



Draft Libyan Arbitration Bill

- *English Translation* -



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NOTICE: This is a draft translation of a live working document. Therefore, numerous editorial variations may become apparent throughout its content, or in contrast with the original Arabic version, including but not limited to the numbering, bulleting, terminology or duplication of its sections.

>>> Translation Start <<<

Draft Libyan Arbitration Bill

Law No. () for the year ()

Regarding the enactment of the Libyan Arbitration Law

The House of Representatives / Libya

Having examined of the following authorities:

- (a) The Constitutional Decree
- (b) Civil and Commercial Procedure Codes as amended
- (c) Judicial System Law No. (6) for the year 2006 as amended
- (d) Advancement of Investment Law No. (9) for the year 2010
- (e) Commercial Activity Law No. (23) for the year 2010 and its incidental bills, and
 - i. based upon the proposal of the Ministerial Council, and
 - ii. the approval of the House of Representatives—

The Libyan Commercial Arbitration Law is hereby enacted.

Preliminary Provisions

Article One

National and international arbitration procedures are applied in accordance with this law.

Article Two

The provisions of this Law apply to all disputes, whether contractual or non-contractual, in which the disputing parties agree to defer to arbitration, without breaching the provisions of agreements enforceable in the Libyan State.

Article Three

The provisions of this Law do not affect the application of special laws that prohibit the settlement of certain disputes through arbitration or stipulate specific protocols for passing a verdict.

Article Four

Every order, which is contrary to the provisions of this Law, will be annulled.

All disputes, whether heard by arbitration panels or before the courts, are subject to orders applicable at the time of the hearing, until a decision is made and the means for appeal and limitation have lapsed.

Arbitration agreements settled before the passing of this Law are not overturned by its provisions.

Article Five

This law will come into force from the date of its publication.

The Law provides the following:

Chapter One

General Provisions

Article (1)

Arbitration is a special method that is resorted to, for the settlement of certain types of disputes before an arbitration panel. The parties to the dispute assign the task of hearing and adjudicating the dispute to the arbitration panel, under an arbitration agreement.

Article (2)

An arbitration agreement is the adherence of parties to resort to Arbitration, for resolving all or part of their pending or future disputes, which arise from a legal tie between these parties, whether contractual or non-contractual. The agreement may concern the formation of an arbitration clause or an Arbitration agreement.

Article (3)

An Arbitration Agreement can only be proved in writing, whether officially printed, handwritten, as minutes from a meeting or recorded by the arbitration panel's chosen scribe, or on a document signed by the parties or by exchange of letters or by any means of communications the existence of which can be proven, or by exchanging claimant or defence statements in the event of litigation whereby one party claims the existence of an agreement which is not denied by the other party.

The scope of the written agreement includes any clear reference to provisions of a standard contract; or international agreement; or any other documents that include an arbitration clause, so as to consider this clause as part of the contract.

Article (4)

The charter for arbitration or agreement on arbitration is the agreement of parties to a contract to resort to an arbitration panel for the settlement of all or part of their pending disputes over their contract.

It is permissible to resort to Arbitration even if litigation is already underway.

Article (5)

Arbitration is subject to the agreement of parties to a given contract on submitting disputes that may arise from this contract to Arbitration.

The Arbitration clause is considered as a separate contract. It does not rely on the validity, annulment or expiry of the contract in which it is included, should the clause be valid and in the absence of any agreement to the contrary.

Any contractual reference to a document that includes an arbitration clause is considered an arbitration agreement, subject to such contractual reference being an express term stated to include the clause as part of the contract.

Article (6)

The following meanings are given these terms:

- 1- The State: The State of Libya
- 2- Arbitration Procedure: the rules that regulate the arbitration processes
- 3- Specialist Court: A court under the State's judicial system
- 4- Arbitration panel: the Arbitrator or Group of Arbitrators

Article (7)

Arbitration is prohibited in the following matters:

Firstly, cases that where reconciliation is not accepted

Secondly, cases concerning the State's public order

Thirdly, cases concerning nationality

Fourthly, cases concerning personal circumstances; unless the dispute is over financial issues caused by these circumstances

Fifthly, disputes concerning State and public entities, and national institutions, which are considered administrative bodies; unless these disputes arise from international ties, whether economic, commercial or financial; or national disputes that are not expressly prohibited from undergoing Arbitration under State laws.

Article (8)

Parties to an arbitration agreement must have the legal capacity to administer their rights.

Article (9)

The arbitrator must be a natural person of sound mind and at full civil liberty to act independently and objectively.

If the arbitration agreement appoints a corporate entity, its authority is limited to appointing the arbitration panel.

An arbitrator accepts his appointment either in writing or by signing the arbitration agreement or by commencing the task that he has been assigned.

Once accepted the Arbitrator cannot abandon his role without giving reasonable justification, failing which the arbitrator could be ordered to compensate for any damages resulting from such abandonment.

Article (10)

Parties are able to defer to Independent or Institutional Arbitration, giving regard to the fundamental principles of the State's judicial system; especially the right to a defence.

Independent Arbitration grants parties full liberty to determine the procedures and principles applicable to a dispute. Unless otherwise agreed by the parties, or having preference to adopting a specific arbitration procedure, the arbitration panel is responsible for coordinating the processes that are to be followed.

In the event of institutional arbitration, national or international bodies will be responsible for setting the process; in accordance with established protocols to which the parties will adhere.

Arbitration is deemed independent, where the parties agree to undergo arbitration without referring to an arbitration institute.

Article (11)

Arbitrators must apply the law objectively, unless the parties appointed the arbitrators as mediators in the arbitration agreement, in which case the arbitrators are not bound by application of legal principles and can follow the principles of equity and justice.

Article (12)

Where parties reach an agreement to settle the dispute during the arbitration process, the arbitration panel endorses the motion and issues its verdict according to the parties' agreement. This would have the same effect as when the verdict is originally arrived at by the panel.

Article (13)

Arbitration is considered internal, whereby parties to a contract resort to arbitration on all or part of the disputes arising from their contracts and insofar as these concern companies or obligations, and civil and commercial transactions, within the territory of the State of Libya; with due regard to the provisions of Article 7.

Article (14)

The subject of Articles 14 and 15 applies to all disputes that are the subject of international arbitration, with due regard to international agreements entered between the State of Libya and any other States.

The provisions of this Chapter only apply if arbitration takes place in Libyan territories or if the parties to a dispute require the recourse of Libyan Arbitration Law.

Article (15)

Arbitration is international when it is concerned with the following matters:

- 1- Global commerce
- 2- Multiple states
- 3- An arbitration party's place of work spans across two different states, at the time the arbitral agreement was entered.
- 4- If one of the following locations falls outside the state in which the parties operate:
 - a. The location of the Arbitration, as stated in the Arbitration agreement
 - b. The location in which the majority of contractual obligations are carried out.

The place of business is determined as follows:

- 1- If either party operated from various locations, the location that deals most with the disputed contract will be considered as the place of business.
- 2- Where either party does not have a place of business, their home address will be considered as such.

Chapter Two

Arbitration Agreement

Article (16)

Should a dispute that is subject to an arbitration agreement be brought before a court, the court is required to decide the case without territorial jurisdiction, based on the request of either party.

If the arbitration panel has not yet heard the dispute, and where the arbitration agreement is valid and not at risk of annulment, the court is required to declare its lack of jurisdiction.

It is not possible for the court to reserve a matter beyond its competency on its own accord, unless either party does not prove the validity of the arbitration.

Article (17)

Subject to the application of either arbitration party, interim judges can issue temporary or precautionary measures within their jurisdiction prior to or during arbitration, giving due regard to provisions of civil and commercial litigation laws.

Once the panel commences its role, it qualifies for implementing temporary and precautionary measure.

Article (18)

The arbitral award is issued in the territory of the State of Libya, whether it was in relation to an internal or international dispute (Arbitration takes place in Libya). Once issued, the arbitral award is binding on the subject of the dispute.

In disputes that relate to internal or international arbitration, the specialist court will endorse the arbitral award in the executive form; or order any interim, precautionary or summary procedures as may be instructed by the chief justice of the Court of Appeal in the district where the arbitration centre is located.

The prerequisites of this journal are applicable to all disputes relating to international arbitration.

Chapter Three

Arbitration Panel

Part One

Arbitration Panel Formation

Article (19)

An arbitration agreement is invalid, unless the subject of the dispute is specified and the names of the arbitrators are expressly or impliedly stated.

Article (20)

An arbitration panel comprises of one or more arbitrators. Multiple arbitrators must be in odd numbers. Should the panel comprise of one arbitrator, its formation is completed by the addition of an arbitrator to whom the panel's leadership can be assigned; either with the agreement of the parties or by the appointed arbitrators themselves.

Article (21)

Arbitration parties may agree on the selection of the Arbitration panel and on the method of selection. Should the parties not reach an agreement with the panel, or the panel is prevented from commencing its task for any other reason, parties may return to the panel appointment procedures specified by the arbitration's organising body.

When agreement is not reached on a specific structure, the chief justice of the Court of Appeal in the district where the arbitration centre is located may appoint an arbitrator, based on the application of either party, by issuing a summary judgement which cannot be appealed.

Article (22)

Parties are free to determine the number of multiple arbitrators, so long as the number is odd. Otherwise the number of these arbitrators will be three.

Parties are free to agree the process for appointing the arbitrator(s).

In the event of disagreement, the following applies:

1 – Where the panel comprises of three arbitrators, each party appoints an arbitrator. These two arbitrators proceed to appoint a third. An arbitrator must be appointed by the party within thirty days of the other party requesting it do so. The third arbitrator must also be appointed

within thirty days. Where the two nominated arbitrators fail to do so, the chief justice of the Court of Appeal in the district where the arbitration centre is located may issue a summary judgement to appoint the arbitrators, based on an application from either party.

2 – Where the panel comprises of one arbitrator and the parties fail to agree on the appointment of this arbitrator, the chief justice of the Court of Appeal in the district where the arbitration centre is located may issue a summary judgement to appoint the arbitrator, giving due regard to all the arbitrator's prerequisites, based on an application from either party.

Orders issued by the chief justice of the Court of Appeal on matters attributed to it are not subject to any form of appeal.

In institutional arbitration, the institution organising the arbitration undertakes the role of the Chief Justice of the Court of Appeal.

Unless agreed otherwise, an individual's nationality will not prevent them from being an arbitrator.

Any individual that carries out a violation against an arbitrator, during the course of the arbitrator's duties, will be liable under Article of Law regarding the Prevention of Violations against the Judiciary.

Part Two

Arbitrator's Objection and Disbarment

Article (23)

The arbitrators must declare any conflict of interest that may give rise to questioning his independence or impartiality. Any such reason must be promptly reported to the parties, unless previously declared, giving the parties a specific time to respond by.

Should the parties respond favourably; by not objecting to this declared conflict in their response, the arbitrator may continue his duties. Otherwise, the arbitrator must step down.

Article (24)

The arbitrator may be objected by the parties, if he does not meet the prerequisites, or in the emergence of any reasonable grounds to doubt his impartiality or independence. A party that either appointed or co-appointed the arbitrator may only base its objection on grounds that emerge after his appointment.

The objection of an arbitrator is by the same means of objecting a judge.

An application for objection is submitted to the chief justice of the Court of Appeal in the district where the arbitration centre is located, which will be heard in accordance with Libyan Procedural Law. The court decision cannot be appealed and the arbitration process is suspended pending this decision.

The court must reject the application, should the arbitration procedure agreed by the parties be attributed to an arbitration institution, which would be qualified to hear the application.

Article (25)

The panel will be discharged in any of the following events:

- An arbitrator's death
- An arbitrator is prevented from continuing their arbitration duties due to a mitigating factor
- An arbitrator abandons or is disbarred from their duties
- The arbitration period ends.

Parties may agree on the continuation of arbitration, with the resolve the aforementioned obstacles.

Article (26)

The arbitrator will step down from their appointment, if he is no longer able to undertake his duties for any legal or personal reasons or if he ceases his duties for a period of thirty days, otherwise the arbitrator is liable to be disbarred.

Disbarment is agreed by all parties, in accordance with the arbitration agreement, or in accordance with the procedure of the arbitration institution assigned to resolving the dispute.

Failing an agreement or resort to an arbitration institution, the most cautious of the parties may apply to the Court of Appeal in the district where the arbitration centre is located within three months of the arbitrators' alleged obstructing act or omission. The chief justice of the Court may issue a disbarment order which cannot be appealed.

- Instances where an Arbitrator steps down from his position with the agreement of the parties to the dispute are excluded from the application of this article's provisions.

Article (27)

Arbitration procedures will be suspended, pending the decision on an application for the Arbitrator's disbarment or objection.

Article (28)

Should an arbitrator's appointment end by removal or disbarment, an alternative arbitrator must be appointed in accordance with the same procedure under which the removed or disbarred arbitrator was appointed.

Article (29)

In the event of an arbitrator's death, or if he no longer meets the standard of a reasonable person, arbitration disputes continue, although hearings will be suspended until the parties concerned are summoned to decide on the matter. Any date set for the arbitration to conclude will be put on hold.

If within six months of the above event, the parties concerned are not summoned to decide on the matter or the arbitrator concerned does not take the initiative for their matter to be decided, the arbitration of the dispute will expire.

Part Three

Arbitration Panel Jurisdiction

Article (30)

The arbitration panel decides on all matters in its jurisdiction. It also decides in instances where the existence of an arbitration agreement or its validity is contested. For this reason, the arbitration clause in a contract is treated separately, whereby the clause lawfully remains in effect despite an order that may deem the contract void.

Article (31)

A plea to refute the panel's jurisdiction must be raised no later than the point at which the initial written defence statements are submitted. Neither party can prevent such a motion from being made; on the premise that it appointed or co-appointed any of the Arbitrators.

A plea against the panel exceeding its mandate must be heard, as soon as the alleged exceeding issue is raised, during the arbitration proceedings. In both these instances, the arbitration panel can decide whether to accept any pleas that are raised beyond the set timeframe, should it consider such delay as genuine.

Article (32)

If the panel issues a summary decision on any of the pleas stated in the above article, either party, within thirty days of being notified of the decision, may apply to the chief justice of the

Court of Appeal in the district where the arbitration centre is located, for the court to conclude the decision.

The court has no more than three months from the date of the application to issue its decision. Arbitration procedures are suspended pending the court's decision. Pleas raised after the panel's decision on the objections concerned are heard alongside the original pleas.

Article (33)

Unless otherwise agreed by the parties, and based on the request of either party, the arbitration panel may permit interim, precautionary or authorisation exceptions, as it sees necessary. It may seek assistance of the chief justice of the Court of Appeal in the district where the arbitration centre is located, if the party concerned does not adhere to the stated exception.

The arbitration panel or judge may order either party to pay toward the cost of this procedure.

Chapter Four

Arbitration Procedure

Article (34)

Parties to the arbitration agreement may agree on the procedures that must be adhered to by the arbitration panel. The arbitration panel may apply principles that it considers to be better suited for resolving the dispute, without the parties' agreement.

In both instances, fundamental assurances of litigation must be honoured; especially the right to a defence.

Article (35)

The arbitration panel will analyse the dispute that it is presented with, in accordance with the legal principles specified by the parties to the arbitration agreement.

Article (36)

The Parties may specify the location of the arbitration inside or outside the State.

Should the parties fail to agree on a location, the arbitration panel will manage the selection of the arbitration location; giving regard to the stages of the case.

Article (37)

Unless otherwise agreed by the parties, and giving regard to the prerequisites in above article, the arbitration panel may meet in any location as it sees fit, for its members to have discussions, conduct enquiries, gather witness statements, listen to expert opinions and to the parties to the dispute, and to review reports and research documents.

Article (38)

Arbitration parties may agree on the language or languages that are used in the arbitration procedure.

Should the parties fail to agree on the arbitration language(s), then the panel may select the language(s) to be used in these procedures. However, combining languages is not permitted.

Unless otherwise agreed and consolidated in the prerequisites of the arbitration agreement, the agreement as to the language(s) overhauls all statements submitted by the parties to the dispute and verbal notes, procedures, decisions and notices issued by the arbitration panel.

The arbitration panel may request for every document, which it is presented with in a different language, to be accompanied by a translation into the language(s) agreed by the parties or specified by the panel.

Article (39)

Once the arbitration panel is formed, it is assigned its duties upon receipt of the arbitration parties' requests and files. The arbitration assignment report must include the following details:

- Names of Arbitrators
- Names and addresses of the arbitration parties, and summaries of their requests
- The particulars of dispute that needs to be resolved
- The scope of arbitration procedure and its timeframe

The panel and parties are required to sign on the assignment report. The parties and the arbitration organising body are notified, where possible, by a clerk. If a party refuses to sign the assignment report, the organising body must be notified to certify the report.

Where the arbitration does not involve an organising body, the panel must report this refusal in a separate document, have it authorised by the chief justice of the specialist court in the district where the arbitration centre is located and filed with the assignment report.

Article (40)

The panel undertakes research and investigation, including gathering witness statements, questioning and appointing specialists; and all activities that are concerned with unearthing the truth and aiding the resolution of the dispute. In doing so, the panel member(s) must sign on all the records of the accounts that they collect.

The arbitration panel may require the parties to present all files and documents and all forms of evidence in their possession. The panel may appoint one of its members, in writing, to undertake an assignment.

Within the parameters of the panel's powers, it is also permitted to refer matters to the court; for the court to preside on any decision that may enable the panel to accomplish the administrative purposes of this article.

Article (41)

A timeframe set for the resolution of the dispute will commence from the date that the arbitrator accepts his appointment or that on which the remaining arbitrator accepts theirs.

If a timeframe is not set, a resolution must be decided within a period no longer than six months.

The date on which the panel is set to pass its arbitration resolution may be postponed on no more than two occasions, should it not be possible for its resolution to be passed as originally anticipated. The panel must pass a decision to this effect, which is not subject to any form of appeal. The extension of these timeframes must be approved by the parties or be in accordance with the Arbitration Institute's procedure.

The resolution date is extended by thirty days, in the event of appointing a new arbitrator in place of a disbarred, deceased or discharged arbitrator.

Article (42)

The claimant within the period set by the arbitration agreement or within the period set by the arbitration panel to the respondent and to the panel member(s) a request that includes the following:

- Claimant's name and address
- Respondent's name and address
- Statement of facts and nature of the dispute
- Claimant's requirements
- Evidence in support of his claim

The respondent is required to submit his defence in regards to the matter. The panel may grant an extension to the respondent, should it find that the reasons for his delayed defence are valid.

The parties must submit their comments and all documents relating to the subject of the dispute to the panel. The parties may also refer to all documents and evidence that they intend to submit, unless any other method to submit these has already been agreed.

This does not impinge on the panel's right to request from the parties to the dispute, at any time during the arbitration procedure, albeit by its own accord, the source documents or files relied on by the parties in their claims.

Article (43)

The panel may end the arbitration procedure, if the claimant fails to submit evidence without giving a valid reason; as stipulated by article 42 of this law.

However, should the respondent fail to submit his defence statement, the panel may continue the arbitration process; without considering this failure in itself conclusive of the claimant's allegation.

Should either party fail to attend a hearing or to submit their documents without giving a valid reason, the arbitration panel may continue the process and pass its decision based on the information available to it.

The provisions of this article apply, unless the otherwise agreed by the parties.

Article (44)

The parties may amend or supplement their claim or defence throughout the arbitration process, unless otherwise agreed by the parties, and unless the panel deems it too late for such amendments to be made; whereby it may be satisfied with the documents and statements already submitted.

Article (45)

The panel decides whether hearings will be held for the parties to present their case, or if it will suffice for it to scrutinise the documents it receives. However, the panel is permitted to hold a hearing, at the request of either party, at a time that it finds suitable.

Parties must be provided with a schedule for hearings, meetings and all procedural engagements undertaken by the arbitration panel. All written statements, documents, information, tests and evidence presented by either party must be reported to all parties.

Unless otherwise agreed, a summary of events from each hearing held by the panel will be kept on file and a copy of the summary will be delivered to each party.

Article (46)

Unless a special agreement exists between the two arbitration parties, all letters and notices must be delivered to the addressee in person; or to their place of work; or to their regular home address; or to their postal address, which is known to all parties or specified in the arbitration agreement.

If any of the these addresses cannot be identified, after carrying out the necessary checks, a mailed item is considered to have been received if it is sent to the last known of the recipients aforementioned addresses. This is subject to obtaining a guaranteed delivery note or any other evidence of the attempted delivery. The mailed item is considered to have been received from the date that it is delivered on.

The provisions of this article do not apply to judicial notices before the courts.

Article (47)

The party that initiates the arbitration process serves a notice on the other party. The arbitration procedure is considered to have started on the date that the respondent receives the notice.

The arbitration notice comprises of the following:

- 1 - A request to defer the dispute to arbitration
- 2 - First names, surnames and the nationality of the parties
- 3 - Confirmation of the arbitration agreement
- 4 - Brief description of the contractual relationship, the allegation and the compensation claimed
- 5 - Names of arbitrators nominated by the claimant, or the appointing authority; the number of arbitrators; the language and the location, if the parties have not already agreed on any of these.

The respondent sends his reply to the claimant within thirty days from the date on which he received the arbitration notice. In response to the notice, the respondent states the following:

The respondent's first name(s), surname(s) and nationality

Response to the information stated in the notice

Names of the respondent's nominated arbitrators or the appointing authority, the number of arbitrators, the language and the location

Brief description of a counter claim or requirements to be presented to the claimant

Any contention over the respondent's failure to respond to the notice, or by sending an incomplete or late response, will not prevent the arbitration panel from being formed, as it will account for this issue at the end of the arbitration process.

Article (48)

The arbitration panel will inform the parties to the dispute of the arbitration's closing date, as the case nears a verdict.

Chapter Five

Arbitral Awards

Part One

Issuing Arbitral Awards

Article (49)

The arbitration procedure ends with an arbitral award being issued on the grounds of the dispute. It may also end by a decision from the arbitration panel, in the following circumstances:

- If the parties agree to end the procedure by reconciling their difference, the panel files a statement that is signed by all the parties or their representatives. This statement has the effect of an executive instrument.
- If the claimant withdraws their claim, without the objection of the respondent, and the arbitration panel allocates his lawful interests in the final settlement of the dispute.
- If the arbitration panel was of the view that the procedure is unnecessary or impossible.

The panel's assignment ends with the closure of the arbitration procedure.

Article (50)

The panel rules on the dispute that it is presented with, in accordance with the legal principles designated by the parties. Where the applicable law is not specified by the parties, the panel endorses the law that it views as suitable. The panel may rule on the dispute in accordance with the principles of equity and justice, if expressly agreed by the parties.

The panel rules on the dispute in accordance with the conditions of the contract, taking into account the commercial custom applicable to the transaction.

Article (51)

After completing its negotiations, the arbitration panel issues its award with a majority vote.

Should a member of the panel refuse, or be unable, to sign it, a note to this effect will be stated on the award. However, the award will remain valid, if it is signed by a majority of the panel.

The Chair of the panel may issue the award by his own accord, in the event that the panel is not quorate. This will be noted by the Chair on the award. Only the Chair's signature is required on the award in such instances.

The chair may also decide on procedural matters, if permitted by the parties and all other members of the panel.

Article (52)

The arbitral award must contain the following details:

- The full name of the arbitrator(s) that issued the judgment
- The place and date of the award
- First names and surnames, titles and addresses of the parties to the dispute or of their representatives
- Summary of the facts and the parties claims, defences and evidence
- The substantiated decision, unless otherwise agreed by the parties
- Statement of damages and costs, and the parties liable for these payments
- The arbitrator(s) signature

Article (53)

Arbitrators' fees are specified by means of agreement between the parties to the dispute and the arbitration panel.

In cases of Institutional Arbitration, fees are subject to the institution's fee structure. Failing to agree on fees, and in the absence of an arbitration institute, the panel may specify its fees by issuing a substantiated decision on the matter. This may be appealed before the chief justice of the Court of Appeal in the district where the arbitration centre is located.

Article (54)

Publicising all or part of the award is prohibited, unless approved by both arbitration parties.

Article (55)

The arbitral award is automatically binding on the parties. It can also be enforced in court, granted permission from the chief justice of the Court of Appeal in the district where the arbitration centre is located.

The chair of the panel, or the organising body, is responsible for sending a copy of the award to each of the parties within fifteen days of it being issued. The original award and arbitration agreement are filed at the specialist court within the same period. An official receipt is

obtained from the court. No further obligations are undertaken in relation to the filed court report.

If the award is issued in a foreign language, a legally certified Arabic translation of the award must be submitted with it to court. The court clerk will file a report of this submission and parties to the dispute may obtain a copy of the court report. The original award and translation will remain filed at the court, whilst copies will be issued to the parties for administrative purposes.

Part Two

Interpretation of Arbitral Awards

Article (56)

Upon notification of the other party, and within thirty days of being notified of the award, either party may request the panel's interpretation award's wording.

The arbitration panel will provide its interpretation within thirty days of receiving the request.

Article (57)

The arbitration panel may, by its own accord or based on the request of either party, amend any physical, written or numerical errors apparent in its award.

The panel may amend the error without filing a plea, within thirty days of the arbitral award being issued or from the date on which the amendment request is submitted.

The panel issues an amendment decree in writing and notifies the parties within thirty days from the decree being issued.

The panel may extend this period once up to the duration of the original period, should the matter require an amendment, interpretation or a supplemental award.

Article (58)

Upon notification of the other party, and within thirty days of being notified of the award, either party to the dispute may request from the panel to issue a supplemental award, in the event that part of its original request is not concluded in the award due to an oversight by the panel.

The arbitration panel will issue the supplemental award within thirty days of receiving the request. The panel may extend this period once up to the duration of the original period.

The panel will issue a copy of the supplemented, amended or interpreted version of the judgment to the parties within fifteen days from it being issued. The original document of this altered award is filed at the specialist court within the same period. An official receipt is obtained from the court. No further obligations are undertaken in relation to the filed court report. The altered award will remain filed in the same court report as the original arbitration award.

Article (59)

The altered award is considered part of the original arbitral award.

Parties may not request an altered award to be issued by the arbitration panel, in the event that the orders of the original arbitral award have been automatically executed.

The request for a correctional, interpretive or supplemental arbitral award extends the period for appeals and enforcements, until the requested award is issued.

Article (60)

In the event that the panel is unable to reconvene, requests for a correctional, interpretive or supplemental order will be submitted to the chief justice of the Court of Appeal in the district where the arbitration centre is located.

Part Three

Objection of Arbitral Awards

Article (61)

Unless otherwise agreed by the parties, the arbitral award can be appealed in the following circumstances:

- An arbitrator is proven not to have legal capacity
- The award does not rely on the arbitration agreement or is beyond its scope
- The award is based on an invalid arbitration agreement or issued outside the arbitration period.
- The award includes matters that were not requested
- The award breaches any principles of law and order
- The arbitration panel was not legally formed
- Fundamental procedural principles were not given due regard

- The appellant was not appropriately notified about an arbitrator's appointment; or about the arbitration procedure; or it was impossible for him to preserve his rights for any other valid reason.
- The formation of the arbitration panel and the procedure applied were generally contrary to the prerequisites of the arbitration agreement; or to a chosen arbitration procedure; or to a state's law that had been endorsed; or to the provision of this chapter that concerns the formation of arbitration panels.

Article (62)

The chief justice of the Court of Appeal in the district where the arbitration centre is located may repeal the arbitral award, based on an appellant application from either party. However, the appeal process will be suspended for a set duration of time, to allow the panel to resume the arbitration procedure or for it to take any necessary measures to eliminate the grounds for appeal.

If the specialist court repeals the judgment, whether in its entirety or in part, the court may formally adjudicate the dispute in the capacity of Mediator, with the agreement of all parties, in accordance with the provisions of article 11 of this law.

If the appeal is dismissed, it will replace the execution order of the contested Arbitral award.

Article (63)

The appeal must be filed at the Court of Appeal in the district where the arbitration centre is located, within thirty days of the arbitral award being issued. Failing that, it will be automatically dismissed.

Article (64)

If the specialist court upholds the appeal, it may order the annulment of the arbitral award or arbitration procedure, either wholly or in part, depending on the circumstance. The court will adjudicate the dispute as a mediator, if the parties so request within thirty days of the first session in which the appeal is heard.

The appellant application does not automatically cease the execution of the contested award. However, the court may order its suspension, based on the application of either party, and subject to the insurance of the payment ordered against the appellant; so as to guarantee its execution.

Where the court issues an order to suspend the arbitral award's enforcement pending an appeal, it must decide on the appeal within six months of its suspension order.

Article (65)

The court may dismiss the appeal, should it be related to another case that is already being heard by another court.

If the appeal is dismissed, it will replace the execution order of the contested arbitral award.

Article (66)

Appeals in international arbitration are only permitted in the following circumstances:

- If either party proves that a party to the arbitration agreement does not meet the required capacity.
- That the agreement is invalid under the laws or legal principles adopted by the parties, if the law regarded has not been declared.
- The appellant was not appropriately notified about an arbitrator's appointment; or about the arbitration procedure; or it was impossible for him to preserve his rights for any other valid reason.
- The arbitral award includes a dispute that is not included in the arbitration agreement and included matter outside the scope of the agreement.
- The formation of the arbitration panel and the procedure applied were generally contrary to the prerequisites of the arbitration agreement; or to a chosen arbitration procedure; or to a state's law that had been endorsed; or to the provision of this chapter that concerns the formation of arbitration panels.
- If the arbitral award breaches the principle of law and order, in accordance with the customs of Private International Law.
- An application to appeal cannot be filed after three months from the date on which the appellant received the arbitral award.

Chapter Six

Recognition of Arbitral Awards

Article (67)

The arbitration panel's decisions resemble binding orders and are subject to special rules of summary execution, once formalised by the order of chief justice of the court in which the panel's decision is reported.

Article (68)

An arbitral award must not conflict with any previous court orders. Any previous judicial involvement in the case must be established. The award cannot be formalised until the absence of such conflict is verified. A party that is subject to the arbitral award's orders must be notified by legal means.

Chapter Seven

Recognition of Foreign Arbitral Award

Article (69)

With due consideration given to the general principles of Reciprocity of Treatment, all foreign arbitral awards, and orders issued in field of international arbitration, regardless of the state in which these are issued, are subject to the provisions of this chapter.

Article (70)

Foreign arbitral awards are binding in Libyan Territories, regardless of the state in which these are issued. A written application must be submitted to the court of Appeal in Tripoli, for the execution of these awards to be ordered, with due regard given to articles 69 and 72 of this Law.

Article (71)

The application for an arbitral award's execution order is submitted to the Court of Appeal in Tripoli. This must be accompanied by both the original arbitral award and agreement documents. Where necessary, a legally certified Arabic translation of these documents must also be included.

Article (72)

Non-recognition of any arbitral award is prohibited, regardless of the state in which it is issued, with the exception of any award that fails to satisfy the conditions stipulated in article 68 of this Law; and unless the award has been restricted or annulled by a court order under the laws of the state from which it originates.

Article (73)

The court of Appeal in Tripoli may postpone ruling on the execution order, if the respondent can prove that he has appealed the Arbitral award issued against him. Based on the application of the claimant, the Court may also demand that the respondent submits any necessary assurances for his request to be considered.

Chapter Eight

Electronic Arbitration

Part One

General Provisions

Article (74)

Electronic arbitration is a special means to resolve disputes utilising modern communication methods and online networks. Its aim is to issue authoritative and compelling arbitral awards to resolve disputes.

Part Two

Electronic Arbitration Agreement

Article (75)

Electronic arbitration requires an arbitration agreement, without which the arbitration is void.

Article (76)

The validity of the agreement relies on two types of conditions;

Substantive conditions

- Agreement of the parties with the choice of arbitration to resolve any current or future disputes
- The capacity of the parties
- The nature of the dispute allows the resort to arbitration

Figurative conditions

- Written communication as a term of the arbitration agreement. This can be published on the selected platform or uploaded in standard electronic formats that can be referenced throughout the dispute, without being subject to any amendment or falsification.

Article (77)

The agreement is entered into electronically. The parties' intentions and acceptances as to the agreement are exchanged using the functionality of selected online platform, such as

clicking accept or I agree or any transactional function that indicates the endorsement of the terms and conditions stated on the platform and which initiates the binding agreement.

The validity of the agreement may be appealed, provided evidence of intent to deceive or misrepresentation, although the appeal may not be on grounds of duress.

Article (78)

Verification of the parties' capacity and authenticity, at the time of authorising the electronic arbitration agreement, may be assigned to an independent third party "Certification Authority", to provide a service that can be trusted by all parties.

Article (79)

An electronic arbitration agreement is subject to the general principles of arbitration. Such agreement is prohibited in relation to contracts excluded from arbitration under the provisions of article 5 of this Law.

Part Three

Arbitration Panel

Article (80)

The panel comprises of either one or three arbitrators. These are reported to the secretary of the arbitration centre. Where the panel comprises of three arbitrators, a panel chair is appointed by the other two. If this is not possible, the secretary will make this appointment.

The arbitrators will be issued with their login credentials such as "Access Code" and "Password" to use to the selected online arbitration platform.

Article (81)

The appointment of an arbitrator may be objected by contacting the designated arbitration centre online. The arbitrator concerned will undergo standard arbitration procedures in this regard. Further objections will not be considered, after the initial pleadings are closed.

Part Four

Arbitration Procedure

Article (82)

Electronic arbitration is subject to standard arbitration procedure, in addition to procedures specific to electronic arbitration. The parties may specify electronic arbitration procedures, as they may wish to include as part of the terms of the arbitration agreement.

The parties may specify the means of long distance communication between the parties to the dispute and the arbitrators, and the method of submitting electronic documentation.

Article (83)

Failing to agree on a location for the arbitration, the parties may designate the arbitration centre as the location where the arbitration is based.

Article (84)

In the event of a dispute between the parties, an application is submitted to the arbitration centre as set out on its website, or through any readily available template offered by the chosen arbitration body. The application may require the following details:

- The nature of the dispute and any subsequent escalation
- The names of the parties involved and their contact details
- The number of arbitrators
- The specific arbitration protocol for the dispute to be governed by
- The duration of arbitration
- Supporting documents and evidence concerning each of the parties
- A copy of the arbitration agreement

Article (85)

The centre notifies the respondent about the claim brought against him, if not already aware of the arbitration request, either via online communication, serving notice, registered post, fax or any other means of communication that can be proven.

The respondent must reply to the arbitration request within ten days of being notified. He may include the following details:

- Any comments on the claimant's allegations and potential objections to the arbitration

- Brief description of any counter claim and evidence to support this
- Any requirements to be presented to the claimant

The claimant will have thirty days to reply to the respondent's requirements.

Article (86)

The schedule of hearings is set by the arbitration centre, for each of the parties to present their evidence and statements, after which the arbitration will commence. The procedure is carried out electronically via the centre's online platform, on which all statements and documents that form part of the case file will be stored. The procedure will end with the arbitral award being issued and filed in the designated case record within the online platform.

Article (87)

The online platform must provide for each case to be accessed separately and securely, whereby only the arbitration parties and arbitrators are granted authorisation to view and process the relevant case files, as stipulated by the arbitration agreement, using the confidential login credentials issued by the arbitration centre.

Article (88)

All written statements, support documents and email communications relating to the dispute, must be uploaded to the arbitration platform by the parties to the arbitration procedure, so as to enable to arbitrator(s) to resolve the dispute.

Part Five

Chairing Electronic Arbitration Hearings

Article (89)

Electronic arbitration hearings are held online; whereby text, image, audio and video can be transmitted in real-time by all parties in attendance, using a combination of applications and peripherals, such as the arbitration platform, email and messaging services, in addition to any other appropriate facilities such as teleconference or videoconference solutions, to enable the virtual presence of all parties concerned.

Part Six

Issuing Electronic Arbitral Awards

Article (90)

After the pleadings are closed, the arbitrators review the case and examine the evidence to arrive at their conclusive resolution for the dispute.

The panel must issue its arbitral award within the set timeframe, whether by virtue of the arbitration agreement or in accordance with the law adopted to govern the procedure.

Article (91)

The electronic arbitral award must be issued in writing. It must state the following information:

- Full names of the arbitrators
- Place and date of issue
- Full names, titles and residential or business addresses of the parties or their representatives
- Signatures of the arbitrator(s) that issued the award

Article (92)

The electronic arbitral award will be filed in the designated case record within the online platform, and the parties will be notified about its details.

Article (93)

The electronic arbitral award will be filed as a report in the Court of Appeal in the district where the arbitration centre is located.

Part Seven

Grounds for Appeal

Article (94)

An appellant may succeed if he proves any of the following evidence to the specialist authority in the state in which recognition and execution of the award is requested:

- Either party the arbitration agreement does not meet the required capacity, and the agreement is invalid under the laws or legal principles adopted by the parties to the

arbitration, or, where no such adoption is agreed, the laws of the state in which the agreement was issued.

- The appellant was not appropriately notified about an arbitrator's appointment; or about the arbitration procedure; or it was impossible for him to preserve his rights for any other valid reason.
- The arbitral award includes a dispute that is not included in the arbitration agreement and included matter outside the scope of the agreement.
- The formation of the arbitration panel and the procedure applied were generally contrary to the prerequisites of the arbitration agreement; or to a chosen arbitration procedure; or to a state's law that had been endorsed.
- The award was no longer necessary or had been restricted or annulled by a court order under the laws of the state from which it originates.

The specialist authority in the in the state in which recognition and execution of the award is requested may refuse to recognise or execute the award if the following is proven:

- Disputes may not be resolved through arbitration under that state's laws.
- Endorsement of the arbitrators' decision is prejudicial to the public order in that state.

Chapter Nine

Arbitration Centre Formation

Article (95)

The established of arbitration centres is required by ministerial decree, issued by the Ministry of Economy, in accordance with this law. The decree will be publicised in the official journal of the State of Libya.

An application for an arbitration centre license is submitted to the ministry of economy and accompanied by the following information:

- 1- The name of the centre, its objectives, its head office and branch premises
- 2- The centre manager's name, nationality, copy of ID card or passport
- 3- Copy of residence permit for foreign national
- 4- Copy of the centre's articles of association signed by its founders

Article (96)

The centre's articles of association must contain the following details:

- 1- The name of the centre in Arabic
- 2- The centre's legal representative
- 3- The centre's main address
- 4- The centre's services and objectives
- 5- The centre's organisational and managerial structure
- 6- The centre's operational rules
- 7- Decision making and complaint procedures
- 8- Full names and qualifications of the arbitrators that the centre will endorse
- 9- Arbitration fees

Article (97)

Criteria for the centre manager are provided as follows:

- 1- Libyan Citizen
- 2- No sentences for crimes or offenses
- 3- Not associated with any political office
- 4- Holds a doctorate or masters in Law, Economic or Business Administration or equivalent foreign qualifications
- 5- Holds qualifications that demonstrate academic development in the field of arbitration

Article (98)

A specialist committee assesses licence applications. It responds to applicants directly, with its decision to either grant or decline the license, within thirty days of the application being submitted to the ministry.

The committee may undertake any checks as it may see fit to arrive at its decision. It may also visit the centre to verify the authenticity of the application documentation.

Article (99)

The committee must issue a substantiated decision, in the event that it declines a licence. The centres manager may appeal this decision in an administrative court no later than from the date of the refusal. (The duration of the appeal is stipulated by the laws of the administrative court).

Article (100)

The centre is considered a legal formation, from the date on which its licencing order is published in the official journal, and it also gains its legal personality and right to litigate, own and dispose of its assets and resources.

Article (101)

The centre manager, founders and employees are not liable for any of the centre's legal obligations; neither can they be required to personally cover any of the centre's expenses in any event.

Article (102)

Arbitration centres are subject to tax code The centre's registers and documents will be retained at the centre for a period of 25 years.

Article (103)

Anyone that suffers a major loss as a result of the acts of an arbitration centre may file a written complaint to the relevant committee within the Ministry of Economy.

The application must include the following:

- The aggrieved party's Full name, nationality and address
- The name of the arbitration centre and its address
- A statement of facts, losses suffered and damages sought
- Copies of support documents relied on as evidence in the allegation

Article (104)

The committee undertakes all the necessary checks to verify the plaintiff's allegations. This may include summoning the centre manager or legal representative, conducting enquiries and inspecting the centre, so as to rule on the complaint within thirty days of receiving it.

Article (105)

In the event that no losses are found to have been caused by the centre to the plaintiff, the committee will rule on the rejection of the complaint. It will issue two copies of its decision; one to the plaintiff and one to the centre's legal representative. The centre may take the plaintiff to court under the Civil and Commercial Procedure Code to seek damages for any moral losses.

Where the plaintiff's allegations are found to be true, the committee issues a warning letter to the centre for it to resolve the fault within sixty days.

Should the centre neglect this timeframe and fail to acknowledge the fault, despite the warning, the committee will bring a case against the centre before the court of appeal in the district where the arbitration centre is located; for the plaintiff's claim to be heard.

Article (106)

The Court will hear the claim and grant the centre the opportunity to settle the matter and acknowledge the fault within no more than thirty days from the date of the hearing. If the centre fails to respond within the set duration, the Court will order the legal cessation of the centre. The centre will be ordered to pay damages to the plaintiff for any losses suffered. The decision will be published in the official journal.

Article (107)

A select committee (comprising of lawyers, judges, doctors...) will be formed by decree of the Minister of Economy, for the centre's interim management, pending any decisions on other cases that the centre may be privy to. The decree will be published in the official journal.

Chapter Ten

Treaty-based Investor-State Arbitration

Article (108)

Principles of the UNCITRAL Convention on Transparency in Treaty-based Investor-State Arbitration are applicable on this Law.

>>> Translation End <<<

Appendix

Art (108) <https://www.uncitral.org/pdf/english/texts/arbitration/transparency-convention/Transparency-Convention-e.pdf>