

**INTERIM PROVISIONS ON ARBITRATION OF DISPUTES OVER
EMPLOYMENT CONTRACTS FOR FOREIGN EXPERTS WORKING IN THE
CULTURAL AND EDUCATIONAL FIELDS**

(Promulgated by the State Bureau of Foreign Experts on 24 May, 1993)

Chapter I

General Provisions

ARTICLE 1

These Provisions are formulated, in accordance with the Civil Procedure Law of the People's Republic of China and the General Principles of the Civil Law of the People's Republic of China, in order to independently and impartially settle disputes over employment contracts for foreign experts working in the cultural and educational fields and protect the legal rights and interests of all parties concerned.

ARTICLE 2.

These Provisions shall apply to disputes over employment contracts between host institutions and foreign experts working in the cultural and educational fields. The phrase "foreign experts working in the cultural and educational fields" referred to in these Provisions denotes the foreign professionals engaged in education, the media, publication, culture, art, public health and sports within the territory of the Peoples Republic of China. Disputes over employment contracts for professionals from Hong Kong, Macao and Taiwan and overseas Chinese professionals shall be governed in reference to these provisions as well.

Chapter II

Organization

ARTICLE 3

The China Foreign Expert Employment Contract Disputes Arbitration Commission (hereinafter referred to as the Arbitration Commission) is composed of officials and law specialists with expertise and practical experience in foreign expert administration from the State Bureau of Foreign Experts and other departments concerned. The Arbitration Commission is responsible to supervise the arbitration of disputes over employment contracts for foreign experts working in the cultural and educational fields and accept and handle the applications for arbitration of these disputes within the country. The Arbitration Commission is located in Beijing.

Under the Arbitration Commission, a Secretariat is established at the State Bureau of Foreign Experts, under the leadership of the General Secretary, to handle the day-to-day affairs of the Arbitration Commission.

The Arbitration Commission may, according to the requirement for the arbitration activities, establish subcommissions in relevant provinces, autonomous regions and municipal cities.

ARTICLE 4.

The functions and duties of the Arbitration Commission are:

1. to formulate and revise the arbitration provisions and relevant legislative documents;
2. to maintain a panel of arbitrators. The arbitrators are selected and appointed from law specialists and other persons with expertise and practical experience in foreign expert administration;
3. to rule the contentious arbitrations made by the arbitration tribunal;
4. to correct and rescind the arbitration award rendered by the arbitration tribunal;
5. to supervise the arbitration of disputes over employment contracts for foreign experts working in the cultural and educational fields in the country;
6. to accept and handle the applications for arbitration of disputes over these contracts in the country.

Chapter III

Conciliation

ARTICLE 5.

Conciliation is an important procedure for settling disputes over employment contracts for foreign experts working in the cultural and educational fields.

ARTICLE 6.

To ask for conciliation in disputes over an employment contract, one or more of the parties shall submit a written application and other materials concerned to the Secretariat of the Arbitration Commission. A statement shall be enclosed to the application that the applicant will abide by the conciliation clause in these Provisions.

ARTICLE 7.

If only one party applies for conciliation, the Secretariat shall notify the other party and require a written statement for acceptance of conciliation and an agreement to abide by the conciliation clause in these Provisions within a designated time period.

ARTICLE 8.

If the parties agree to accept conciliation and abide by the conciliation clause in these

Provisions, the Secretariat shall appoint an arbitrator from the panel as conciliator.

ARTICLE 9.

The parties shall pay the conciliation fee to the Secretariat before the commencement of the conciliation procedure.

ARTICLE 10.

When a conciliation agreement has been reached, a conciliation statement shall be drawn up and signed by the parties and the conciliator. Once the conciliation statement is served, it shall become effective. If one party refuses conciliation or no agreement is reached, the Secretariat shall notify the parties immediately.

Chapter IV

Arbitration

ARTICLE 11.

The Arbitration Commission conducts arbitration in accordance with the laws and decrees of China, and the Interim Measures for the Administration of Employment Contracts for Foreign Experts Working in the Cultural and Educational Fields and other regulations made by the State Bureau of Foreign Experts.

ARTICLE 12.

The Arbitration Commission shall conduct arbitration in accordance with the arbitration clause in the employment contract if there are any. If there is no such clause within the contract, the parties shall reach an arbitration agreement and declare to abide by the arbitration clause in these Provisions before the submission of the application for arbitration to the Arbitration Commission. Otherwise, the application will not be acted upon.

ARTICLE 13.

The parties shall pay an arbitration fee in advance to the Arbitration Commission according to the Arbitration Fee Schedule attached to these Provisions.

ARTICLE 14.

After receipt of the Application for Arbitration and when the Secretariat of the Arbitration Commission, after examination, determines that the parties have completed the formalities required for the application, the Secretariat shall immediately send the parties one copy each of these Provisions and the list of the Panel of Arbitrators.

ARTICLE 15.

The parties shall each, within one week after receipt of these Provisions and the list of the

Panel of Arbitrators, appoint an arbitrator from among the Panel of Arbitrators, or authorize the Secretariat of the Arbitration Commission to make an appointment.

ARTICLE 16.

The parties may authorize attorneys to confer with the Arbitration Commission on matters relating to arbitration. Such attorneys may be citizens of China or foreign citizens.

Chapter V

Arbitration Tribunal

ARTICLE 17.

The arbitration tribunal is the organization authorized by the Arbitration Commission to settle disputes over employment contracts for foreign experts working in the cultural and educational fields. The arbitration tribunal is formed by two arbitrators selected by the contested parties and a presiding arbitrator appointed by the Secretariat. To hear the case, all three arbitrators of the arbitration tribunal shall appear. The arbitral award shall be decided by the majority of the arbitrators.

ARTICLE 18.

Or, if both parties have agreed, the Secretariat may appoint one arbitrator from among the Panel of Arbitrators as a sole arbitrator to hear the case alone.

ARTICLE 19.

A party who intends to challenge an arbitrator must put forward his challenge, and proper reasons and evidence before the commencement of the arbitration. The Arbitration Commission shall decide on the challenge. Any appointed or selected arbitrator having personal interest in the case shall himself request the Arbitration Commission to withdraw him from this position.

ARTICLE 20.

If an arbitrator cannot perform his duty due to withdrawal or other reasons, a substitute arbitrator shall be appointed or selected in accordance with the procedure pursuant to which the original arbitrator was appointed or selected.

Chapter VI

Hearing

ARTICLE 21.

The arbitration tribunal shall hold an oral hearing to hear the case and shall ensure the equality of the parties fights.

ARTICLE 22.

The date and place of the oral hearing shall be decided by the arbitration tribunal through consultation with the Secretariat of the Arbitration Commission and the notice of hearing shall be served to the parties one week prior to the date of the hearing. The cases acted upon by the Arbitration Commission shall be heard in the place where the Arbitration Commission is located but may, with the approval of the Arbitration Commission, be heard in other places when necessary.

ARTICLE 23.

During the hearings, the arbitration tribunal shall take records in writing and/or tape recordings and order the parties and/ or their attorneys, witnesses and/ or other persons involved to sign

the records taken.

ARTICLE 24.

The parties shall give evidence for the based. The arbitration tribunal may, if it deems it necessary, make investigation and collect evidence on its own initiative.

ARTICLE 25.

Should either of the parties or his attorney fall to appear at the hearing without due reasons,

the arbitration tribunal may proceed with the hearing and make an award by default.

Chapter VII

Award

ARTICLE 26.

The arbitration tribunal shall render an arbitral award within one week after the closing of the examination and hearing. The arbitral award shall include the following particulars:

1. the name of the parties;
2. the date of the beginning and conclusion of the arbitration and the location of the Arbitration tribunal;
3. the cause and details of the case, and the reasons upon which the arbitral award is based and the contents of the arbitral award;
4. the arbitration fees and the costs for any of the parties which shall be paid back and the time period of the payment;

5. the name and signatures of the arbitrators.

ARTICLE 27.

If both parties reach a settlement by themselves pertaining a case under the cognisance of the Arbitration Commission, the arbitration tribunal shall render a conciliation statement to confirm their settlement agreement.

ARTICLE 28.

Any of the parties may submit application for reconsideration to the Arbitration Commission if any of the following circumstances exist:

1. the composition of the arbitration tribunal is illegal;
2. the arbitration tribunal did not award the disputes between the parties;
3. the arbitration tribunal did not ensure the equality of the party fights;
4. the arbitral award rendered by the arbitration tribunal exceeds the scope of the application for arbitration;
5. the arbitral award rendered by the arbitration tribunal is inconsistent with the facts and / or against laws, decrees and the principles of fairness

ARTICLE 29.

When handling the application for reconsideration, the Arbitration Commission may, after examination, sustain the arbitral award decided by the arbitration tribunal, or rescind the arbitral award and instruct the arbitration tribunal to retrial.

ARTICLE 30.

The parties must execute the arbitral award within the time period specified in award. Should either party refuse to obey and / or fail to execute the award, the other party may file in a local court of law a suit against him in place where the contract was implemented.

Chapter VII

Supplementary Provisions

ARTICLE 31.

The Chinese language is the language of the Arbitration Commission, At the hearing, if the parties, their attorneys or witnesses are not familiar with the Chinese language, the Secretariat of the Arbitration Commission may provide an interpreter for them or the parties may bring with them their own interpreters, The Secretariat of Arbitration Commission may, if it deems it necessary, ask the parties to hand in corresponding

translation copies in Chinese and / or other languages various documents and evidential materials submitted by the parties.

ARTICLE 32.

Apart from the parties paying the arbitration fees according to the Arbitration Fee Schedule attached to these Provisions, the Secretariat of the Arbitration Commission may collect from the parties actual expenses including arbitrators remuneration, their travel and living expenses for dealing with the case, and the fees and expenses for experts, appraisers and interpreters appointed by the arbitration tribunal, etc. Certain fees and actual expenses incurred may be collected by the Secretariat of the Arbitration Commission if a case is withdrawn after the parties have reached an agreement by themselves.

ARTICLE 33.

The right to interpret these Provisions resides in the State Bureau of Foreign Experts.

ARTICLE 34.

These Provisions shall come into force of the date of promulgation.