

China - Arbitration Law, 1994

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Contents

Arbitration Law of the People’s Republic of China
(Adopted at the Ninth Meeting of the Standing Committee of the Eighth National Peoples Congress on August 31, 1994, promulgated by Order No.31 of the President of the Peoples Republic of China on August 31, 1994, and effective as of September 1, 1995)

Chapter 1 - General Provisions

Article 1	1
Article 2	1
Article 3	1
Article 4	1
Article 5	1
Article 6	1
Article 7	1
Article 8	1
Article 9	2

Chapter II - Arbitration Commissions and the Arbitration Association

Article 10	2
Article 11	2
Article 12	2
Article 13	2
Article 14	3
Article 15	3

Chapter III - Arbitration Agreement

Article 16	3
Article 17	3
Article 18	4

Article 19	4
Article 20	4

Chapter IV - Arbitration Procedure

Section 1 - Application and Acceptance

Article 21	4
Article 22	4
Article 23	4
Article 24	5
Article 25	5
Article 26	5
Article 27	5
Article 28	5
Article 29	6

Section 2 - Formation of Arbitration Tribunal

Article 30	6
Article 31	6
Article 32	6
Article 33	6
Article 34	6
Article 35	6
Article 36	6
Article 37	7
Article 38	7

Section 3 - Hearing and Award

Article 39	7
Article 40	7
Article 41	7
Article 42	7
Article 43	8
Article 44	8

Article 45	8	Article 72	12
Article 46	8	Article 73	12
Article 47	8	Chapter VIII - Supplementary Provisions	12
Article 48	8	Article 74	12
Article 49	8	Article 75	12
Article 50	8	Article 76	12
Article 51	9	Article 77	12
Article 52	9	Article 78	13
Article 53	9	Article 79	13
Article 54	9	Article 80	13
Article 55	9	Metadata	14
Article 56	9	SiSU Metadata, document information	14
Article 57	10		
Chapter V - Application for Setting Aside Arbitration Award	10		
Article 58	10		
Article 59	10		
Article 60	10		
Article 61	10		
Chapter VI - Enforcement	10		
Article 62	10		
Article 63	11		
Article 64	11		
Chapter VII - Special Provisions for Arbitration Involving Foreign Elements	11		
Article 65	11		
Article 66	11		
Article 67	11		
Article 68	11		
Article 69	11		
Article 70	12		
Article 71	12		

1 **Arbitration Law of the People's Republic of China**
2 **(Adopted at the Ninth Meeting of the Standing**
3 **Committee of the Eighth National Peoples Congress**
4 **on August 31, 1994, promulgated by Order No.31 of the**
5 **President of the Peoples Republic of China on August**
6 **31, 1994, and effective as of September 1, 1995)**

7 **Chapter 1 - General Provisions**

8 **Article 1**

9 This Law is formulated in order to ensure the impartial and prompt
10 arbitration of economic disputes, to protect the legitimate rights and
interests of the parties and to safeguard the sound development of
the socialist market economy.

11 **Article 2**

12 Contractual disputes and other disputes over rights and interests
13 in property between citizens, legal persons and other organizations
14 that are equal subjects may be arbitrated.

15 **Article 3**

16 The following disputes may not be arbitrated:

- 17 (1) Marital, adoption, guardianship, support and succession dis-
18 putes;
19 (2) administrative disputes that shall be handled by administrative
20 organs as prescribed by law.

21 **Article 4**

22 The parties submission to arbitration to resolve their dispute shall
23 be on the basis of both parties free will and an arbitration agree-
24 ment reached between them. If a party applies for arbitration in the
25 absence of an arbitration agreement, the arbitration commission
26 shall not accept the case.

27 **Article 5**

28 If the parties have concluded an arbitration agreement and one
29 party institutes an action in a peoples court, the peoples court shall
30 not accept the case, unless the arbitration agreement is null and
31 void.

32 **Article 6**

33 The arbitration commission shall be selected by the parties through
34 agreement.

35 In arbitration, there shall be no jurisdiction by level and no territorial
36 jurisdiction.

37 **Article 7**

38 In arbitration, disputes shall be resolved on the basis of facts, in
39 compliance with the law and in an equitable and reasonable man-
40 ner.

41 **Article 8**

42 Arbitration shall be carried out independently according to law and

shall be free from interference of administrative organs, public organizations or individuals.

with the administrative department of justice of the relevant province, autonomous region or municipality directly under the Central Government.

Article 9

A system of a single and final award shall be practiced for arbitration. If a party applies for arbitration to an arbitration commission or institutes an action in a peoples court regarding the same dispute after an arbitration award has been made, the arbitration commission or the peoples court shall not accept the case.

If an arbitration award is set aside or its enforcement is disallowed by the peoples court in accordance with the law, a party may apply for arbitration on the basis of a new arbitration agreement reached between the parties, or institute an action in the peoples court, regarding the same dispute.

Chapter II - Arbitration Commissions and the Arbitration Association

Article 10

Arbitration commissions may be established in municipalities directly under the Central Government and in cities that are the seats of the peoples governments of provinces or autonomous regions. They may also be established in other cities divided into districts, according to need. Arbitration commissions shall not be established at each level of the administrative divisions.

Peoples governments of the cities referred to in the preceding paragraph shall arrange for the relevant departments and chambers of commerce to organize arbitration commissions in a unified manner.

The establishment of an arbitration commission shall be registered

Article 11

An arbitration commission shall meet the conditions set forth below:

- (1) To have its own name, domicile and charter;
- (2) To have the necessary property;
- (3) To have the personnel that are to form the commission; and
- (4) To have appointed arbitrators.

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

Article 12

An arbitration commission shall be composed of one chairman, two to four vice chairmen and seven to eleven members.

The offices of chairman, vice chairman and members of an arbitration commission shall be held by experts in the field of law, economy and trade and persons with practical working experience. Experts in the field of law, economy and trade shall account for at least two thirds of the people forming an arbitration commission.

Article 13

An arbitration commission shall appoint its arbitrators from among righteous and upright persons.

42 An arbitrator shall meet one of the conditions set forth below:

43 (1) To have been engaged in arbitration work for at least eight
years;

44 (2) To have worked as a lawyer for at least eight years;

45 (3) To have served as a judge for at least eight years;

46 (4) To have been engaged in legal research or legal education,
possessing a senior professional title; or

47 (5) To have acquired the knowledge of law, engaged in the pro-
fessional work in the field of economy and trade, etc., possess-
ing a senior professional title or having an equivalent professional
level.

48 An arbitration commission shall have a register of arbitrators in dif-
ferent specializations.*

49 **Article 14**

50 Arbitration commissions shall be independent from administrative
organs and there shall be no subordinate relationships between
arbitration commissions and administrative organs. There shall
also be no subordinate relationships between arbitration commis-
sions.

51 **Article 15**

52 China Arbitration Association is a social organization with the status
of a legal person. Arbitration commissions are members of China
Arbitration Association. The charter of China Arbitration Associa-
tion shall be formulated by its national congress of members.

53 China Arbitration Association is a self-disciplined organization of

arbitration commissions. It shall, in accordance with its charter, su-
pervise arbitration commissions and their members and arbitrators
as to whether or not they breach discipline.

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

Chapter III - Arbitration Agreement

Article 16

An arbitration agreement shall include arbitration clauses stipu-
lated in the contract and agreements of submission to arbitration
that are concluded in other written forms before or after disputes
arise.

An arbitration agreement shall contain the following particu-
lars:

- (1) an expression of intention to apply for arbitration;
- (2) matters for arbitration; and
- (3) a designated arbitration commission.

Article 17

An arbitration agreement shall be null and void under one of the
following circumstances:

- (1) The agreed matters for arbitration exceed the range of arbitrable
matters as specified by law;
- (2) One party that concluded the arbitration agreement has no ca-
pacity for civil conducts or has limited capacity for civil conducts;
or

66 (3) One party coerced the other party into concluding the arbitration 75
agreement.

67 **Article 18**

68 If an arbitration agreement contains no or unclear provisions con-
cerning the matters for arbitration or the arbitration commission,
the parties may reach a supplementary agreement. If no such sup-
plementary agreement can be reached, the arbitration agreement
shall be null and void.

69 **Article 19**

70 An arbitration agreement shall exist independently. The amend-
ment, rescission, termination or invalidity of a contract shall not
affect the validity of the arbitration agreement.

71 The arbitration tribunal shall have the power to affirm the validity of
a contract.

72 **Article 20**

73 If a party challenges the validity of the arbitration agreement, he
may request the arbitration commission to make a decision or ap-
ply to the peoples court for a ruling. If one party requests the arbi-
tration commission to made a decision and the other party applies
to the peoples court for a ruling, the peoples court shall give a rul-
ing.

74 A party's challenge of the validity of the arbitration agreement shall
be raised prior to the arbitration tribunals first hearing.

Chapter IV - Arbitration Procedure

Section 1 - Application and Acceptance

Article 21

A partys application for arbitration shall meet the following require-
ments:

(1) There is an arbitration agreement;

(2) There is a specific arbitration claim and there are facts and rea-
sons therefor; and

(3) The application is within the scope of the arbitration commis-
sions acceptability.

Article 22

To apply for arbitration, a party shall submit to the arbitration com-
mission the written arbitration agreement and a written application
for arbitration together with copies thereof.

Article 23

A written application for arbitration shall specify the following par-
ticulars;

(1) The name, sex, age, occupation, work unit and domicile of each
party, or the name and domicile of legal persons or other organiza-
tions and the names and positions of their legal representatives or
chief responsible persons;

(2) the arbitration claim and the facts and reasons on which it is
based; and

(3) the evidence, the source of the evidence and the names and

domiciles of witnesses.

Article 24

When an arbitration commission receives a written application for arbitration and considers that the application complies with the conditions for acceptance, it shall accept the application and notify the party within five days from the date of receipt. If the arbitration commission considers that the application does not comply with the conditions for acceptance, it shall inform the party in writing of its rejection of the application and explain the reasons for ejection within five days from the date of receipt.

Article 25

After an arbitration commission accepts an application for arbitration, it shall, within the timelimit specified in the rules of arbitration, deliver a copy of the rules of arbitration and the register of arbitrators to the claimant, and serve one copy of the application for arbitration together with the rules of arbitration and the register of arbitrators on the respondent.

After receiving the copy of the application for arbitration, the respondent shall submit a written defense to the arbitration commission within the time limit specified in the rules of arbitration. After receiving the written defense, the arbitration commission shall serve a copy thereof on the claimant within the time limit specified in the rules of arbitration. Failure on the part of the respondent to submit a written defense shall not affect the progress of the arbitration proceedings.

Article 26

If the parties have concluded an arbitration agreement and one party has instituted an action in a peoples court without declaring the existence of the arbitration agreement and, after the peoples court has accepted the case, the other party submits the arbitration agreement prior to the first hearing, the peoples court shall dismiss the case unless the arbitration agreement is null and void. If, prior to the first hearing, the other party has not raised an objection to the peoples courts acceptance of the case, he shall be deemed to have renounced the arbitration agreement and the peoples court shall continue to try the case.

Article 27

The claimant may renounce or alter its arbitration claim. The respondent may accept or refuse an arbitration claim and shall have the right to make a counter-claim.

Article 28

A party may apply for property preservation if it may become impossible or difficult for the party to execute the award due to an act of the other party or other causes.

If a party applies for property preservation, the arbitration commission shall submit the partys application to the peoples court in accordance with the relevant provisions of the Civil Procedure Law.

If an application for property preservation has been wrongfully made, the applicant shall compensate the person against whom the application has been made for any loss incurred from property preservation.

102	Article 29			
103	A party or statutory agent may appoint a lawyer or other agent to carry out arbitration activities. To appoint a lawyer or other agent to carry out arbitration activities, a power of attorney shall be submitted to the arbitration commission.			
104	Section 2 - Formation of Arbitration Tribunal			
105	Article 30			
106	An arbitration tribunal may be composed of either three arbitrators or one arbitrator. An arbitration tribunal composed of three arbitrators shall have a presiding arbitrator.			
107	Article 31			
108	If the parties agree that the arbitration tribunal shall be composed of three arbitrators, they shall each appoint or entrust the chairman of the arbitration commission to appoint one arbitrator. The parties shall jointly select or jointly entrust the chairman of the arbitration commission to appoint the third arbitrator who shall be the presiding arbitrator.			
109	If the parties agree that the arbitration tribunal shall be composed of one arbitrator, they shall jointly appoint or jointly entrust the chairman of the arbitration commission to appoint the arbitrator.			
110	Article 32			
111	If the parties fail to agree on the method of formation of the arbitration tribunal or to select the arbitrators within the time limit specified in the rules of arbitration, the arbitrators shall be appointed by the chairman of the arbitration commission.			
		Article 33		112
		After the arbitration tribunal has been formed, the arbitration commission shall notify the parties in writing of the tribunals formation.		113
		Article 34		114
		In one of the following circumstances, the arbitrator must withdraw, and the parties shall also have the right to challenge the arbitrator for a withdrawal:		115
		(1) The arbitrator is a party in the case or a close relative of a party of an agent in the case;		116
		(2) The arbitrator has a personal interest in the case;		117
		(3) The arbitrator has other relationship with a party or his agent in the case which may affect the impartiality of arbitration; or		118
		(4) The arbitrator has privately met with a party or agent or accepted an invitation to entertainment or gift from a party or agent.		119
		Article 35		120
		If a party challenges an arbitrator, he shall submit his challenge, with a statement of the reasons therefor, prior to the first hearing. If the matter giving rise to the challenge becomes known after the first hearing, the challenge may be made before the conclusion of the final hearing of the case.		121
		Article 36		122
		The decision as to whether or not the arbitrator should withdraw shall be made by the chairman of the arbitration commission. If		123

the chairman of the arbitration commission serves as an arbitrator, the decision shall be made collectively by the arbitration commission.

tribunal may render an arbitration award on the basis of the written application for arbitration, the written defense and other material.

124 **Article 37**

125 If an arbitrator cannot perform his duties due to his withdrawal or for other reasons, a substitute arbitrator shall be selected or appointed in accordance with this Law.

126 After a substitute arbitrator has been selected or appointed on account of an arbitrator's withdrawal, a party may request that the arbitration proceedings already carried out should be carried out anew. The decision as to whether to approve it or not shall be made by the arbitration tribunal. The arbitration tribunal may also make a decision of its own motion as to whether or not the arbitration proceeding already carried out should be carried out anew.

127 **Article 38**

128 If an arbitrator is involved in the circumstances described in item (4) of Article 34 of this Law and the circumstances are serious or involved in the circumstances described in item (6) of Article 58

129 of this Law, he shall assume legal liability according to law and the arbitration commission shall remove his name from the register of arbitrators.

130 **Section 3 - Hearing and Award**

131 **Article 39**

132 Arbitration shall be conducted by means of oral hearings. If the parties agree to arbitration without oral hearings, the arbitration

Article 40

Arbitration shall be conducted in camera. If the parties agree to public arbitration, the arbitration may be public unless State secrets are involved.

Article 41

The arbitration commission shall notify the parties of the date of the hearing within the time limit specified in the rules of arbitration. A party may, within the time limit specified in the rules of arbitration, request a postponement of the hearing if he has justified reasons therefor. The arbitration tribunal shall decide whether or not to postpone the hearing.

Article 42

If the claimant fails to appear before the arbitration tribunal without justified reasons after having been notified in writing or leaves the hearing prior to its conclusion without the permission of the arbitration tribunal, he may be deemed to have withdrawn his application for arbitration.

If the respondent fails to appear before the arbitration tribunal without justified reasons after having been notified in writing or leaves the hearing prior to its conclusion without the permission of the arbitration tribunal, a default award may be made.

Article 43

141 Parties shall provide evidence in support of their own argu-
ments.

142 The arbitration tribunal may, as it considers necessary, collect ev-
idence on its own.

Article 44

144 If the arbitration tribunal considers that a special issue requires
appraisal, it may refer the issue for appraisal to an appraisal de-
partment agreed on by the parties or to an appraisal department
designated by the arbitration tribunal.

145 If requested by a party or required by the arbitration tribunal, the
appraisal department shall send its appraiser to attend the hearing.
Subject to the permission of the arbitration tribunal, the parties may
question the appraiser.

Article 45

147 The evidence shall be presented during the hearings and may be
examined by the parties.

Article 46

149 Under circumstances where the evidence may be destroyed or lost
or difficult to obtain at a later time, a party may apply for preser-
vation of the evidence. If a party applies for preservation of the
evidence, the arbitration commission shall submit his application
to the basic peoples court in the place where the evidence is lo-
cated.

140 **Article 47**

The parties shall have the right to carry on debate in the course of
arbitration. At the end of the debate, the presiding arbitrator or the
sole arbitrator shall solicit final opinions from the parties.

Article 48

The arbitration tribunal shall make records of the hearings in writ-
ing. The parties and other participants in the arbitration shall have
the right to apply for supplementation or correction of the record
of their own statements if they consider that such record contains
omissions or errors. If no supplementation or corrections are to be
made, their application therefor shall be recorded.

the record shall be signed or sealed by the arbitrators, the recordist,
the parties and other participants in the arbitration.

Article 49

After an application for arbitration has been made, the parties may
settle their dispute on their own. If the parties have reached a
settlement agreement, they may request the arbitration tribunal to
make an arbitration award in accordance with the settlement agree-
ment; alternatively, they may withdraw their application for arbitra-
tion.

Article 50

If a party repudiates the settlement agreement after the applica-
tion for arbitration has been withdrawn, he may apply for arbitration
again in accordance with the arbitration agreement.

Article 51

The arbitration tribunal may carry out conciliation prior to giving an arbitration award. The arbitration tribunal shall conduct conciliation if both parties voluntarily seek conciliation. If conciliation is unsuccessful, an arbitration award shall be made promptly.

If conciliation leads to a settlement agreement, the arbitration tribunal shall make a written conciliation statement or make an arbitration award in accordance with the result of the settlement agreement. A written conciliation statement and an arbitration award shall have equal legal effect.

Article 52

A written conciliation statement shall specify the arbitration claim and the results of the settlement agreed upon between the parties. The written conciliation statement shall be signed by the arbitrators, sealed by the arbitration commission, and then served on both parties.

The written conciliation statement shall become legally effective immediately after both parties have signed for receipt thereof.

If the written conciliation statement is repudiated by a party before he signs for receipt thereof, the arbitration tribunal shall promptly make an arbitration award.

Article 53

The arbitration award shall be made in accordance with the opinion of the majority of the arbitrators. The opinion of the minority of the arbitrators may be entered in the record. If the arbitration tribunal is unable to form a majority opinion, the arbitration award

shall be made in accordance with the opinion of the presiding arbitrator.

Article 54

An arbitration award shall specify the arbitration claim, the facts of the dispute, the reasons for the decision, the results of the award, the allocation of arbitration fees and the date of the award. If the parties agree that they do not wish the facts of the dispute and the reasons for the decision to be specified in the arbitration award, the same may be omitted. The arbitration award shall be signed by the arbitrators and sealed by the arbitration commission. An arbitrator with dissenting opinions as to the arbitration award may sign the award or choose not to sign it.

Article 55

In arbitration proceedings, if a part of the facts involved has already become clear, the arbitration tribunal may first make an award in respect of such part of the facts.

Article 56

If there are literal or calculation errors in the arbitration award, or if the matters which have been decided by the arbitration tribunal are omitted in the arbitration award, the arbitration tribunal shall make due corrections or supplementation. The parties may, within 30 days from the date of receipt of the award, request the arbitration tribunal to make such corrections or supplementation.

Article 57

175 The arbitration award shall be legally effective as of the date on
which it is made.

176 **Chapter V - Application for Setting Aside Arbitration
Award**

177 **Article 58**

178 A party may apply for setting aside an arbitration award to the inter-
mediate peoples court in the place where the arbitration commis-
sion is located if he can produce evidence which proves that the ar-
bitration award involves one of the following circumstances;

- 179 (1) There is no arbitration agreement;
- 180 (2) The matters decided in the award exceed the scope of the ar-
bitration agreement or are beyond the arbitral authority of the arbi-
tration commission;
- 181 (3) The formation of the arbitration tribunal or the arbitration proce-
dure was not in conformity with the statutory procedure;
- 182 (4) The evidence on which the award is based is forged;
- 183 (5) The other party has withheld the evidence which is sufficient to
affect the impartiality of the arbitration; or
- 184 (6) The arbitrators have committed embezzlement, accepted
bribes or done malpractice for personal benefits or perverted the
law in the arbitration of the case.

185 The Peoples court shall rule to set aside the arbitration award if a
collegial panel formed by the peoples court verifies upon examina-
tion that the award involves one of the circumstances set forth in
the preceding paragraph.

18574

If the peoples court determines that the arbitration award violates
the public interest, it shall rule to set aside the award.

Article 59

187

A party that wishes to apply for setting aside the arbitration award
shall submit such application within six months from the date of
receipt of the award.

188

Article 60

189

The peoples court shall, within two months from the date of accept-
ing an application for setting aside an arbitration award, rule to set
aside the award or to reject the application.

190

Article 61

191

If, after accepting an application for setting aside an arbitration
award, the peoples court considers that the case may be re-
arbitrated by the arbitration tribunal, it shall notify the tribunal that
it shall re-arbitrate the case within a certain time limit and shall
rule to stay the setting-aside procedure. If the arbitration tribunal
refuses to re-arbitrate the case, the peoples court shall rule to
resume the setting-aside procedure.

192

Chapter VI - Enforcement

193

Article 62

194

The parties shall perform the arbitration award. If a party fails to
perform the arbitration award, the other party may apply to the peo-
ples court for enforcement in accordance with the relevant provi-

195

sions of the Civil Procedure Law. The peoples court to which the application has been made shall enforce the award.

196 **Article 63**

197 If the party against whom the enforcement is sought presents evidence which proves that the arbitration award involves one of the circumstances set forth in the second paragraph of Article 217

198 of the Civil Procedure Law, the peoples court shall, after examination and verification by a collegial panel formed by the peoples court, rule to disallow the award.

199 **Article 64**

200 If one party applies for enforcement of the arbitration award and the other party applies for setting aside the arbitration award, the peoples court shall rule to suspend the procedure of enforcement.

201 If the peoples court rules to set aside the arbitration award, it shall rule to terminate the enforcement procedure. If the peoples court rules to reject the application for setting aside the arbitration award, it shall rule to resume the enforcement procedure.

202 **Chapter VII - Special Provisions for Arbitration Involving Foreign Elements**

203 **Article 65**

204 The provisions of this Chapter shall apply to the arbitration of dis-

putes arising from economic, trade, transportation and maritime activities involving a foreign element. For matters not covered in this Chapter, the other relevant provisions of this Law shall apply.

205 **Article 66**

206 Foreign-related arbitration commissions may be organized and established by the China Chamber of International Commerce.

207 A foreign-related arbitration commission shall be composed of one chairman, a certain number of vice chairmen and members.

208 The chairman, vice chairmen and members of a foreign-related arbitration commission may be appointed by the China Chamber of International Commerce.

209 **Article 67**

210 A foreign-related arbitration commission may appoint arbitrators from among foreigners with special knowledge in the fields of law, economy and trade, science and technology, etc..

211 **Article 68**

212 If a party to a foreign-related arbitration applies for preservation of the evidence, the foreign-related arbitration commission shall submit his application to the intermediate peoples court in the place where the evidence is located.

213 **Article 69**

214 A foreign-related arbitration tribunal may enter the details of the hearings in written records or make written minutes thereof. The

written minutes may be signed or sealed by the parties and other participants in the arbitration. 221

215 **Article 70**

216 If a party presents evidence which proves that a foreign-related arbitration award involves one of the circumstances set forth in the first paragraph of Article 260 of the Civil Procedure Law, the peoples court shall, after examination and verification by a collegial panel formed by the peoples court, rule to set aside the award.

217 **Article 71**

218 If the party against whom the enforcement is sought presents evidence which proves that the foreign-related arbitration award involves one of the circumstances set forth in the first paragraph of Article 260 of the Civil Procedure Law, the peoples court shall, after examination and verification by a collegial panel formed by the peoples court, rule to disallow the enforcement.

219 **Article 72**

220 If a party applies for enforcement of a legally effective arbitration award made by a foreign-related arbitration commission and if the party against whom the enforcement is sought or such party's property is not within the territory of the Peoples Republic of China, he shall directly apply to a competent foreign court for recognition and enforcement of the award.

Article 73

Foreign-related arbitration rules may be formulated by the China Chamber of International commerce in accordance with this Law and the relevant provisions of the Civil Procedure Law. 222

Chapter VIII - Supplementary Provisions

Article 74

If prescription for arbitration is provided by law, such provisions shall apply. In the absence of such provisions, the prescription for litigation shall apply to arbitration. 224

Article 75

Prior to the formulation of rules of arbitration by China Arbitration Association, arbitration commissions may formulate provisional rules of arbitration in accordance with this Law and the relevant provisions of the Civil Procedure Law. 226

Article 76

Parties shall pay arbitration fees according to regulations. 228
Measures for charging arbitration fees shall be submitted to the price control authorities for examination and approval. 229

Article 77

Regulations concerning arbitration of labor disputes and agricultural contractors contract disputes arising within the agricultural 231

collective economic organizations shall be formulated separately.

233 **Article 78**

234 If regulations governing arbitration promulgated prior to the implementation of this Law contravene the provisions of this Law, the provisions of this Law shall prevail.

235 **Article 79**

236 Arbitration institutions established prior to the implementation of this Law in the municipalities directly under the Central Government, in the cities that are the seats of the peoples governments of provinces or autonomous regions and in other cities divided into districts shall be reorganized in accordance with this Law. Those of such arbitration institutions that have not been reorganized shall terminate upon the end of one year from the date of the implementation of this Law.

237 Other arbitration institutions established prior to the implementation of this Law that do not comply with the provisions of this Law shall terminate on the date of the implementation of this Law.

238 **Article 80**

239 This Law shall come into force as of September 1, 1995.

Metadata

SiSU Metadata, document information

Document Manifest @:

http://www.jus.uio.no/lm/china.arbitration.law.1994/sisu_manifest.html

Title: China - Arbitration Law, 1994

Creator: MOFTEC

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Publisher: SiSU <http://www.jus.uio.no/sisu> (this copy)

Date: 1994-08-31

Topics Registered: statute:China;arbitration:statute:China

Version Information

Sourcefile: china.arbitration.law.1994.sst

Filetype: SiSU text 2.0

Source Digest: SHA256(china.arbitration.law.1994.sst)=d9c5342433db1cae-00587bae5cd6929e3bd9b62bfd3f19eedc4d6d12ff539fa

Skin Digest: SHA256(skin_lm.rb)=5acda64a9532f9ef6b71693da2b471d4efac2f23-a8499e68de066eec8ea9b8e9

Generated

Document (dal) last generated: Wed Sep 01 13:28:07 -0400 2010

Generated by: SiSU 2.6.3 of 2010w30/3 (2010-07-28)

Ruby version: ruby 1.8.7 (2010-08-16 patchlevel 302) [i486-linux]