considers it inappropriate to allow such amendment.

ARTICLE 38. Notice of the Meeting:

- 1) Subject to agreement by the parties, the Arbitral Tribunal may decide to hold oral hearings or on other matters, provided that there shall be at least 30 days prior written notice to the parties of such a hearing.
- 2) If requested by a party, the Arbitral Tribunal may hold oral hearings at an appropriate stage of the proceedings, unless the parties have agreed otherwise.

ARTICLE 39. Collecting Information:

All statements, documents or other information, supplied to the Arbitral Tribunal by one party shall be provided to the other party. Any expert report or evidentiary document on which [the Arbitral Tribunal] may rely in making [its] decision shall be communicated to the parties.

ARTICLE 40. Continuation of Arbitration:

- 1) Unless otherwise agreed by the parties, the Arbitral Tribunal may continue the proceedings and make the Award on the evidence before it as appropriate under the circumstances.
- 2) If a claimant fails to communicate his or her statement of claim in accordance with sub 1 ARTICLE 54, the Arbitral Tribunal may terminate the proceedings.
- 3) If a respondent fails to communicate his or her statement of defense in accordance with sub 2 ARTICLE 54, the Arbitral Tribunal may continue the proceedings and determine a reasonable time for the respondent to communicate his/her defense.
- 4) If any one of the parties fails to appear at a hearing or to produce documentary evidence, the Arbitrator tribunal may continue the arbitration proceeding and based on the evidence already presented, issue its award.

ARTICLE 41. Appointment of Experts:

- 1) Unless otherwise agreed by the parties, the Arbitral Tribunal may appoint one or more experts to report to it on issues to be determined by the Arbitral Tribunal.
- 2) The Arbitral Tribunal may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his or her inspection.
- 3) The expert shall, after delivery of his or her written or oral report, participate in the hearing if requested by the parties or required by the Tribunal.

ARTICLE 42. Request for Evidence:

The Arbitral Tribunal or any one of the parties, when needed, may request the relevant documents or evidence from a Court.

CHAPTER SIX

MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

ARTICLE 43. Applicable law:

- 1) The Arbitral Tribunal shall decide the dispute in accordance with the rules of Law chosen by the parties.**
- 2) Failing any designation by the parties or when there is a conflict of laws, the Arbitral Tribunal shall apply the Law it considers applicable.**

ARTICLE 44. Arbitrator not Appointed as Mediator:

When requested by the parties, the Arbitral Tribunal shall not engage in Mediation with respect to disputes pending before it. However, the parties are free to appoint a third party as a mediator.

ARTICLE 45. Decision Making Manner:

In arbitral proceedings with more than one Arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding Arbitrator, if so authorized by the parties or the other members of the arbitral tribunal.

ARTICLE 46. Arbitral Award:

- 1) If, during Arbitral proceedings, the parties settle their dispute, the Arbitral Tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the Arbitral Tribunal, record the settlement in the form of an Arbitral Award on agreed terms.**
- 2) An Award mentioned in Para 1) of this Article shall be made in accordance with Article 48 and shall have the same status and effect as any other Award on the merits of the case.**

ARTICLE 47. Contents of the Award:

1) An Award shall:

- 1. Be made in writing and be signed by the Arbitrator or Arbitrators (in Arbitral proceedings with more than one Arbitrator, the signatures of the majority of all members of the Arbitral Tribunal shall suffice, provided that the reason for any omitted signature is stated);**
- 2. State the reasons upon which they are based, unless the parties have agreed that no reasons are to be given or the Award is an Award on agreed terms under ARTICLE 47;**
- 3. Include the date and place of Arbitration.**

- 2) Arbitral proceedings by the Arbitral Tribunal are terminated by an Award concerning the disputed case.**

3) After an Award is made, a copy signed by the Arbitrators in accordance with Paragraph 1) of this ARTICLE shall be delivered to each party. Also, a copy shall be maintained by the office of the Tribunal.

ARTICLE 48. Termination of Arbitration Proceedings:

An Arbitral Tribunal shall issue a termination of the Arbitral proceedings:

1. When the claimant withdraws his or her claim, unless the respondent has a counter-claim against the claimant, or the respondent objects to the claimant withdrawing his or her claim and the arbitral tribunal recognizes a legitimate interest on the respondent's part in obtaining a final settlement of the dispute

2. The parties agree on the termination of the proceedings;

3. The Arbitral Tribunal finds that the continuation of the proceedings has for any other justifiable reason become unnecessary or impossible.

ARTICLE 49. Correction of Mistakes:

Within 30 days of receipt of the Award, unless another period of time has been agreed upon by the parties, a party, with notice to the other party, may request the Arbitral Tribunal to correct any errors in computation, any clerical or typographical errors or any errors of similar nature in the Award or give an interpretation of a specific point or part of the Award. If the Arbitral Tribunal considers the request to be justified, it shall make the correction or give the interpretation within 30 days of receipt of the request and the interpretation shall form part of the Award. An Arbitral Tribunal, on its own initiative, may correct any error of the type referred to in this ARTICLE on its own initiative.

ARTICLE 50. Issuance of Complementary [Additional] Award:

Parties, with notice to the other party, may within 30 days of receipt of the Award, request the Arbitral Tribunal to make an additional Award as to claims presented in the Arbitral proceedings but omitted from the Award. If the Arbitral Tribunal considers the request to be justified, it shall decide on any additional Award within 60 days of receiving the request.

ARTICLE 51. Extension of Period:

The Arbitral Tribunal may extend for a reasonable period the time within which it shall make a correction, interpretation or an additional Award under ARTICLES 50 and 51.

ARTICLE 52. Adhering to Article 48:

The Arbitral Tribunal shall comply with the provisions of ARTICLE 48 of this law in a correction or interpretation of an Award or an additional Award.

CHAPTER SEVEN RECOURSE AGAINST THE AWARD

ARTICLE 53. Setting Aside the Arbitral Award:

An Arbitral Award may be set aside by a Court based on the request or based on the objection of a party if:

- 1. A party to the Arbitration Agreement referred to in ARTICLE 14 was under legal incapacity;**
- 2. The Arbitration Agreement has subjected the parties to a law that is not valid under the Laws of Afghanistan;**
- 3. The party making the application was not given proper notice of the appointment of an Arbitrator, of the Arbitral proceedings or was otherwise unable to present his or her case as provided by this Law;**
- 4. An Arbitrator was bribed, subject to undue influence or had a material conflict of interest with respect to a party, witness or the subject matter of the Arbitration that was not timely disclosed to the parties pursuant to this Law;**
- 5. The Award deals with a dispute not contemplated by or not falling within the terms of the Arbitration Agreement or contains decisions on matters beyond the scope of the submission to Arbitration, but if the decisions on matters beyond the scope of the Arbitration can be separated from those not beyond the scope of the Arbitration, then only that part of the Award which contains decisions on matters beyond the scope of the Arbitration may be set aside;**
- 6. The composition of the Arbitral Tribunal or the Arbitral procedure was not in accordance with the Agreement of the parties, unless the Agreement of the parties was in conflict with a provision of this Law from which the parties cannot deviate; or**
- 7. The subject-matter of the dispute is not capable of settlement by Arbitration under the Laws of Afghanistan or the Award is in conflict with the public [State] policy of Afghanistan.**

ARTICLE 54. Period for the Application to Set Aside [the Arbitral Award]:

An application to set aside an Award may be made within three months from the date on which an award was issued by the Arbitral Tribunal.

ARTICLE 55. Rehearing by the Arbitral Tribunal

A Court, when an Award is set aside, may, where appropriate and so requested by a party, give the Arbitral Tribunal a reasonable opportunity to resume the Arbitral proceedings or to take such other action as in the Arbitral Tribunal's opinion will eliminate the grounds for setting aside its Award.

CHAPTER EIGHT ENFORCEMENT OF AWARDS

ARTICLE 56. Enforcement or Refusal of Awards:

1) An Arbitral Award, irrespective of the country in which it was made, shall be enforceable.

2) An Arbitral Award may be refused in the following cases:

1. If a party to the Arbitration Agreement is under some incapacity;

2. If the award has not been issued subject to the law set forth in the agreement by the parties;

3. If the award is issued under a Law which is invalid;

4. If the party against whom the Award is invoked was not given proper notice of the appointment of an Arbitrator or of the Arbitral proceedings or was otherwise unable to present his or her defense as provided for in this Law;

5. If the Award deals with a dispute not contemplated by the Arbitration Agreement or not falling within the scope of its applicability, or it contains decisions on matters beyond the scope of the submission to Arbitration, but if the decisions on matters submitted to Arbitration can be separated from those not so submitted, only that part of the Award which contains decisions on matters submitted to Arbitration may be enforced;

6. If the composition of the Arbitral Tribunal or the Arbitral procedure was not in accordance with the Agreement of the parties or, failing such Agreement, was not in accordance with the Law of the country where the Arbitration took place;

7. The Award has not yet become binding on the parties and has been set aside or suspended by a Court of the country in which, or under the Law of which, that Award was made;

8. The subject-matter of the dispute is not capable of settlement by Arbitration under the Law of Afghanistan or enforcement of the Award would be contrary to the laws and regulations of Afghanistan.

ARTICLE 57. Presenting the Original of the Document:

The party relying on an Award or applying for its enforcement shall supply the duly authenticated original Award or a duly certified copy of the Award, the original Arbitration Agreement or a duly certified copy the Agreement and a duly certified translation thereof into one of official languages of Afghanistan.

ARTICLE 58. Provision of Security:

If an application to set aside or suspend an Award has been made to a Court, and if enforcement of the same Award is being sought in another Court, the Court considering the application to set aside or suspend the Award may adjourn its decision and may, at the request of the party claiming enforcement of the Award, order the other party to provide appropriate security.

CHAPTER NINE FINAL PROVISIONS

ARTICLE 59. Enacting Regulations and Procedures:

The Ministry of Commerce and Industry (“MOCI”), for better implementation of this law, may propose regulations and enact and approve rules and procedures.

ARTICLE 60: Effective Date:

This Law is in effect from the date of [the President’s] signature and shall be published in the Official Gazette. Upon the date this Law comes into effect, the regulations of the Commercial Arbitration Law of 1995, published in Official Gazette No. 779, dated July 1995 are null and void.