仲裁委员会裁决书

(2016) 字第一号

申 请 人: 上海市 化工有限公司, 住所地: 上海市

法定代表人: 职务: 总经理。

委托代理人: 特别授权), 上海市 津师事务所。

委托代理人: (特别授权), 上海市 师事务所。

被申请人: 五七香港有限公司, 住所地: 香港

法定代表人: 职务: 总经理。

依据《**一**仲裁委员会仲裁规则》(以下简称《仲裁规则》的规定,本案适用普通程序,仲裁庭由三名仲裁员组成。

在《仲裁规则》规定的期限内,申请人选定 为仲裁员、选定 为首席仲裁员;被申请人选定 中裁员、选定 为首席仲裁员,故本仲裁庭由 以 以 以 以 以 以 以 为 首席仲裁员。

本案于 2016 年 开庭进行了审理。申请人的委托代理人 被申请人的法定代表人 发现 定参加仲裁活动。本案现已审理终结。

申请人称: 2016 年 申请人与被申请人签署了合同编号

申请人为证明其仲裁请求,向仲裁庭提交了以下证据:

证据一:《**证据**一部》复印件一份共页;证明:申请人与被申请人关于产品购销的数量、价格、交货时间、地点、违约责任以及争议解决方式都作出明确的约定,买卖合同合法有效。

证据二:催告函,复印件一份共1页;证明:被申请人违约未交货,

申请人发函催促被提交货物。

证据三:邮件,打印件一份共 1 页;证明:申请人邮件通知被申请人已向其快递了上述证据二《 并告知快递单号、注意查收等。

证据四:快递凭证,复印件一份共1页,证明:申请人将《 快递方式寄送给被申请人。

证据六: 2016 年 市场价格,打印件一份 共4页,证明: 由于被申请人违约行为导致申请人可得利益损失。

证据七:民事委托代理合同、律师费发票及付费凭证,复印件一份共7页,证明:由于被申请人违约,申请人为本案聘请并支付律师服务费人民币

对申请人提交的证据材料,被申请人发表如下质证意见:对证据一、二、三、四、五、七,其真实性、合法性、关联性均无异议,予以认可;对证据六的真实性、合法性、关联性均有异议,不具备证据条件。

被申请人未向仲裁庭提交证据。

本案在审理过程中,双方当事人在仲裁庭主持下达成一致意见。仲 裁庭根据《中华人民共和国仲裁法》第四十九条、第五十一条第二款、第 五十七条的规定,裁决如下:

- 一、解除申请人上海 有限公司与被申请人 石化香港有限公司签订的《 同 同》。
- 二、被申请人 石化香港有限公司向申请人上海 化工有限公司违约金人民币 232500 元。
- 三、被申请人 石化香港有限公司承担申请人上海 化工有限公司实现债权所支付的费用人民币 元。

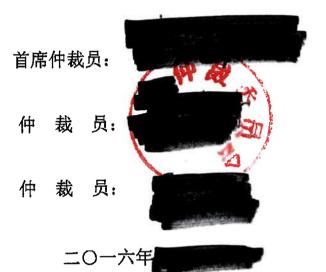
四、被申请人 石化香港有限公司于 2016 年 前将第二

项、第三项之款项支付给申请人上海中化工有限公司。

五、驳回申请人上海 化工有限公司的其他仲裁申请。

六、本案案件受理费 元、案件处理费 元,合计 元 (已由申请人预缴),由被申请人 石化香港有限公司承担并于 年 前一并支付给申请人上海 化工有限公司。

本裁决为终局裁决。





IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MISCELLANEOUS PROCEEDINGS NO. OF 2017

IN THE MATTER of SECTION 84 AND SECTION 92 OF THE ARBITRATION ORDINANCE. CAP 609. LAWS OF HONG KONG.

and

IN THE MATTER OF A MAINLAND AWARD
MADE IN THE MAINLAND BY
ARBITRATION COMMISSION DATED

2016 IN ACCORDANCE WITH
THE ARBITRATION LAW OF THE PEOPLE'S
REPUBLIC OF CHINA

BETWEEN



Plaintiff

(Claimant)

AND

PETROCHEMICAL HONG KONG LIMITED

Defendant (Respondent)

BEFORE THE HONOURABLE MADAM JUSTICE MIMMIE CHAN IN CHAMBERS ORDER

UPON THE APPLICATION on part of the Plaintiff (Claimant) by way of ex-parte Originating Summons dated 2017

AND UPON READING the Affirmation of

dated

2017

and the exhibits referred therein

IT IS HEREBY ORDERED THAT:-

- 1. Pursuant to Section 84 and Section 92 of the Arbitration Ordinance (Cap. 609) and Order 73 Rule 10(1) of the Rules of High Court, leave be granted to the Plaintiff to enforce an Arbitration Award by Arbitration Commission dated 30th September 2016 ("Award") which was handed down in an arbitration between the Plaintiff (Claimant) and the Defendant (Respondent) by the arbitral tribunal consisting of three arbitrators namely with being the Presiding Arbitrator, in
 - (i) to have the Purchase and Sale Agreement entered between the Plaintiff and the Defendant terminated;

the same manner as a Judgment or Order of this Court to the same effect as follows:-

- (ii) the Defendant to pay to the Plaintiff damages in sum of RMB dollars
- (iii) the Defendant to pay to the Plaintiff costs in sum of RMB dollars
- (iv) the Defendant to pay to the Plaintiff further tribunal costs in the amount of RMB dollars
- Within 14 days after service of this Order on the Defendant (Respondent), the Defendant (Respondent) may apply to set aside this Order, and the Award shall not be enforced until after the expiration of that period or, if the Defendant (Respondent) applies within that period to set aside this Order, until after the application is finally disposed of.

 Costs of and incidental to this application and of any Judgment which may be entered hereunder, be paid by the Defendant (Respondent) to the Plaintiff (Claimant), to be taxed if not agreed.

Dated the 2017

Registrar

IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE MISCELLANEOUS PROCEEDINGS NO. OF 2017

IN THE MATTER of SECTION 84 AND SECTION 92 OF THE ARBITRATION ORDINANCE. CAP 609. LAWS OF HONG KONG.

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IN THE MATTER OF A MAINLAND AWARD MADE IN THE MAINLAND BY ARBITRATION COMMISSION DATED 2016 IN ACCORDANCE WITH THE ARBITRATION LAW OF THE PEOPLE'S REPUBLIC OF CHINA

BETWEEN

上海化工有限公司

Plaintiff

(Claimant)

and

PETROCHEMICAL HONG KONG LIMITED

Defendant

(Respondent)

ORDER

Filed:

2 7 FEB 2017
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