

(Translation)

Arbitration Act B.E. 2545

BHUMIBOL ADULYADEJ, REX.,

Given on the 23rd day of April B.E. 2545 (2002)

Being the 57th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is deemed expedient to reform the law concerning arbitration.

Be it, therefore, enacted by the King, by and with the advice and consent of the Parliament as follows:

Section 1 This Act shall be called the “Arbitration Act B.E. 2545.”

Section 2 This Act shall come into force as from the day following the date of its publication in the Government Gazette.*

Section 3 The Arbitration Act B.E. 2530 (1987) shall be repealed.

Section 4 Whenever a reference is made by any law to the provisions of the Civil Procedure Code relating to out-of-court arbitration, such reference shall be deemed to have been made to this Act.

Section 5 Under this Act:

“**Arbitral Tribunal**” means a sole arbitrator or a panel of arbitrators;

“**Court**” means any organization or institute that has judicial power under the laws of the country in which the court is established;

“**Claim**” includes a counterclaim, except the claims under Section 31(1) and Section 38 paragraph two (1);

“**Defense**” includes an answer to counterclaim, except the answer to counterclaim in Section 31(2) and Section 38 paragraph two (1).

Section 6 Subject to Section 34, where the provisions of this Act empower the parties to determine any issue, the parties may authorize a third party or institution to make that determination on their behalves.

Where a provision of this Act stipulates that any fact shall be or may be agreed by the parties, or in any other way refers to an agreement between the parties, such agreement shall include any arbitration rules referred to in the agreement.

* 29 April 2002.

Section 7 Unless otherwise agreed by the parties, any written communication sent under this Act is deemed to have been received by the addressee if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address as specified therein; or if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business address, habitual residence or mailing address by a registered letter or certified registered case of domestic mail, or sent by any other means which provides a record of the attempt to deliver it.

The provisions of this Section do not apply to the service of documents court proceedings.

Section 8 In the event that any party who knows that any provision of this Act from which the parties may delegate or any requirement under the arbitration agreement has not been complied with, if that party still proceeds with the arbitration without stating his objection to the other non-complying party within a reasonable period of time or, within a time-limit provided thereof, it shall be deemed that the party have waived his right to object.

Section 9 The competent court under this Act shall be the Central Intellectual Property and International Trade Court, or the regional intellectual property and international trade court, or a court where the arbitral proceedings are conducted, or a court in which either party is domiciled, or a court which has jurisdiction over the dispute submitted to arbitration, as the case may be.

Section 10 The Minister of Justice shall take charge of this Act.

CHAPTER 1

Arbitration Agreement

Section 11 Arbitration agreement means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

The arbitration agreement shall be in writing and signed by the parties. An arbitration clause constitutes an arbitration agreement if it is contained in an exchange between the parties by means of letters, facsimiles, telegrams, telex, data interchange with electronic signature, or other means which provide a record of the agreements, or in an exchange of statement of claim and defense in which the existence of an agreement is alleged by one party and not denied by the other.

The references in a contract evidenced in writing to any document containing an arbitration clause constitutes an arbitration agreement, provided that the reference is such as to make that clause part of the contract.

Section 12 The validity of the arbitration agreement and the appointment of arbitrator shall not be prejudiced, even if any party thereto is dead, or ceases to be a juristic person, or against whom a final receiving order has been issued against his property, or has been adjudged incompetent or quasi-incompetent.

Section 13 When there is a transfer of any claim or liability, the transferee shall be bound by the arbitration agreement concerning such claim or liability.

Section 14 In case where any party to the arbitration agreement commences any legal proceedings in court against the other party thereto in respect of any dispute which is the subject of the arbitration agreement, the party against whom the legal proceedings are commenced may file with the competent court, no later than the date of filing the statement of defense or within the period for filing the statement of defense in accordance with the law, a motion requesting the court to issue an order striking the case, so that the parties may proceed with the arbitral proceedings. Upon the court having completed the inquiry and found that there are no grounds for rendering the arbitration agreement void or unenforceable or impossible to perform, the court shall issue an order striking the case.

While the motion filed in accordance with paragraph one is pending before the court, either party may commence the arbitral proceedings, or the arbitral tribunal may continue the proceedings and render an award on the dispute.

Section 15 In any contract made between a government agency and a private enterprise, regardless of whether it is an administrative contract or not, the parties may agree to settle any dispute by arbitration. Such arbitration agreement shall bind the parties.

Section 16 A party to an arbitration agreement may file a motion requesting the competent court to issue an order imposing provisional measures to protect his interest before or during the arbitral proceedings. If the court views that had such proceedings been conducted in court, the court would have been able to issue such order, the court may proceed as requested. The provisions governing provisional measures under the Civil Procedure Code shall apply *mutatis mutandis*.

Where the court issues an order at the party's request pursuant to paragraph one, if the party filing the motion fails to carry out the arbitral proceedings within thirty days from the date of the court's order or within the period prescribed by the court, that order shall be deemed cancelled upon the expiration of such period of time.

CHAPTER 2

Arbitral Tribunal

Section 17 The arbitral tribunal shall be composed of an uneven number of arbitrators.

If the parties have agreed on an even number, the arbitrators shall jointly appoint an additional arbitrator who shall act as the chairman of the arbitral tribunal. The

procedure of appointing the chairman shall be in accordance with Section 18 paragraph one (2).

If the parties fail to reach an agreement on the number of arbitrators, a sole arbitrator shall be appointed.

Section 18 Unless otherwise agreed upon by the parties, the procedure for appointment of the arbitral tribunal shall be as follows:

(1) Where the arbitral tribunal shall be a sole arbitrator, if the parties are unable to agree on the arbitrator, either party may file a motion with the competent court requesting an appointment of the arbitrator.

(2) Where the arbitral tribunal shall consist of more than one arbitrator, each party shall appoint an equal number of arbitrators; and the appointed arbitrators shall appoint an additional arbitrator. If either party fails to appoint the arbitrator within thirty days after receipt of the notification from the other party or if the party appointed arbitrators are unable to jointly appoint the chairman of the arbitral tribunal within thirty days from the date of their appointment, either party may file a motion with the competent court requesting an order appointing the arbitrator or the chairman of the arbitral tribunal.

If, pursuant to the appointment procedures under paragraph one, no other procedures for successful appointment of arbitrators are provided, either party may file a motion with the competent court to appoint the arbitrator as it deems appropriate in the following cases:

(1) A party fails to act as required under such procedure;

(2) The parties, or the party appointed arbitrators, are unable to reach an agreement expected of them under such procedure; or

(3) A third party, including an institution, fails to perform any function entrusted to it under such procedure.

Section 19 An arbitrator shall be impartial, independent and possess the qualifications prescribed in the arbitration agreement; or if the parties agree to submit the dispute to an institution established for the purpose of administering arbitration, the arbitrator shall have the qualifications prescribed by the institute.

A prospective arbitrator shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

An arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. No party shall challenge the arbitrator whom he has appointed or in whose appointment he has participated, except where the said party did not become

aware of or could not have become aware of the grounds for challenge at the time of his appointment.

Section 20 Unless otherwise agreed by the parties, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the appointment of the arbitrator or of the fact stipulates in Section 19 paragraph three, file a statement stating the grounds of the challenge with the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

If a challenge under any procedure agreed upon by the parties or under paragraph one is unsuccessful, the challenging party may request the competent court to decide on the challenge, within thirty days after having received notice of the decision rejecting the challenge, or the date of knowing of the appointment of the arbitrator or the date of knowing of the facts as provided in Section 19 paragraph three, as the case may be. After examination of the challenge, the court shall issue an order accepting or dismissing the challenge. Unless the court orders otherwise, while such request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Where necessary, the arbitral tribunal may extend the period for the challenge of arbitrator under paragraph one by not more than fifteen days.

Section 21 An arbitrator ceases office upon death.

If any person who will be or has been appointed as an arbitrator is unable to perform his duties, whether by refusing to accept his appointment, being subject to an absolute receivership, being adjudicated incompetent or quasi-incompetent, or failing to perform his duties within a reasonable time for other causes, he shall cease to be an arbitrator upon his withdrawal or by mutual agreement between the parties. However, if there is a disagreement as to such causes, either party may, by motion, request the competent court to decide on the termination of the arbitrator's status as such.

Subject to the provisions of paragraph two or Section 20 paragraph one, the fact that an arbitrator withdraws from his office or that the parties mutually agree on the termination of the status of an arbitrator does not constitute an acceptance of the cause referred to in paragraph two or Section 19 paragraph three.

Section 22 Where the mandate of an arbitrator terminates under Sections 20 or 21 or because of his withdrawal from office, or because of the revocation of his mandate by agreement of the parties or in any other cases of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

Section 23 An arbitrator shall not be liable for any civil liabilities on any act performed in the course of his duty as an arbitrator, unless it is performed willfully or with gross negligence causing damage to either party.

Any arbitrator wrongfully demanding, accepting or agreeing to accept an asset or any other benefit for himself or anyone else for doing or omitting to do any act in his duties shall be subjected to imprisonment for not more than ten years or a fine not exceeding one hundred thousand baht, or both.

Whoever giving, offering or agreeing to give an asset or any other benefit to an arbitrator to induce him to do or omit to do any act or to delay an act that is contrary to his duties shall be subjected to imprisonment for not more than ten years or a fine not exceeding one hundred thousand baht, or both.

CHAPTER 3

Jurisdiction of Arbitral Tribunal

Section 24 The arbitral tribunal shall be competent to rule on its own jurisdiction, including the existence or validity of the arbitration agreement, the validity of the appointment of the arbitral tribunal, and issues of dispute falling within the scope of its authority. For that purpose, an arbitration clause, which forms part of a contract, shall be treated as an agreement independent of the main contract. A decision by the arbitral tribunal that the contract is null and void shall not affect the validity of the arbitration clause.

The challenge as to the competence of the tribunal shall be raised no later than the date of submission of the statement of defense; the parties shall not be precluded from raising on the grounds that they appointed or participated in the appointment of the arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter occurs during the arbitral proceedings. Save where the arbitral tribunal considers that there are reasonable grounds to delay the challenge, the arbitral tribunal may allow the party to file a challenge after the fixed period of time.

The arbitral tribunal may rule on its jurisdiction either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, either party may file a motion requesting the competent court to decide the matter within thirty days after receipt of the ruling on the preliminary issue, and during the time that the motion is pending, the arbitral tribunal may continue the arbitral proceedings and render an award.

CHAPTER 4

Arbitral Proceedings

Section 25 In the arbitral proceedings, the parties shall be treated with equality and shall be given a full opportunity of presenting their cases in accordance with the circumstances of the dispute.

Unless otherwise agreed by the parties or provided by this Act, the arbitral tribunal shall have the power to conduct any proceedings in any manner, as it deems appropriate.

The arbitral tribunal's power shall include the power to determine the admissibility and weight of the evidence.

For the purposes of this Chapter, the arbitral tribunal shall apply the provisions on the law of evidences under the Code of Civil Procedure to the proceedings *mutatis mutandis*.

Section 26 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.

The arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, hearing of witnesses including experts witnesses or the parties, for inspection of materials, places or documents.

Section 27 For settlement of dispute by arbitration, it shall be deemed that a dispute is submitted to arbitration under Section 193/14 (4) of the Civil and Commercial Code and the arbitral proceedings have commenced in one of the following circumstances:

(1) When a party receives a letter from the other party, requesting that the dispute be settled by arbitration;

(2) When a party notifies the other party in writing to appoint an arbitrator or to approve the appointment of an arbitrator;

(3) When a party send a written notice of the disputed issues to the arbitral tribunal designated in the arbitration agreement;

(4) When either party submits the dispute to an agreed arbitration institution established for settlement of disputes by arbitration as has been agreed upon.

Section 28 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. This agreement or determination, unless otherwise specified therein, shall apply to any statement of claim, statement of defense, any written statement by a party, any hearing, and any award, decision or other communications by or to the arbitral tribunal.

The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into language or languages agreed upon by the parties or determined by the arbitral tribunal.

Section 29 Unless otherwise agreed by the parties, within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief sought, and the respondent shall state his defense in the statement of defense. The parties may submit the relevant documents or list of evidence describing the documents or other evidence that they purport to adduce.

Unless otherwise agreed by the parties, either party may amend or supplement his claim or defense during the course of the arbitral proceedings, except the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

Section 30 Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted solely on the basis of documents or other evidences.

An arbitral tribunal shall have the power to take evidence, as provided in paragraph one, at any stage during the cause of proceedings as it thinks fit if so requested by a party, save where the parties have agreed that no evidence shall be adduced orally or in writing.

The arbitral tribunal shall communicate to the parties a sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of materials, places or documents.

All statement of claim, statement of defense, statement of request, documents or any other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Any report of expert witness or documentary evidence on which the arbitral tribunal may rely in making its decision shall also be communicated to the parties.

Section 31 Unless otherwise agreed by the parties, the arbitral tribunal shall proceed as follows:

- (1) Terminate the proceedings if the claimant fails to communicate his statement of claim in accordance with Section 29 paragraph one;
- (2) Continue the proceedings without treating such failure in itself as an admission of the claimant's allegations, if the respondent fails to communicate his statement of defense in accordance with Section 29 paragraph one;
- (3) Continue the proceedings and make the award on the evidence before it if any party fails to appear at a hearing or to produce documentary evidence.

The arbitral tribunal shall have the power to carry out any examination as it considers appropriate before proceeding in accordance with paragraph one, including reasons for the respondent's failure to file the statement of defense or failure to appear, as the case may be.

Section 32 Unless otherwise agreed by the parties, the arbitral tribunal may proceed as follows:

- (1) Appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;
- (2) Require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, materials or places for his inspection.

Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing in order that the parties may have an opportunity to ask questions or to present his own expert witnesses.

Section 33 The arbitral tribunal, an arbitrator or a party may, with the consent of the majority of the arbitral tribunal, request from a competent court to issue a subpoena or an order for submission of any documents or materials.

If the court is of the opinion that such proceedings could have been carried out by the court if a legal action were brought, it shall proceed in accordance with the motion, provided that the provisions of the Civil Procedure Code in the part relating to such proceedings shall apply *mutatis mutandis*.

CHAPTER 5

Award and Termination of Proceedings

Section 34 The arbitral tribunal shall decide the dispute in accordance with the governing law chosen by the parties. Any designation of law or legal system of a country shall be construed, unless otherwise expressed, as directly referring to the substantive law of the country and not to its conflict of laws rules.

Failing any designation by the parties, the arbitral tribunal shall decide the dispute in accordance with Thai laws, save where there is a conflict of laws, the arbitral tribunal shall apply the law determined by the principle of conflict of laws it considers appropriate.

The parties may expressly stipulate that the arbitral tribunal shall determine the dispute *ex aequo et bono*.

The arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the trade usage applicable to the transaction.

Section 35 Unless otherwise agreed by the parties, any awards, orders and rulings of the arbitral tribunal shall be made by a majority of vote. If a majority of votes cannot be obtained, the chairman of the arbitral tribunal shall solely issue an award, an order or a ruling.

The questions of procedure shall be decided by the chairman of the arbitral tribunal if so authorized by the parties or all members of the arbitral tribunal.

Section 36 If, during the arbitral proceedings, the parties can settle the dispute, the arbitral tribunal shall terminate the proceedings. If requested by the parties and the arbitral

tribunal considers that such settlement is not contrary to the law, the arbitral tribunal shall render an award accordingly.

An award on the agreed terms shall be made in accordance with Section 37 and such award shall enjoy the same status and effect as the award on the merits.

Section 37 The award shall be made in writing and signed by members of the arbitral tribunal. In the arbitral proceedings with more than one arbitrator, the signatures of the majority shall suffice, provided that the reason for the omission of signature is stated.

Unless otherwise agreed by the parties, the award shall clearly state the reasons for making such decisions. However, it shall not prescribe or decide on any matters falling beyond the scope of the arbitration agreement or the relief sought by the parties, except an award rendered in accordance with the settlement agreement under Section 36, or the fixing of arbitration fees, expenses or remunerations of the arbitrator under Section 46.

The award shall state the date and place of arbitration in accordance with Section 26 paragraph one. The award shall be deemed to make at that place.

After the award is made, the arbitral tribunal shall send a copy of the award to all parties.

Section 38 The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph two.

The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

- (1) The claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his 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 reason become unnecessary or impossible.

Subject to the provisions of Sections 39 and 40 paragraph four, the mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings.

Section 39 Unless otherwise agreed by the party, within thirty days of receipt of the award:

- (1) A party may file a motion requesting the arbitral tribunal to correct any error in computation, any clerical or typographical errors or any insignificant error in the award, provided that a copy of the motion be submitted to the other party for information; or

(2) If so agreed by the parties, a party may file a motion with the arbitral tribunal to give an interpretation or explanation of a specific point or part of the award. A copy of the said request shall be submitted to other party.

If the arbitral tribunal considers the motion referred to in (1) and (2) of this Section is justified, it shall make the correction or give the interpretation within thirty days of receipt of the motion. The interpretation or explanation shall form part of the award.

The arbitral tribunal may correct any error or mistake referred to in (1) of this Section on its own initiative within thirty days of the date of the award.

Unless otherwise agreed by the parties, a party, with notice to the other party, may file a motion with, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings omitted from the award. If the arbitral tribunal considers the motion is justified, it shall make the additional award within sixty days of receipt of the motion.

The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation, explanation or an additional award under paragraphs two and four of this Section.

The provisions of Section 37 shall be applied to the correction, interpretation, and explanation of the award. They shall also apply to an additional award.

CHAPTER 6

Challenge of Award

Section 40 Challenge of an arbitral award may be made a motion for setting aside to the competent court in accordance with this Section.

Within ninety days after receipt of a copy of the award or after the correction or interpretation or the making of an additional award, a party may file a motion for setting aside of the award with the competent court.

The court shall set aside the arbitral award in the following cases:

(1) The party filing the motion can furnish proof that:

(a) A party to the arbitration agreement was under some incapacity under the law applicable to that party;

(b) The arbitration agreement is not binding under the law of the country agreed to by the parties, or failing any indication thereon, under the law of Thailand;

(c) The party making the application was not given proper advance notice of the appointment of the arbitral tribunal or of the arbitral proceedings or was otherwise unable to defend the case in the arbitral proceedings;

(d) The award deals with a dispute not within the scope of the arbitration agreement or contains a decision on matter beyond the scope of the arbitration agreement. However, if the award on the matter which is beyond the scope thereof can be separated from the part that is within the scope of arbitration agreement, the court may set aside only the part that is beyond the scope of arbitration agreement or clause; or

(e) The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties or, unless otherwise agreed by the parties, in accordance with this Act.

(2) Where the court finds that:

(a) The award deals with a dispute not capable of settlement by arbitration under the law; or

(b) The recognition or enforcement of the award would be contrary to public policy.

In considering application for setting aside an award, if a party so requests and the court considers it reasonably justified, the court may adjourn the hearing of the case as it deems fit so that the arbitral tribunal can resume the case or carry out any act as it deems fit to eliminate the grounds for setting aside.

CHAPTER 7

Recognition and Enforcement of Awards

Section 41 Subject to Section 42, Section 43 and Section 44, an arbitral award, irrespective of the country in which it was made, shall be recognized as binding on the parties, and upon petition to the competent court, shall be enforced.

In case where an arbitral award was made in a foreign country, the award shall be enforced by the competent court only if it is subject to an international convention, treaty, or agreement to which Thailand is a party. Such award shall be applicable only to the extent that Thailand accedes to be bound.

Section 42 The party seeking enforcement of the arbitral award shall file an application with the competent court within three years from the day that the award is enforceable. After receipt of the application, the court shall promptly examine and give judgment accordingly.

The applicant for enforcement of the award shall produce the following documents to the court:

- (1) Original or certified copy of the arbitral award;
- (2) Original or certified copy of the arbitration agreement;

(3) Thai translation of the award and of the arbitration agreement by the translator who has taken an oath or who affirmed before the court or in the presence of an official or an authorized person, or certified by an official authorized to certify translations or by a Thai envoy or consul in the country where the award or the arbitration agreement was made.

Section 43 The court may refuse enforcement of the arbitral award, irrespective of the country in which it was made, if the person against whom the award will be enforced furnishes proof that:

(1) A party to the arbitration agreement was under some incapacity under the law applicable to that party;

(2) The arbitration agreement is not binding under the law of the country agreed to by the parties, or failing any indication thereon, under Thai law;

(3) The party making the application was not given proper advance notice of the appointment of the arbitral tribunal or of the arbitral proceedings or was otherwise unable to defend the case in the arbitral proceedings;

(4) The award deals with a disputed not falling within the scope of the arbitration agreement or contains a decision on matter beyond the scope of the arbitration agreement. However, if the award on the matter which is beyond the scope thereof can be separated from the part that is within the scope of arbitration agreement, the court may set aside only the part that is beyond the scope of arbitration agreement or clause;

(5) The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties or, if not otherwise agreed by the parties, in accordance with this Act; or

(6) The arbitral award has not yet become binding, or has been set aside or suspended by a competent court or under the law of the country where it was made. Save where the setting aside or suspension of the award is being sought from the competent court, the court may adjourn the hearing of this case as it thinks fit; and if requested by the party making the application, the court may order the party against whom enforcement is sought to provide appropriate security.

Section 44 The court may dismiss the application for enforcement under Section 43 if it finds that the award involves a dispute not capable of settlement by arbitration under the law or if the enforcement would be contrary to public policy.

Section 45 No appeals shall lie against the order or judgment of the court under this Act unless:

(1) The recognition or enforcement of the award is contrary to public policy;

(2) The order or judgment is contrary to the provisions of law concerning public policy;

- (3) The order or judgment is not in accordance with the arbitral award;
- (4) The judge who sat in the case gave a dissenting opinion; or
- (5) The order is an order concerning provisional order measures for protection under Section 16.

The appeal against the court's order or judgment under this Act shall be filed with the Supreme Court or the Supreme Administrative Court, as the case may be.

CHAPTER 8

Fees, Expenses and Remunerations

Section 46 Unless otherwise agreed by the parties, the fees and expenses incidental to the arbitral proceedings and the remunerations for arbitrator, excluding attorney's fees and expenses, shall be in accordance with that stipulated in the award of the arbitral tribunal.

In case where the said fees, expenses or remunerations have not been fixed in the award, any party or the arbitral tribunal may petition a competent court for a ruling on the arbitration fees, expenses and remunerations for the arbitrator as it deems appropriate.

Section 47 An institution established for the settlement of the disputes by arbitration may prescribe the fees, expenses and remunerations incidental to the arbitral proceedings.

Transitional Provisions

Section 48 The provisions of this Act shall not prejudice the validity of the arbitration agreements and arbitral proceedings that have been carried out prior to the date of entry into force of this Act.

Any arbitral proceedings which have not been conducted and the time limit thereof under the applicable law has not lapsed, prior to the effective date of this Act, may be conducted within the time limit under this Act.

Countersigned

Pol.Lt.Col.Thaksin Shinawatra
Prime Minister