

ROK Prevails in Full in the Second ISDS Case Brought by Iran's Dayyani Family

- The Tribunal Dismisses Entire KRW 770 Billion Damages Claim by the Founding Family of Iran's Largest Home Appliance Company -

- **The Government of the Republic of Korea prevailed in full, by a unanimous decision of the Tribunal, in the second investor-State dispute settlement (ISDS) case brought against the Government in October 2021 by six Iranian members of the Dayyani family, pursuant to the Korea-Iran investment agreement. The award was rendered at around 22:00 on Monday, September 28 (KST).**
 - The Tribunal also ordered the Claimants to reimburse the Government for **approximately KRW 4 billion, representing 75% of the legal costs, as well as approximately KRW 800 million in arbitration administrative costs, both incurred by the Government.**
- **The Claimants, members of the Dayyani family (represented by Reza Dayyani), paid approximately KRW 57.8 billion to the creditors of Daewoo Electronics in November 2010 as a deposit under a contract to acquire Daewoo Electronics, which was then undergoing a debt workout. After the deposit was forfeited, they commenced the first ISDS case against the Government in September 2015 and obtained an award in their favor in June 2018.**
 - Around April 2022, the Government paid approximately KRW 62.2 billion to the Claimants out of the total amount of approximately KRW 85.8 billion due under the first ISDS award, and deposited approximately KRW 23.6 billion into court pursuant to a court order. The Claimants had **initiated the present second ISDS case around October 2021,** alleging that they had suffered **losses due to the Government's delay in paying the compensation awarded in the first case.**
- The Government established an inter-agency response system and presented the Tribunal with arguments from multiple perspectives demonstrating that **it had made every effort to discharge its payment obligations** arising from the first case **in accordance with international and domestic law.** These efforts resulted in a **unanimous award in the Government's favor on all claims.**

- The outcome **thwarted the Claimants' attempt to misuse ISDS** to bypass the procedures for enforcing the first award. It also **secured international recognition that the Government had faithfully performed its obligations concerning foreign investment.**
- The Government will continue to cooperate closely with the relevant government agencies, experts, and Korean and foreign law firms representing the Government to ensure that all necessary follow-up actions are taken and to safeguard the national interest.

1. Overview

- On September 28, 2026, at around 22:00 (KST), the Government of the Republic of Korea (the "Government") **prevailed by a unanimous decision of the Tribunal** in the second ISDS case brought by six Iranian members of the Dayyani family (the "Claimants") pursuant to the Korea-Iran Agreement on the Promotion and Protection of Investments (the "Investment Agreement").¹⁾
- The Claimants' **damages claim for approximately KRW 770 billion²⁾ was dismissed in its entirety,** and the Government will be able to **recover approximately KRW 4 billion, representing 75% of the legal costs, as well as approximately KRW 800 million, representing the full amount of the arbitration administrative costs, both incurred by the Government.**
- The Claimants, the Dayyani family, are the founding family and controlling shareholders of Entekhab, Iran's largest home appliance and petrochemical conglomerate. After approximately KRW 57.8 billion in a contract deposit was forfeited in connection with their attempted acquisition of Daewoo Electronics in or around 2010, they **commenced the first ISDS case** seeking the return of that amount and, on June 5, 2018, **obtained an award in their favor** of approximately KRW 73 billion plus interest.³⁾

1) Agreement Between The Government Of The Republic Of Korea And The Government Of The Islamic Republic Of Iran For The Promotion And Protection Of Investments

2) EUR 500,171,697 (based on the exchange rate of KRW 1,546 per EUR as of the date of the award)

3) In July 2018, the Government brought proceedings before the courts of England, the seat of the arbitration, to set aside the award, but the set-aside application was dismissed, and the dismissal became final in December 2019.

- In April 2022, the Government paid approximately KRW 62.2 billion to the Claimants out of the approximately KRW 85.8 billion in total compensation due under the first ISDS award, and deposited the remaining approximately KRW 23.6 billion pursuant to attachment and collection orders issued by the court.
- Nevertheless, alleging that the Government had failed properly to pay the compensation due under the first award, the Claimants had commenced the present second ISDS case on October 18, 2021. After approximately five years of intense proceedings, the Arbitral Tribunal (the "Tribunal") dismissed all of the Claimants' claims.
 - The Tribunal also ordered the Claimants, jointly and severally, to pay to the Government approximately KRW 4 billion, representing 75% of the legal costs as well as approximately KRW 800 million, representing the full amount of the arbitration administrative costs, both incurred by the Government.

2. Key Procedural History

※ based on KST⁴⁾

- 2021. 10. 18. Notice of Arbitration registered
- 2023. 5. ~ 2024. 9. Written submissions exchanged between the parties
- 2024. 9. 30. ~ 10. 5. Hearing (The Hague, Netherlands)
- 2025. 1.~3. Post-hearing written submissions exchanged
- 2026. 9. 28. Arbitral Award rendered

3. Summary of the Award

Background and Procedural History

- **(Claimants' Attempted Acquisition of Daewoo Electronics)** The Dayyani family are the founders and controlling shareholders of Entekhab, Iran's largest home appliance and petrochemical conglomerate. Around 2010, through their subsidiary D&A, the family sought to acquire Daewoo Electronics, which was then undergoing a workout process, and paid a contract deposit of approximately KRW 57.8 billion.

4) Detailed procedural history is provided in the Annex.

- Thereafter, the creditors of Daewoo Electronics terminated the acquisition agreement on grounds including Entekhab's failure to submit letters of confirmation and forfeited the entire KRW 57.8 billion deposit.
- **(Proceedings in the First ISDS Case)** On September 14, 2015, the Claimants commenced the first ISDS case, alleging that the forfeiture of the contract deposit violated the Investment Agreement. On June 5, 2018, an award was rendered against the Government,⁵⁾ and the award became final on December 20, 2019.
- **(Payment of Compensation under the First ISDS Award)** At the time, because of U.S. sanctions against Iran, approval from the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") was required in order for the Government to make payment to the Claimants. The Government obtained such approval in January 2022 and, following consultations with the Claimants, paid approximately KRW 62.2 billion to the Claimants in April 2022. The remaining approximately KRW 23.6 billion was deposited in December 2022 pursuant to court orders, including an order for provisional attachment.⁶⁾
- **(Commencement of the Second ISDS Case)** Nevertheless, on October 18, 2021, before the Government paid the compensation due under the first award, the Claimants commenced the second ISDS case, alleging that "the Korean Government's failure to pay the compensation constitutes a violation of the Investment Agreement." They continued the dispute even after the Government made the payment and deposit described above.
- The Claimants alleged that they had suffered approximately KRW 770 billion in losses, representing profits they asserted they could have earned had they received the compensation immediately and invested it elsewhere, and sought payment of that amount from the Government.⁷⁾

5) The award ordered the Korean Government to pay the Dayyani side approximately KRW 73 billion plus interest.

6) In January 2020, in an action brought by Winia Electronics (formerly Daewoo Electronics) against one of the Claimants, Reza Dayyani, for payment for goods, the Seoul Central District Court issued a **provisional attachment order** over approximately KRW 23.6 billion of the Claimants' receivable under the first ISDS award. Following Winia Electronics' success at first instance in September 2022, an **attachment and collection order** was issued.

7) The Claimants initially claimed approximately KRW 1.26 trillion in losses, but voluntarily reduced that amount to approximately KRW 770 billion during the hearing and subsequent written submissions in response to the Government's vigorous rebuttals.

Summary of the Parties' Arguments and the Tribunal's Findings

☐ Tribunal's Jurisdiction: Established

- The Government argued that the compensation payable under the first ISDS award did not constitute an "investment" under the Investment Agreement. **The Tribunal**, however, accepted the Claimants' argument that "the compensation constituted the equivalent of the contract deposit previously forfeited from the Claimants and was **a continuation of the original investment**," and **concluded that it had jurisdiction**.⁸⁾

☐ Breach of the Government's Obligation to Accord 'Fair and Equitable Treatment': None

- **The Claimants** alleged that the Government had: (i) **unfairly discriminated against them on the basis of their Iranian nationality by requiring OFAC approval before payment of the compensation**, unlike in the case of other foreign investors; (ii) commenced proceedings to set aside the first award; and (iii) deposited funds pursuant to attachment and collection orders issued by the Korean courts, and argued that these measures constituted breaches of the obligation to accord fair and equitable treatment.
- **The Government**, by contrast, argued that: (i) because **Iran was subject to U.S. economic sanctions**, Iranian investors were not in a comparable situation to investors from other countries; and (ii) the Government's obtaining of **OFAC approval** in order to pay the compensation in foreign currency **as requested by the Claimants**, its **lawful challenge to the first award under international law**, and its **deposit of funds pursuant to lawful attachment and collection orders** of the Korean courts **did not constitute violations of the Investment Agreement**.
- **The Tribunal** accepted the Government's argument that its decision to obtain **OFAC approval was entirely legitimate** in light of U.S. economic sanctions against Iran and the international economic order, and did not constitute discrimination against the Claimants.

8) The Government also argued that (i) the res judicata effect of the first ISDS case extended to the present case and (ii) the present claims should be dismissed as an abuse of rights because they were brought solely for the purpose of enforcing the first ISDS award. The Tribunal rejected these arguments.

- The Tribunal further concluded that neither the Government's application to set aside the award under the law of England, the seat of the first ISDS arbitration, nor its compliance with lawful orders of the Korean judiciary could be regarded as "arbitrary and unjust treatment" of the Claimants.

☐ **Breach of the Government's Obligation to Ensure the Investor's Free Transfer of Payments: None**

- The Tribunal concluded that the obligation under the Investment Agreement to ensure the investor's free transfer of funds is intended to prevent a government from improperly obstructing an investor from transferring its investment assets out of the country, and does not apply to the payment of compensation in the present case, in which the Government itself was required to remit foreign currency.
- The Tribunal further concluded, in substance, that the Government's delay in paying the compensation was not an arbitrary measure but rather a reasonable measure taken in order to comply with U.S. economic sanctions against Iran.

☐ **Breach of the Government's Obligation to Comply with the Arbitral Award: None**

- The Claimants argued that the Korean Government's delay in paying the compensation awarded in the first ISDS case, in and of itself, constituted a breach of the "obligation to comply with an arbitral award" under the Investment Agreement and that this breach could serve as an independent basis for commencing a new ISDS proceeding.
- The Tribunal, however, concluded that the obligation to comply with an award arises from the effect of the award itself and that permitting another ISDS proceeding on the basis of non-compliance with an award would be contrary to the purpose of the Investment Agreement.
- The Tribunal further concluded that (i) an investor that has not received payment of an award must seek relief by applying for compulsory enforcement before the courts of the place of enforcement, and (ii) even assuming that a new ISDS proceeding could be commenced, there was no breach of the obligation because the Government had offered to pay the compensation due under the first ISDS award to the Claimants in KRW.

4. Significance and Future Plans

☐ Prevented the Risk of a KRW 770 Billion Outflow of Public Funds

- Through its victory in this case, the Government prevented the approximately KRW 770 billion in public funds claimed by the Claimants from being paid out and protected the nation's finances.
- In addition, the Tribunal ordered the six Claimants, jointly and severally, to: (i) pay the Government approximately KRW 4 billion, representing 75% of the legal costs; and (ii) bear approximately KRW 800 million in administrative costs of arbitration, all incurred by the Government.

☐ Prevented Attempts to Abuse the ISDS System as a Means of Circumventing Award Enforcement Procedures

- By successfully defending against the Claimants' attempt to obtain payment of the compensation under the first ISDS award through a separate ISDS proceeding rather than through the courts of the State of enforcement, this case prevented the abuse of ISDS through a "chain of successive ISDS proceedings."
- In particular, the outcome effectively prevents "arbitration shopping in the nature of an appeal," whereby an investor challenges procedural delays in negotiations, lawful attachments ordered by domestic courts, government deposits, or other judicial procedures against a State that lost an ISDS case. The case thereby establishes a "precedent for the enforcement of ISDS awards in accordance with international norms."

☐ Demonstrated the Effectiveness of the Government-Wide ISDS Response System in a Complex Dispute

- This was a complex case involving issues across multiple fields, including not only the ISDS defense against the Claimants' allegations of violations of the Investment Agreement, but also: (i) U.S. sanctions against Iran (foreign affairs/foreign exchange); (ii) the effect of a court deposit in discharging a payment obligation under Korean civil law (civil litigation/enforcement); and (iii) corporate sales and financial claims and obligations (finance/investment).

- Accordingly, pursuant to a Presidential Directive enacted in April 2019, the Government established the “interagency ISDS Response Task Force” and, in close cooperation with the relevant government agencies and counsel, successfully defended against all of the Claimants’ claims.⁹⁾

☐ **International Recognition of the Korean Government's "Good Faith" and Judicial Sovereignty**

- The award recognizes the extensive efforts made by the Government, including the Financial Services Commission, to fulfill its obligation to pay the compensation due under the first ISDS award while sanctions against Iran remained in place.
 - The Tribunal made clear that the Government's efforts were consistent with the "principle of good faith" under international law and that unavoidable delays in performance resulting from external sanctions could not be regarded as a breach of the Investment Agreement.
 - The decision further confirmed that the Claimants could not, by relying on their status as foreign investors, circumvent the lawful judicial system of the host State in order to pressure the Government into double payment notwithstanding the court's attachment order and the Government's deposit. In doing so, the Republic of Korea's legitimate judicial sovereignty was preserved.
- The present case is expected to serve as an important precedent establishing standards for legitimate legal and diplomatic measures capable of reconciling compliance with international sanctions regimes and performance of ISDS awards where compliance with such sanctions is required in the course of implementing an ISDS award.

☐ **Future Plans**

- The Government will thoroughly prepare for any follow-up proceedings that may arise,¹⁰⁾ make every effort to recover its legal costs, and consult with the Claimants with a view to disclosing as much relevant information as possible.

9) Counsel for the Government: Peter & Kim (Korea); Arnold & Porter (overseas)

Counsel for the Claimants: Sanglaj International Consultants (Iran); Eversheds Sutherland (France)

10) Procedures including applications for correction, interpretation, or supplementation of the award, and any proceedings brought by the Claimants to set aside the award (seat of arbitration: London).

Office for Government Policy Coordination	Financial Policy Division	Director	Youngju Yoon (044-200-2190)
		Deputy Director	Manhyuk Lim (044-200-2192)
Ministry of Finance and Economy	International Economic Cooperation Division	Director	Kiyoung Moon (044-215-7630)
		Deputy Director	Jungmin Yoo (044-215-7635)
Ministry of Foreign Affairs	Economic Legal Affairs Division	Director	Eunhye Joo (02-2100-7716)
		Deputy Director	Youngjae Choi (02-2100-7719)
Ministry of Justice	International Dispute Settlement Division	Director	Ara Cho (02-2110-3331)
		Prosecutor	Kyongwon Min (02-2110-4245)
Ministry of Trade, Industry and Energy	Trade Dispute Settlement Division	Director (Acting)	Joosil Han (044-203-5940)
		Deputy Director	Kyungeun Park (044-203-5952)
Financial Services Commission	Financial Restructuring Division	Director	Eunju Jeon (02-2100-2910)
		Deputy Director	Miae Kim (02-2100-2914)

Annex

Key Procedural History of the First and the Second Dayyani ISDS Cases

※ Dates are based on KST

※ Events relating to the first case / Events relating to the second case

Date	Description
2010. 4.	Entekhab selected as the preferred negotiating bidder for the acquisition of Daewoo Electronics.
2010. 11.	Entekhab entered into an agreement to acquire Daewoo Electronics.
2011. 5.	The creditors terminated the agreement and forfeited the contract deposit of approx. KRW 57.8 billion.
2015. 9. 14.	The Claimants commenced the first arbitration case
2018. 6. 5.	Award rendered in the first arbitration case : the Government lost on all counts; approx. KRW 73 billion plus interest awarded as compensation.
2018. 7. 3.	The Government commenced proceedings before the English courts to set aside the first arbitral award
2019. 12. 20.	English court rendered judgment: the Government lost; set-aside application dismissed
2020. 1. 30.	Seoul Central District Court provisionally attached approx. KRW 23.6 billion of the compensation payable under the first award.* * In connection with an action for payment for goods brought by Winia against one of the Claimants, Reza Dayyani.
2021. 10. 18.	Claimants commenced the second arbitration case (initial amount claimed: approx. KRW 130 billion).
2022. 4. 28.	The parties entered into a settlement agreement concerning payment under the first award, and part of the compensation* was paid (approx. KRW 62.2 billion) * Following issuance of an OFAC license on January 7, 2022, the parties agreed that payment would be made excluding the amount subject to provisional attachment.
2022. 7. 12.	Proceedings in the second arbitration case were suspended (approx. six months for discussions concerning payment under the first award)
2022. 9. 26.	Seoul Central District Court converted the provisional attachment in the Winia–Reza Dayyani matter into a final attachment and issued a collection order.
2022. 12. 2.	Government made a court deposit equal to the amount subject to the collection order (approx. KRW 23.6 billion).* * Following the deposit, the Government notified the Claimants that its obligation to pay compensation to them had been fully discharged. The Claimants argued that the deposit did not constitute performance of the Government's obligation toward them.
2023. 1. 15.	Proceedings in the second case resumed due to disagreement between the parties concerning the effect of the deposit.
2023. 5.~2024. 8.	Written proceedings in the second arbitration case (amount claimed increased to approx. KRW 1.2 trillion)
2024. 9. 30.~10. 5.	Hearing (The Hague, the Netherlands).
2024. 10.~2025. 5.	Post-hearing written submissions by both sides (amount claimed reduced to approx. KRW 770 billion).
2026. 9. 28.	Award rendered in the second arbitration case: Government prevailed in full