

ENVIRONMENTAL DISPUTE ADJUSTMENT ACT

Wholly Amended by Act No. 5393, Aug. 28, 1997
Amended by Act No. 6831, Dec. 26, 2002
Act No. 7428, Mar. 31, 2005
Act No. 7796, Dec. 29, 2005
Act No. 7919, Mar. 24, 2006
Act No. 8428, May 11, 2007
Act No. 8955, Mar. 21, 2008

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to preserve the environment and to relieve any damage to the health and property of citizens by providing procedures of conciliation, mediation, and arbitration in environmental disputes in order to settle any environmental dispute rapidly, fairly, and efficiently.

Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows: *<Amended by Act No. 7919, Mar. 24, 2006>*

1. The term “environmental damage” means damage to the health, property and mentality resulting from air pollution, water pollution, soil pollution, sea pollution, noise, vibration, malodor, the destruction of ecosystem, sunshine inhibition, ventilation inhibition, view inhibition and other causes that are prescribed by Presidential Decree, which occur or are expected to occur by acts of business or any other human acts: *Provided*, That the damage resulting from radioactive contamination shall be excluded;
2. The term “environmental dispute” means strife concerning environmental damage, and strife concerning installation or management of environmental facilities as prescribed in subparagraph 2 of Article 2 of the Development of and Support for Environmental Technology Act;
3. The term “adjustment” means conciliation, mediation, and arbitration of environmental disputes; and
4. The term “dispute involving numerous persons” means an environmental dispute in which there are numerous persons who assert environmental damage resulting from the same cause.

Article 3 (Principle of Faithfulness and Sincerity)

The environmental dispute adjustment committee shall try to execute the procedure for settlement rapidly, fairly, and economically, and the parties concerned who take part in the procedure for settlement shall participate faithfully in that procedure with reciprocal trust and understanding.

CHAPTER II ENVIRONMENTAL DISPUTE ADJUSTMENT COMMITTEE

Article 4 (Establishment of Environmental Dispute Adjustment Committee)

For the purpose of control over the affairs under Article 5, the central environmental dispute adjustment committee (hereinafter referred to as the “central adjustment committee”) shall be established in the Ministry of Environment, and local environmental dispute adjustment committees (hereinafter referred to as the “local adjustment committee”) shall be established

in the Special Metropolitan City, Metropolitan City, or *Do* (hereinafter referred to as the “City/*Do*”), respectively.

Article 5 (Affairs Controlled by Environmental Dispute Adjustment Committee)

The affairs controlled by the central adjustment committee and the local adjustment committees (hereinafter referred to as the “committee”) shall be as follows: *<Amended by Act No. 7919, Mar. 24, 2006>*

1. Adjustment of environmental dispute (hereinafter referred to as “dispute”): *Provided*, That a dispute over any sunshine inhibition and any view inhibition on the grounds of the construction provided for in the provisions of Article 2 (1) 9 of the Building Act shall be adjusted by the committee only when such dispute is combined with any other dispute that is caused by the construction;
2. Inquiry over civil appeal, analysis, and counselling concerning environmental damage;
3. Studies and suggestion of systems and policies for the prevention and solution of disputes;
4. Education and public relations concerning prevention and relief of environmental damage; and
5. Matters under the control of the committee as prescribed by other Acts and subordinate statutes.

Article 6 (Jurisdiction)

(1) The central adjustment committee shall take charge of the following matters from among distribute adjustment affairs:

1. Arbitration of disputes;
2. Adjustment of dispute, one party of which is the State or local government;
3. Adjustment of dispute, the jurisdictional area of which covers not less than two Cities/*Dos*;
4. *Ex officio* adjustment as referred to in Article 30; and
5. Adjustment of other disputes as prescribed by Presidential Decree.

(2) Each local adjustment committee shall take charge of the work of adjusting disputes other than the works under paragraph (1) 2 through 5 from among the work of adjusting disputes that arise in the jurisdictional area of the relevant City/*Do*: *Provided*, That in the case of paragraph (1) 1, the local adjustment committee shall take charge of the matters that are prescribed by Presidential Decree with the exception of disputes over the sunshine inhibition, the ventilation inhibition and the view inhibition. *<Amended by Act No. 6831, Dec. 26, 2002; Act No. 7919, Mar. 24, 2006>*

Article 7 (Composition, etc. of Committee)

(1) The central adjustment committee shall be composed of 15 or fewer members including a chairman, and regular members from among the members shall not exceed three. *<Amended by Act No. 8955, Mar. 21, 2008>*

(2) Each local adjustment committee shall be composed of 15 or fewer members including a chairman, and one of the members may be a regular member. *<Amended by Act No. 6831, Dec. 26, 2002; Act No. 8955, Mar. 21, 2008>*

(3) The term of office of members shall be two years, but renewable. *<Amended by Act No. 8428, May 11, 2007>*

Article 8 (Appointment of Members of Committee)

(1) Members, including the chairman, of the central adjustment committee shall be appointed or commissioned by the President upon the recommendation of the Minister of Environment from among those who fall under any of the following subparagraphs, and who are of learning and experience with regard to the environment. In this case, three or more persons falling under subparagraph 3 shall be included: *<Amended by Act No. 7796, Dec. 29, 2005; Act No. 8428, May 11, 2007; Act No. 8955, Mar. 21, 2008>*

1. Those who have been in office as public officials equivalent to Grades I through III in their ranks or public officials who have been in office while belonging to the Senior Civil Service for not less than 3 years;
2. Deleted; *<by Act No. 7796, Dec. 29, 2005>*

3. Those who have held the office of judge, public prosecutor, or lawyer for six or more years;
 4. Those who have held the position of associate professor or higher, or a position similar thereto, at an authorized college or research institution; and
 5. Those who have been engaged in environment-related services for ten or more years.
- (2) The public officials in extraordinary civil service who belong to the Senior Civil Service shall be appointed as the chairman of the central adjustment committee. *<Amended by Act No. 7796, Dec. 29, 2005>*
- (3) The members of each local adjustment committee shall be appointed or commissioned by the Special Metropolitan City Mayor, Metropolitan City Mayor, or *Do* governor (hereinafter referred to as the “Mayor/*Do* governor”) from among the persons falling under any subparagraph of paragraph (1). In this case, not fewer than two persons falling under paragraph (1) 3 shall be included. *<Amended by Act No. 6831, Dec. 26, 2002; Act No. 8428, May 11, 2007; Act No. 8955, Mar. 21, 2008>*
- (4) The chairman of each local adjustment committee shall be appointed by the Mayor/*Do* governor from among vice mayors or vice governors.
<Newly Inserted by Act No. 6831, Dec. 26, 2002>

Article 9 (Grounds for Disqualifications)

Any person who falls under any of the following subparagraphs shall not be a member of the committee: *<Amended by Act No. 7428, Mar. 31, 2005>*

1. An incompetent, a quasi-incompetent, or a person who has been declared bankrupt but not reinstated;
2. A person who has been sentenced to a punishment heavier than imprisonment without prison labor, and for whom two years have not elapsed since the execution of such punishment was terminated (including cases in which it is deemed that the execution was terminated), or since the final judgment was rendered that said punishment would not be enforced;
3. A person who has been sentenced to a punishment heavier than imprisonment without prison labor, and for whom the final judgment was rendered that the punishment would not be enforced, and the term of the suspended sentence has not elapsed; and
4. A person who has been disqualified by judgment of the court or Acts.

Article 10 (Guarantee of Status)

- (1) A member of the committee shall perform his duties independently.
- (2) A member of the committee shall not be dismissed or decommissioned from his office against his will except the case where a member falls under any subparagraph of Article 9, or where he is deemed unable to appropriately perform his duties due to long-term physical or mental disability.

Article 11 (Duties of Chairman)

- (1) The chairman of the committee shall represent the committee and take general charge of the affairs of the committee.
- (2) If the chairman of the committee is unable to perform his duties due to any unavoidable reason, the member who is designated in advance by the chairman from among the members of the committee, shall act for him.

Article 12 (Exclusion of Members)

- (1) If a member of the committee falls under any of the following subparagraphs, he shall be excluded from the performance of his duties:
 1. Where a member or person who is or was his spouse, becomes a party to the dispute in question (hereinafter referred to as a “case”), or is a co-obligee or co-obligor with respect to the case;
 2. Where a member has or has had a relationship by blood or marriage with a party to the case;
 3. Where a member has made a statement or appraisal with respect to the case;

4. Where a member intervenes or has intervened in the case as a representative of a party; and
 5. Where a member has taken part in the disposition or omission which is the cause of the case.
- (2) If there is a cause for exclusion, the committee shall make a decision on exclusion by *ex officio* or request of the party.
 - (3) If circumstances indicate that it will be difficult for a member to impartially perform his duties, a party may request a challenge. If the challenge is deemed reasonable, the committee shall make a decision on challenge.
 - (4) If a member falls under paragraph (1) or (3), he may excuse himself from duty in the case.
 - (5) If any challenge is requested as referred to in paragraph (3), the committee shall postpone the procedure of adjustment until a decision on such request is made.
 - (6) The provisions of paragraphs (1) through (5) shall be applicable *mutatis mutandis* to any personnel and expert concerned who take part in the procedure of adjustment as referred to in Article 13 (3) (hereinafter referred to as "experts concerned").

Article 13 (Secretariat)

- (1) In order to manage the affairs of the committee, the secretariat may be established in the committee.
- (2) In order to carry out the following subparagraphs, the examiner shall be established in the secretariat:
 1. Fact-finding necessary for the adjustment of the dispute, and inquiry into the casual sequence;
 2. Calculation of the amount of environmental damage, and development of and research on the criteria for such calculation; and
 3. Other matters designated by the chairman of the committee.
- (3) In order to settle any specialized matters concerning a particular case, the chairman of the committee may commission an expert concerned to carry out the affairs as referred to in paragraph (2).

Article 14 (Legal Fiction as Public Officials in Application of Penal Provisions)

Among the members of the committee, experts concerned and members who are not public officials shall be considered as public officials in the application of Articles 127 and 129 through 132 of the Criminal Act.

Article 15 (Enactment of Regulations)

- (1) The central adjustment committee may make regulations concerning procedures for the settlement of affairs and other rules concerning the operation of the committee.
- (2) The operation of the local adjustment committee and other necessary matters shall be determined by the Municipal Ordinances of the City/*Do* concerned.

Article 15-2 (Notification of Opinion)

The committee may notify the head of relevant administrative agency of an opinion on the improvement measures for the conservation of environment and prevention of environmental damage that it has come to know in the course of execution of duty.

[This Article Newly Inserted by Act No. 8955, Mar. 21, 2008]

CHAPTER III DISPUTE ADJUSTMENT

SECTION 1 Common Provisions

Article 16 (Request, etc. for Adjustment)

- (1) A person who desires to request for adjustment shall submit the written application for conciliation, mediation, or arbitration to the committee of jurisdiction as referred to in Article 6.
- (2) The Minister of Environment shall represent the State in the event that the State

is a party to the adjustment of any dispute. In this case, the Minister of Environment may designate any public official belong to the administrative agency having jurisdiction over the case as a person in charge of adjusting such dispute. *<Amended by Act No. 6831, Dec. 26, 2002>*

(3) If the committee receives a request for adjustment as referred to in paragraph (1), the request for adjustment shall proceed without delay.

(4) The committee may hear the opinions of interested parties or competent authorities prior to proceeding with the request for adjustment as referred to in paragraph (3).

(5) The matters in the written application as referred to in paragraph (1) shall be determined by the Presidential Decree.

(6) When the committee receives a request for adjustment from the parties concerned, it shall complete the procedure within the period as prescribed by the Presidential Decree.

Article 16-2 (Advice to Agree)

(1) When there is a request for adjustment, the committee may advise the parties to agree to the compensation for damage.

(2) The advice in paragraph (1) shall not affect the progress of adjustment.

[This Article Newly Inserted by Act No. 8955, Mar. 21, 2008]

Article 17 (Rejection, etc. of Request)

(1) If a request for adjustment is unlawful, the committee may order the correction of the defect by prescribing a period.

(2) If a requester fails to comply with the order as referred to in paragraph (1), or if it is impossible to correct the defect, the request for adjustment shall be rejected by decision.

(3) The committee shall reject by decision any request for adjustment concerning disputes which have completed a procedure of adjustment, or is under a procedure of adjustment, as prescribed by other Acts.

Article 18 (Cooperation of related Agency)

(1) If it is deemed necessary for adjusting a dispute, the committee may request to the head of the related administrative agency any necessary cooperation, such as presenting materials, stating opinions, furnishing any expertise, measurement and analysis of environmental pollutants, etc. *<Amended by Act No. 8955, Mar. 21, 2008>*

(2) If it is deemed necessary for the elimination or prevention of environmental damage in the course of adjusting a dispute, the committee may recommend that the head of the related administrative agency order a person who causes environmental damage to take such administrative measures by ordering the correction of a defect, the cessation of operations, or the suspension of construction.

(3) The head of the related administrative agency of whom cooperation is requested or to whom recommendations are made as referred to in paragraphs (1) and (2), shall accept such requests in the absence of any reasonable ground for objection.

Article 19 (Selected Representative)

(1) If many persons become joint parties concerned in an adjustment, they may select three or less representatives from among them.

(2) In case the parties concerned do not select their representatives as referred to in paragraph (1), and it is deemed necessary to select the representatives, the committee may recommend the parties concerned to select the representatives.

(3) Selected representatives may perform any act concerning adjustment of the case on behalf of the requester or requestee: *Provided*, That a withdrawal of request and acceptance of adjustment protocol shall have the written consent of the other parties.

(4) Once a representative is selected, the other parties concerned may perform any act concerning the case only through the selected representative.

(5) The parties concerned who have selected their representative may dismiss or change the selected representative, if necessary. In this case, the parties concerned shall notify the committee of that change without delay.

Article 20 (Attendance)

(1) In case dispute is under procedure of adjustment, a person who asserts environmental damage resulting from the same cause may take part in that procedure as a party concerned with the consent of the committee.

(2) When the committee gives consent as referred to in paragraph (1), it shall hear the opinion of the party concerned.

Article 21 (Correction of Requestee)

(1) If it is obvious that a requester designates the wrong requestee, the chairman of the committee may permit the requestee to be corrected at the request of the requester. *<Amended by Act No. 6831, Dec. 26, 2002>*

(2) The chairman of the committee shall, when he grants the permission referred to in paragraph (1), notify the parties and the new requestee of the fact. *<Amended by Act No. 6831, Dec. 26, 2002>*

(3) When the decision on permission as referred to in paragraph (1) is made, any request for adjustment to the previous requestee shall be withdrawn, and any request for adjustment to the new requestee shall be considered to have been made at the time the request for correction as referred to in paragraph (1) is made. *<Amended by Act No. 6831, Dec. 26, 2002>*

Article 22 (Agent)

(1) The party concerned may designate as an agent a person who falls under any of the following subparagraphs:

1. Spouse, lineal ascendants and descendants, or brothers and sisters of the party concerned;
2. Officers and employees of the juristic person who is the party concerned;
3. Lawyers; and
4. Public officials who are nominated by the Minister of Environment or the heads of the local governments from among the public officials of the Ministry of Environment or the local governments.

(2) The party concerned who desires to designate as an agent, a person as referred to in paragraph (1) 1 or 2, shall be permitted by the chairman of the committee. *<Amended by Act No. 6831, Dec. 26, 2002>*

(3) The competence of an agent shall be explained in writing.

(4) The agent shall have mandate for any of the following actions:

1. Withdrawal of request;
2. Acceptance of the mediation protocol; and
3. Selection of deputy agent.

Article 23 (Appeal concerning Interim Decision)

(1) The party concerned may make an objection to the committee concerning the interim decision of an adjustment procedure by the committee within fourteen days after he is informed of the decision.

(2) In case the committee deems the objection as referred to in paragraph (1) to be reasonable, the committee shall rectify the decision. In case where the committee deems the objection to be unreasonable, the committee shall reject the objection.

Article 24 (Mandate of Adjustment Procedure)

The conciliation committee as referred to in Article 31 (1) or the arbitration committee as referred to in Article 36 (1) may delegate part of the adjustment or arbitration procedure to the members of the conciliation committee or arbitration committee.

Article 25 (Non-publicity of Procedure)

Except as otherwise provided by this Act, the adjustment procedure by the committee shall not be open to the public.

Article 26 (Adjustment Request by Environmental Organization)

(1) In case any damage resulting from a major destruction of the ecosystem has occurred or is expected to occur soon, the environmental organization qualified by the following subparagraphs may request adjustment on behalf of the dispute party with the permission of the committee:

1. A non-profit juristic person established by the grant of the Minister of Environment under the provisions of Article 32 of the Civil Act;
 2. An organization of which the articles of association provide that the aim of organization is to preserve and promote such public interests as environmental preservation; and
 3. An organization which falls under other qualifications as prescribed by the Presidential Decree.
- (2) With respect to the environmental organization requesting for adjustment as referred to in paragraph (1), the provisions of Article 22 (3) or (4) shall be applicable *mutatis mutandis*.

SECTION 2 Conciliation

Article 27 (Nomination of Conciliation Committee)

- (1) Any conciliation through the committee shall be conducted by three or less members (hereinafter referred to as the “conciliation committee”).
- (2) The conciliation committee shall be nominated by the chairman of the committee on a case by case basis from among the members of the committee.

Article 28 (Duties of Conciliation Committee)

The conciliation committee shall conciliate any dispute between parties, and make efforts to impartially settle the case.

Article 29 (Termination of Conciliation)

- (1) If it is deemed impossible to settle the dispute by conciliation, the conciliation committee may terminate the conciliation.
- (2) If an application for mediation or arbitration of a dispute under conciliation, the conciliation shall be considered to have been terminated.

SECTION 3 Mediation

Article 30 (Ex Officio Mediation)

- (1) The central adjustment committee may begin *ex officio* the mediation procedures concerning environmental disputes apprehended to have great ripple effect on the society, such as severe damage to the life and limb of the people due to environmental pollution, dispute on the installation or management of environmental facilities in subparagraph 2 of Article 2, etc. even in the absence of an application of the parties concerned. *<Amended by Act No. 8955, Mar. 21, 2008>*
- (2) Matters concerning the object of *ex officio* mediation under paragraph (1), procedures of mediation and person to conduct *ex officio* mediation shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 8955, Mar. 21, 2008>*

Article 31 (Nomination, etc. of Members of Mediation Committee)

- (1) Any mediation by the committee shall be conducted by a committee composed of three members (hereinafter referred to as the “mediation committee”). *<Amended by Act No. 8955, Mar. 21, 2008>*
- (2) Members of the mediation committee (hereinafter referred to as “mediator”) shall be nominated by the chairman of the committee on a case by case basis from among the members of the committee, however, a person or more falling under Article 8 (1) 3 shall be included. *<Amended by Act No. 8955, Mar. 21, 2008>*
- (3) The meetings of the mediation committee shall be convened by the chairman of the mediation committee.
- (4) The meetings of the mediation committee shall be held with attendance of all the members, and shall make a decision by a concurrent vote of the majority of all the members.

Article 32 (Research Right, etc. of Mediation Committee)

- (1) If it is deemed necessary for mediating a dispute, the mediation committee may have a member or examiner of the committee enter a factory or place of business owned by

the party concerned, or other places related to the dispute, to examine, inspect or copy the related documents or items, and hear any statements from witnesses.

(2) When the committee accepts as materials for mediation the result of research as referred to in paragraph (1), it shall listen to the opinion of the party concerned.

(3) In the case of paragraph (1), the member or the examiner shall carry a certificate stating the powers, and show it to the persons concerned.

Article 33 (Effect, etc. of Mediation)

(1) The mediation committee may prepare a mediation proposal and advise the parties concerned to accept it within a specified period of thirty days or more, and the mediation shall be effected by accepting the mediation proposal by the parties concerned and by stating it in the protocol.

(2) The protocol in paragraph (1) shall have the same effect as that of the consent judgment: *Provided*, That to the matters that the parties concerned cannot handle at will, this shall not apply.

[This Article Wholly Amended by Act No. 8955, Mar. 21, 2008]

Article 34 (Refusal of Mediation)

(1) If the mediation committee deems that it is improper by nature to make a mediation on the dispute, or the party concerned requests the mediation with unlawful intention, it may refuse the mediation.

(2) When the mediation committee has made a decision to refuse a mediation under paragraph (1), it shall notify the party concerned.

Article 35 (End of Mediation)

(1) If it is deemed that there is no possibility to reach an agreement between the parties concerned, the mediation committee may end the mediation with the decision that it refuses a mediation.

(2) If the parties concerned have, after the recommendation is made under Article 33 (1), made a notification to the effect that they refuse to accept the recommendation, within the designated period, the mediation shall be ended.

(3) If the mediation is interrupted under paragraph (1) or (2), the mediation committee shall notify the parties concerned.

(4) If a party who has received the notification under paragraph (3), institutes an action within thirty days after receiving the notification, the request for mediation shall be considered as a judicial claim, with respect to the termination of the prescription and the counting of the time limit for bringing an action.

SECTION 4 Arbitration

Article 36 (Nomination of Arbitrator)

(1) Arbitration shall be performed by the committee composed of five members (hereinafter referred to as the "arbitration committee"): *Provided*, That any arbitration on insignificant cases as prescribed by the Presidential Decree may be performed by the arbitration committee composed of three members.

(2) Members of the arbitration committee (hereinafter referred to as "arbitrators") shall be nominated by the chairman of the arbitration committee on a case by case basis from among members of the committee, and not less than one person as referred in Article 8

(1) 3 shall be included.

(3) The meetings of the arbitration committee shall be convened by the chairman of the arbitration committee.

(4) The meetings of the arbitration committee shall be held with the attendance of all the members, and a decision shall be made by a concurrent vote of the majority of all the members.

Article 37 (Examination)

(1) The arbitration committee shall have the party concerned state their opinion with the date of examination fixed.

(2) The arbitration committee shall announce the date of examination as referred to in paragraph (1) seven days before the date of examination.

(3) The examination shall be open to the public, except in case where the arbitration committee deems that it is necessary to protect the privacy of an individual or a business secret of a party, or if it might be prejudicial to the impartiality of procedure, or if it is required for the public interest.

Article 38 (Right of Examination, etc. of Arbitration Committee)

(1) When it is deemed necessary to arbitrate a dispute, the arbitration committee may perform, upon request of the party concerned or *ex officio*, any of the following acts:

1. Demand the attendance of the party concerned or witnesses for, questioning and hearing of any statements;
2. Demand the attendance and appraisal of the appraiser;
3. Persual, copy, demand for submission and holding of documents or items related to the dispute; and
4. Enter and examine the places related to the dispute.

(2) The party concerned may participate in examination as referred to in paragraph (1).

(3) Once the arbitration committee has examined *ex officio* as referred to in paragraph (1), it shall listen to the opinion of the parties concerned with regard to the result thereof.

(4) When the arbitration committee has a party or witness state his opinion, or has an appraiser make an appraisal, under paragraph (1), they shall take an oath of a party, witness, or an appraiser.

(5) In the case of paragraph (1) 4, the member of the arbitration committee or examiner shall carry a certificate stating the powers, and show it the related persons.

Article 39 (Preservation of Evidence)

(1) In case it is deemed difficult to preserve evidence, if the arbitration committee does not examine evidence before a request for arbitration, the arbitration committee may perform any act of Article 38 (1) upon request of the person who is to request arbitration.

(2) When a request as referred to in paragraph (1) is made, the chairman of the arbitration committee shall nominate from among the members a member who shall work for preservation of evidence.

Article 40 (Arbitration)

(1) The arbitration shall be made in writing, and the following matters shall be entered in the arbitration document, and the arbitrators shall put their signatures and seals to it:

1. Number and title of the case;
2. Name and address of parties concerned, selective representatives, a representative of the parties concerned or agents;
3. Text;
4. Purport of request;
5. Reason; and
6. Date of arbitration.

(2) When the reason as referred to in paragraph (1) 5 is stated, the judgement on parties' assertion shall be indicated sufficiently to the extent that the contents of the text are recognized as justifiable.

(3) Once the arbitration committee has passed arbitration, it shall send without delay a authentic copy of the written arbitration to the party or agent concerned.

Article 41 (Restoration)

When it is deemed necessary to restore the original state in order to re pair environmental damage, the arbitration committee shall pass, instead of indemnification, the arbitration decision that the party concerned restores the original state: *Provided*, That in case it is

deemed considerably difficult to carry out the restoration due to excessive cost or any other cause, the same shall not apply.

Article 42 (Effect of Arbitration, etc.)

(1) Deleted. *<by Act No. 8955, Mar. 21, 2008>*

(2) In cases where the arbitration committee has conducted arbitration, if a lawsuit caused by an environmental damage which is the object of arbitration is not instituted by both or either of the parties concerned, or the lawsuit is withdrawn within 60 days from the date on which the original copy of the arbitration document is delivered to the parties concerned, the arbitration document concerned shall have the same effect as that of the consent judgment: *Provided*, That to the matters that the parties concerned cannot handle at will, this shall not apply. *<Amended by Act No. 8955, Mar. 21, 2008>*

[This Article Wholly Amended by Act No. 6831, Dec. 26, 2002]

Article 43 (Remittal to Mediation)

(1) If deemed proper to remit a case, for which an arbitration is requested, for mediation, the arbitration committee may conduct directly *ex officio* the mediation, or remit it to the committee concerned for mediation.

(2) In case where a case is remitted for mediation under paragraph (1), if the parties fail to reach an agreement, the arbitration procedure shall proceed, and if they reach an agreement, the request for arbitration shall be considered to have been withdrawn.

Article 44 (Interruption, etc. of Prescription)

In case the party concerned rejects an arbitration and brings a suit, the request for arbitration shall be considered as a judicial claim with respect to the termination of prescription and the counting of the time limit for bringing an action.

Article 45 (Relation to Lawsuit)

(1) When a suit for a case for which an arbitration is requested is pending, the court of suit may postpone the judicial proceedings until the arbitration is made.

(2) If the judicial proceedings are not suspended under paragraph (1), the arbitration committee shall discontinue the arbitration procedure of the case.

(3) In the event that a lawsuit on the same or similar case involving numerous persons that is the same as the case for which an application is filed for an arbitration is in progress, the arbitration committee may suspend by decision procedures for an arbitration. *<Newly Inserted by Act No. 6831, Dec. 26, 2002>*

CHAPTER IV ADJUSTMENT OF DISPUTE INVOLVING NUMEROUS PERSONS

Article 46 (Request for Adjustment of Dispute Involving Numerous Persons)

(1) In case the environmental damage resulting from the same cause occurs or is expected to occur to numerous persons, one person or more than one persons among them may request adjustment as a representative of the parties concerned.

(2) A person who is to request adjustment as referred to in paragraph (1) shall obtain permission from the committee.

(3) Request for permission as referred to in paragraph (2) shall be made in writing.

(4) The permission document as referred to in paragraph (3) shall include the following matters:

1. Name and address of a requester;
2. Name and address of an agent, in case the agent requests;
3. Name and address of a requestee;
4. Scope of numerous persons whom a requester desires to represent;
5. Upper limit of amount of claim for damages per one person, in case a requester brings an action for damages; and
6. Purport and cause of request for adjustment of dispute.

Article 47 (Condition of Permission)

When a request for permission as referred to in Article 46 falls under the following paragraphs, the committee may permit the request:

1. If the environmental damage resulting from the same cause occurs or is expected to occur to all claimants;
2. If there are not less than one hundred persons who have a common interest, and adjustment by the selected representative as referred to in Article 19 is considerably difficult;
3. If the amount of damages per person shall be not more than five hundred million won in case of claiming compensation;
4. If not less than thirty persons among numerous persons whom the requester desires to represent reach an agreement; and
5. If the requester may represent fairly and properly the interests of the members.

Article 48 (Competition of Requests)

(1) When requests for adjustment of a dispute involving numerous persons compete, the committee may recommend the separation or joint representation of the case to each requester.

(2) In case where a recommendation as referred to in paragraph (1) is rejected, the committee may reject permission with regard to the request concerned.

Article 49 (Decision of Permission)

(1) In case of a decision to permit adjustment of a dispute involving numerous persons, the committee shall include the matters as referred to in Article 46 (4) in the decision document.

(2) When the committee has granted permission as referred to in paragraph (1), it shall notify the requester and requestee of the decision without delay.

(3) In case the committee has granted permission for adjustment of a dispute involving numerous persons, it shall be considered to have requested adjustment at the time when the permission is requested as referred to in Article 46.

Article 50 (Supervision, etc. Representative Party)

(1) If it is deemed necessary, the committee may demand representative parties to submit the necessary report.

(2) In case a representative is deemed not to represent the members fairly and properly, the committee may change the representative party or withdraw permission, at the request of members or *ex officio*.

Article 51 (Public Notice, etc.)

(1) When adjustment of a dispute involving numerous persons is requested, the committee shall announce the following matters to the public within fifteen days after the request, and the committee shall have the public notification document circulated in the office of the local government where the dispute has occurred:

1. Name and address of a requester or requestee;
2. Name and address of an agent;
3. Scope of the number of persons and upper limit of amount of damages per person;
4. Purport of request and abstract of cause;
5. Number and subject of the case;
6. Manner and period of requesting participation, and provision to the effect that the result of adjustment shall not take effect on the person who did not request participation; and

7. Other matters deemed necessary by the committee.

(2) Public notice as referred to in paragraph (1) may be announced in the official gazette or daily newspaper or any other manner as deemed reasonable by the committee.

(3) The committee may have representative party pay the cost of public notice as referred to in paragraph (1).

Article 52 (Request of Participation)

(1) A person who is not a representative party and has common interest concerning the result

of the adjustment of a dispute may request participation within sixty days after public notice as referred to in Article 51 (1).

(2) A person who has agreed under Article 47 (4) shall be considered to have participated.

Article 53 (Effects)

The result of adjustment shall have effect on only the person who requested participation as referred to in Article 52.

Article 54 (Prohibition of Requesting Adjustment concerning Same Dispute)

A person who did not request participation as referred to in Article 52 may not request adjustment again concerning the case which is considered to be the same dispute in its cause of request and purport of request.

Article 55 (Application of Adjustment Procedure)

When there are provisions not referred concerning the adjustment procedure of a dispute involving numerous persons, the provisions of Article 3 shall be applied *mutatis mutandis*, unless the application is against its purport.

Article 56 (Dividend)

In case the representative party receives the damage amount, he shall make a plan to divide the amount within a period of time fixed by the committee, and distribute the dividend by the plan above after the permission of the committee.

Article 57 (Entry of Matters in Dividing Plan)

The following matters shall be noted in the dividing plan:

1. Persons who are to receive the damage amount and upper limit of bond per person;
2. Whole amount which requestee pays;
3. Items of deduction and deduction amounts as referred to in Article 59;
4. Appropriated amount of dividend;
5. Criteria of dividend;
6. Period of requesting payment, place for making request, and matters concerning ways of request;
7. Matters concerning ways of confirming bond;
8. Matters concerning the period, place and ways of receiving dividend amount; and
9. Other matters as prescribed by the committee.

Article 58 (Criteria of Dividend)

(1) Dividend of damage amount shall be made according to the cause of arbitration or content of adjustment proposal.

(2) In case where the confirmed whole bond exceeds the appropriated amount, it shall be distributed with direct proportion to face value of each bond.

Article 59 (Deduction)

Representative party may deduct the following costs from the amount which requestee receives:

1. Cost which was paid to perform the adjustment procedure; and
2. Cost which is paid to divide the damage amount.

Article 60 (Public Notice of Dividing Plan)

(1) In case the committee permits the dividing plan as referred to in Article 56, it shall announce publicly the following subparagraphs:

1. Abstract of arbitration or mediation protocol;
2. Matters of each subparagraph of Article 57; and
3. Name and address of the representative party.

(2) Public notice as referred to in paragraph (1) shall apply *mutatis mutandis* to Article 51 (2) and (3).

(3) Rejection of permission of the dividing plan as referred to in Article 56 shall apply *mutatis mutandis* to Article 23.

Article 61 (Change, etc. of Dividing Plan)

(1) A party who has any objection concerning the dividing plan publicly announced as referred to in Article 60 (1), may submit an opinion to the committee within seven days after public notice.

(2) In case it is deemed necessary to change the dividing plan after permission of dividing plan as referred to in Article 56, the committee may change by decision the dividing plan: *Provided*, That in case of *ex officio* change, it shall listen to the opinions of the representative parties.

(3) The committee shall announce publicly the changed content as referred to in paragraph (2).

(4) Public notice as referred to in paragraph (3) shall apply *mutatis mutandis* to Article 51 (2) and (3).

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 62 (Relationship with State Compensation Act)

In case the State Compensation Act is applicable to a dispute which has passed adjustment procedure under this Act (including Articles 34 and 35), that dispute shall be considered to have passed deliberation and resolution of the deliberative committee of compensation by the State Compensation Act.

Article 63 (Cost of Adjustment, etc.)

(1) The cost necessary for the adjustment procedure by the committee shall be paid by each party except as prescribed by the Presidential Decree.

(2) The person who requests adjustment to the committee shall pay the fee under the conditions as prescribed by the Presidential Decree (in case of the local adjustment committee, the Municipal Ordinance of the City/*Do* concerned).

Article 64 (Applicable Provisions)

The provisions of the Civil Procedure Act concerning the service, and Article 3 of the Act on Special Cases Concerning Expedition, etc. of Legal Proceedings shall be applicable *mutatis mutandis* to the service of documents and legal rate of interest, respectively.

CHAPTER VI PENAL PROVISIONS

Article 65 (Penal Provisions)

Any person who, without any justifiable reason, refuses, interferes with or evades any entry, investigation, inspection and reproduction of materials by members of the committee or examiner under Articles 32 (1), 38 (1) 3 and 4, shall be punished by a fine not exceeding two million won.

Article 66 (Fine for Negligence)

(1) Any person who fails to attend, without any justifiable reason, after receiving a request for attendance under Article 38 (1) 1 and 3, to present documents or items, or submits false documents or items, shall be punished by a fine for negligence not exceeding one million won.

(2) When a party, witness, or appraiser who has taken oath under Article 38 (4) makes a false statement or appraisal, he shall be punished by a fine for negligence not exceeding five hundred thousand won.

(3) The fine for negligence as referred to in paragraphs (1) and (2) shall be imposed and collected by the Minister of Environment or the Mayor/ *Do* governor as prescribed by the Presidential Decree. *<Amended by Act No. 8428, May 11, 2007>*

(4) Any person who is dissatisfied with the disposition of a fine for negligence as referred to in paragraph (3), may make an objection to the Minister of Environment or the Mayor/*Do* governor within thirty days after he is informed of the disposition. *<Amended by Act No. 8428, May 11, 2007>*

(5) If a person who is subject to a disposition of a fine for negligence as referred to in paragraph (3), has filed an objection under paragraph (4), the Minister of Environment or the Mayor/*Do* governor shall notify in the competent court without delay, which shall bring, upon receiving the notification, the case of the fine for negligence to a trial under the Non-Contentious Case Litigation Procedure Act. *<Amended by Act No. 8428, May 11, 2007>*

(6) If no objection is made, and no fine for negligence is paid, in the period as referred to in paragraph (4), it shall be collected according to the disposition of national or local taxes in arrears. *<Amended by Act No. 8428, May 11, 2007>*

ADDENDA

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) At the time when this Act enters into force, any application filed for adjustment pending at the committee under the previous provisions shall be subject to the previous provisions.

ADDENDA *<Act No. 6831, Dec. 26, 2002>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) At the time when this Act enters into force, any application filed for adjustment pending at the committee under the previous provisions shall be subject to the previous provisions.

ADDENDA *<Act No. 7428, Mar. 31, 2005>*

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation.

Articles 2 through 6 Omitted.

ADDENDA *<Act No. 7796, Dec. 29, 2005>*

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2006.

Articles 2 through 6 Omitted.

ADDENDA *<Act No. 7919, Mar. 24, 2006>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) At the time when this Act enters into force, any application filed for adjustment pending at the committee shall be subject to the previous provisions.

ADDENDA *<Act No. 8428, May 11, 2007>*

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Transitional Measures on Change of Imposition and Collection Authority of Fine for Negligence) At the time when this Act enters into force, the cases in the process of imposition

or collection of a fine for negligence under the previous provisions shall be subject to the previous provisions, notwithstanding the amended provisions of Article 66.

ADDENDA *<Act No. 8955, Mar. 21, 2008>*

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Applicability concerning Effect, etc. of Mediation) The amended provisions of Articles 33 and 42 (2) shall apply beginning with the case of application for mediation of environmental dispute that is received by the committee for the first time after this Act enters into force.

(3) (Transitional Measures on Mediation) Previous examples shall apply to the mediation of the case of application for mediation pending at the committee under the previous provisions at the time when this Act enters into force.