관계부처합동 **Press Release**

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Korean Government Prevails Fully in USD 216.9 Million Schindler ISDS Case

- Following Victories in Lone Star and Elliott Cases -

- The Government of the Republic of Korea announced that at approximately 02:03 a.m. (Korea Standard Time) on March 14, an arbitral tribunal unanimously rendered an award in the investor-State dispute settlement (ISDS) case brought in 2018 by Schindler Holding AG, a Switzerland-based global elevator company, under the Korea-EFTA Investment Agreement*. The tribunal dismissed all claims against the Republic of Korea and ordered Schindler to pay KRW 9.6 billion (USD 6.41 million) in legal costs incurred by the Korean government.

  * Concluded between the Republic of Korea, Switzerland, Iceland, and Liechtenstein

- This case arose from claims by Schindler alleging insufficient investigations and reviews by the Korea Fair Trade Commission, the Financial Services Commission, and the Financial Supervisory Service. Schindler initially sought approximately KRW 490 billion (USD 326.9 million) in damages, later revising its claim to approximately KRW 325 billion (USD 216.9 million), and initiated arbitration on that basis.

  - The arbitral tribunal found that the measures taken by the above authorities were neither arbitrary, discriminatory, nor in bad faith, and constituted legitimate exercises of regulatory authority without abuse of power. Accordingly, the tribunal dismissed all of Schindler's claims, thereby establishing an important precedent affirming the legitimacy of the government's exercise of regulatory powers in similar future cases.

- This case marks another significant achievement for the Government of the Republic of Korea, following its victories in the Lone Star annulment proceedings and the Elliott annulment litigation.
  - Through this outcome, the Government has ▲secured international recognition of the fair enforcement of laws by Korea's financial and competition authorities with respect to foreign enterprises and ▲prevented attempts to shift shareholder disputes between private parties onto State responsibility.
- The Ministry of Justice will continue to work closely with relevant ministries, experts, and both domestic and international counsel representing the Government, and will respond thoroughly to all follow-up measures to safeguard the national interest.

1. Abstract

☐ The Government of the Republic of Korea received a final award in its favor in the investor-State dispute settlement (ISDS) case brought by Schindler Holding AG, a Switzerland-based global elevator company, against the Government in October 2018 under the Korea-EFTA Investment Agreement* (the "Schindler Case"), with the arbitral tribunal rendering its decision at 02:03 a.m. (Korea Standard Time) on March 14, 2026.

* The Korea-EFTA Investment Agreement refers to the investment agreement concluded between the Republic of Korea and the EFTA member states of Switzerland, Iceland, and Liechtenstein

❍ This case was initiated by Schindler, which alleged that the Korea Fair Trade Commission, the Financial Services Commission, and the Financial Supervisory Service (respectively, the "KFTC," "FSC," and "FSS") failed to duly exercise their regulatory and investigative authorities, thereby causing significant losses, including a decline in the share price of Hyundai Elevator Co., Ltd. ("HE"), a Korean company in which it had invested.

❍ Schindler initially claimed approximately KRW 490 billion (CHF 259 million) in damages and, at the final hearing stage, sought approximately KRW 325 billion (USD 216.9 million*) in compensation from the Republic of Korea.

* Based on the amount claimed in Schindler's post-hearing submission dated July 5, 2024.

※ Exchange rates as of the date of the award: CHF 1 = KRW 1,893; USD 1 = KRW 1,500.

※ Counsel for the Government: (Domestic) Bae, Kim & Lee LLC; (International) Debevoise & Plimpton LLP / Counsel for Schindler: (Domestic) Kim & Chang; (International) Quinn Emanuel Urquhart & Sullivan, LLP.

❍ On March 14, the arbitral tribunal accepted the arguments of the Government of the Republic of Korea and rendered an award dismissing all of Schindler's claims. As a result, the Government achieved a complete victory on the merits, successfully avoiding the payment of substantial damages.

❍ In addition, the arbitral tribunal applied the "costs follow the event" principle and ordered Schindler to pay approximately KRW 9.6 billion (based on the exchange rate as of the date of the award) in legal costs incurred by the Government, together with interest accruing until the date of payment. As a result, the Government will be able to recover the legal costs expended in the course of this arbitration.

2. Key Procedural History ※ Korean Standard Time

- ❍ 2018. 7. Notice of Intent submitted by Schindler
- ❍ 2018. 10. Notice of Arbitration submitted by Schindler
- ❍ 2020. 1.~2024. 4. The parties exchanged written submissions
- ❍ 2024. 4. 22.~26. Hearing held (The Hague)
- ❍ 2024. 7. 5. Exchange of post-hearing briefs (PHBs)
- ❍ 2026. 3. 14. Arbitral award rendered (full victory for the Government)

3. Summary of the Award

Summary of the Parties' Positions

□ **Schindler's Position: Alleged Protection of Hyundai Group's Management Control by the Korean Government**

❍ **[Alleged unlawful acts aimed at defending management control]** Schindler asserted that Hyundai Elevator Co., Ltd. ("HE") entered into derivative transactions for the purpose of defending management control and carried out unnecessary capital increases between 2013 and 2015 to maintain those arrangements. It further alleged that, in 2016, call options (i.e., rights to purchase shares at a specified price) were transferred to HE's management at an unfairly low price.

❍ **[Alleged failure of regulatory authorities to fulfill their duties]** Schindler argued that, despite filing multiple complaints and reports with the KFTC, FSC, and FSS during this process, the authorities failed to conduct appropriate investigations and thereby breached their obligations under the investment agreement.

- In particular, Schindler alleged that the FSS accepted HE's securities registration statements for capital increases without conducting a substantive review, effectively tolerating false disclosures and approving the filings as submitted.

❍ **[Allegation of Political Motivation and Discriminatory Treatment]** Schindler alleged that the Korean government, taking into account the purported political influence of the chairperson of the Hyundai Group, intentionally acted to protect the company's management control and thereby subjected Schindler, as a foreign investor, to discriminatory treatment.

❍ **[Claim for Substantial Damages]** Schindler asserted that it had suffered three categories of damages as a result of the alleged conduct of the regulatory authorities, initially claiming approximately KRW 490 billion (CHF 259 million) and ultimately seeking approximately KRW 325 billion (USD 216.9 million).

* The claimed damages consisted of : ① a decline in the value of Schindler's shareholding in HE due to the capital increases; ② the continued expenditure of costs associated with maintaining the derivative transactions due to the capital increases; and ③ impairment of shareholder interests resulting from the transfer of call options at an undervalue.

☐ **Korean Government's Position: This case constitutes a "private dispute between shareholders," and the government's measures were lawful.**

❍ **[Merely a Private Management Control Dispute]** The Government emphasized that the essence of this case is nothing more than a management control dispute between shareholders (Schindler and the chairperson of the Hyundai Group), and that Schindler's attempt to attribute its dissatisfaction to State responsibility under international law is unfounded.

❍ **[Lawfulness of the Regulatory Authorities' Measures]** The Government demonstrated that the respective measures taken by the KFTC, FSC, and FSS were carried out in strict compliance with applicable domestic laws and practices.

- In particular, the Government demonstrated that the FSS's review of HE's securities registration statement for the capital increases* and the KFTC's investigation into the transfer of call options** were also lawfully conducted.

* The FSS conducts a formal review of securities registration statements in accordance with the disclosure-based regulatory principle under the Capital Markets Act, and, absent special circumstances, has no obligation to conduct a substantive review or investigation.

** The KFTC, after conducting a thorough investigation for approximately 15 months using lawful forensic techniques on extensive digital materials, lawfully concluded that there was no violation of the Monopoly Regulation and Fair Trade Act.

❍ **[Rebuttal of Unfounded Allegations of Political Collusion]** The Government demonstrated that Schindler's allegations of "favoritism toward large conglomerates" and "discrimination against foreign investors" are merely speculative.

❍ **[Provision of Full Protection and Security]** The Government emphasized that, under the investment treaty, the obligation of "full protection and security (FPS)" refers to physical protection under international law and, contrary to Schindler's assertions, does not extend to legal protection.

- Furthermore, even assuming arguendo Schindler's allegations, the Government asserted and demonstrated that Schindler had obtained sufficient legal remedies before Korean courts.

※ In January 2014, Schindler filed a first shareholder derivative action against four directors of HE (including the chairperson of the Hyundai Group), seeking damages based on, inter alia, the execution of derivative transactions. In March 2023, a final judgment of the Supreme Court was rendered ordering the chairperson of the Hyundai Group to pay KRW 170 billion plus interest to HE, and on April 13, 2023, the chairperson fully paid approximately KRW 281.5 billion, including interest, to HE.

Tribunal's Findings

❍ The Tribunal fully accepted the Government's position and confirmed that the Government did not breach any international legal obligations under the investment treaty.

❍ **[No Breach of the Fair and Equitable Treatment (FET) Obligation]** The Tribunal held that, for a violation of the FET obligation under the investment treaty to be established, the measures or omissions of the regulatory authorities must go beyond a mere violation of domestic law and amount to ▲arbitrary, unreasonable, or discriminatory measures, or ▲a lack of good faith and legitimate purpose (bad faith).

- Applying the above standard, the Tribunal rejected all of Schindler's allegations that the Korean regulatory authorities (the KFTC, FSC, and FSS) acted arbitrarily or improperly.

- The Tribunal further dismissed Schindler's claims that the Government unduly favored the Hyundai Group or abused its regulatory authority in bad faith, finding that "there is no objective evidence whatsoever" to support such allegations.

- **[No Breach of the Full Protection and Security (FPS) Obligation]** The Tribunal found that the obligation of "full protection and security" under the investment treaty is limited to the provision of physical protection to investments and does not extend to legal protection.
  - The Tribunal further held that, even assuming that the obligation encompasses legal protection, Schindler had already obtained sufficient legal protection within the Korean judicial system, including through shareholder derivative actions, and therefore the Korean Government had fulfilled its obligation to protect investors.
- **[Dismissal of Claims for Damages]** The Tribunal dismissed all of Schindler's claims for damages, holding that, in the absence of any breach of the investment treaty by the Korean Government, there was no need to further examine the three categories of damages alleged by Schindler (decline in share value, costs of maintaining derivative transactions, and losses arising from the transfer of call options).
- **[Costs]** The Tribunal also ordered Schindler to pay the Government's legal costs in the amount of approximately KRW 9.6 billion (based on the exchange rate as of the date of the award), plus interest until the date of payment, in accordance with the "costs follow the event" principle as argued by the Government.

4. Significance and Future Plans

□ A Complete Victory for the Republic of Korea Following Eight Years of Intensive Legal Proceedings

❍ This case constitutes a major investment dispute that has been ongoing for eight years since the submission of the Notice of Intent in 2018, and represents a significant victory in which the Government of the Republic of Korea successfully defended against the claims of a large global corporation in international arbitration through meticulous legal argumentation and comprehensive evidence collection.

❍ In particular, this marks the second instance* in which the Government of the Republic of Korea has achieved a complete victory on the merits in an ISDS arbitration, representing a significant achievement that once again demonstrates to the international community the Government's professional capacity in responding to ISDS disputes.

* The first case in which the Government prevailed following a merits hearing was the ISDS arbitration brought by a Chinese investor (see Ministry of Justice press release dated June 12, 2024, "Chinese Investor ISDS Case : Arbitral Award Rendered").

□ A Result of Systematic and Professional Response through a Whole-of-Government Approach

❍ This victory is the result of the coordinated and systematic operation of the "International Investment Dispute Response Team," composed of relevant ministries and agencies under the leadership of the Ministry of Justice.

- The KFTC, FSC, and FSS demonstrated the lawfulness of their measures based on their practical expertise, while the Ministry of Justice structured these arguments into a coherent international legal framework and successfully persuaded the Tribunal.

□ Establishment of the International Law Principle of "Respect for the State's Right to Regulate"

❍ This Award is of significant importance under international law in that it confirms the principle of the State's "right to regulate," namely that reasonable and non-discriminatory regulatory measures undertaken by a State for legitimate public purposes must be respected under international law.

❍ It is also expected to serve as an important precedent in future cases by preventing attempts by foreign investors to transform private disputes into claims of State responsibility under international law in order to seek excessive compensation.

□ Protection of the National Treasury through Prevention of Wasteful Expenditure and Recovery of Legal Costs

❍ The Ministry of Justice operated a strict cost control system throughout the arbitral proceedings and achieved the best possible outcome at a cost significantly lower than that incurred by Schindler.

❍ Furthermore, following the favorable award, the Government is entitled to recover approximately KRW 9.6 billion in legal costs, as well as interest, from Schindler.

□ Future Plans

❍ The Government will closely analyze the Award and thoroughly prepare for any potential follow-up proceedings*, while making every effort to recover the awarded legal costs.

* Including proceedings for correction, interpretation, or supplementation of the Award, as well as potential annulment proceedings before the courts at the seat of arbitration (Paris). ▨

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Annex Procedural History of the Schindler ISDS Arbitration (Based on Dates in the Award)

Development	Date	Description
Written Pleadings		
Submission of the Notice of Arbitration by Schindler	2018. 10. 10.	Receipt of Schindler's Notice of Arbitration
Constitution of the Arbitral Tribunal	2019. 1. 13.	Presiding Arbitrator: Lawrence Shore Appointed by the Government: Loretta Malintoppi Appointed by Schindler: Neil Kaplan
Submission of the First Memorial	2020. 1. 24.	Schindler: Submission of the Statement of Claim
Submission of the First Counter-Memorial	2020. 6. 5.	Government: Submission of the Statement of Defence
Submission of the Second Memorial	2022. 8. 19.	Schindler: Submission of the Statement of Reply
Submission of the Second Counter-Memorial	2023. 3. 10.	Government: Submission of the Statement of Rejoinder
Submission of the Third Expert Report on Damages	2023. 12. 7.	Schindler: Submission of the Third Expert Report on Damages
	2024. 2. 20.	Government: Submission of the Third Expert Report on Damages
Hearing and Post-Hearing Submissions		
Skeleton Argument	2024. 4. 3.	Both Parties: Submission of Skeleton Arguments
Hearing	2024. 4. 22. - 26.	Oral Hearing Held (The Hague)
Post-Hearing Brief	2024. 7. 5.	Both Parties: Submission of Post-Hearing Briefs
Award	2026. 3. 13.	Full Victory for the Government (Received at 02:03, March 14 (KST))