

一、名词解释

- 1 TRIMS
- 2 投资保护协定
- 3 外商投资股份有限公司
- 4 股权式合营企业
- 5 "根本违反合同"
- 6 适航责任
- 7 国际许可证协议
- 8 替代国制度

二、论述题

1. 根据我国法律规定,简要说明外商投资企业在我国取得土地使用权的主要方式及其不用特点
2. 简述国际货币基金组织的法律地位和国际货币基金协定的基本原则
3. <1990 年国际贸易术语解释通则>的主要特点是什么
4. 试述关税在 GATT 中的法律地位

三、案例题

INTRODUCTION

Answer in Chinese the following questions after you read the cases. You must answer them precisely to the point. Put forward the various basic principles of the laws to support your argument.

Case 1

In June 1990, a Chinese trading company concluded a joint venture contract with a foreign industrial company. Under the contract, the two parties would make joint investment to establish Grant Hotel of New Century with the total investment of USD Ten million and registered capital of USD five million. Each party must contribute 50% of registered capital. After the approval of joint venture contract, the Chinese party performed the obligation of contributing capital. However, the foreign side failed to contribute any capital by the end of December. When the construction of major building of hotel was completed in August 1991, the foreign party remained failure to contribute capital, which resulted in the great loss of the Chinese cancellation of the joint venture contract. At the same time, the Chinese side submitted the dispute to the arbitration body in Beijing according to the arbitration clause in the contract, claiming for damages from the foreign side.

Question:

- 1) Did the Chinese company have the right to cancel the joint venture contract/Why?
- 2) How to deal with the dispute concerning the loss or damage? (Suppose you were an arbitrator of the arbitration body, please give your opinion to the case)

Case 2

A Chinese company and a Hong Kong company reached a joint venture agreement to establish a hotel at the end of 1989 in China. The total investment contributed by the two parties equaled \$2 million and each party, respectively, shared 50% equity of the joint venture. In July 1990, the Hong

Kong company declared bankruptcy in Hong Kong. Later, the Hong Kong company entered into a new agreement with the third party for assignment (transferring) of its equity of the joint venture to the latter so as to repay a debt from the assignment. The assignment agreement was submitted to the local government for approval. Having discovered what had happened, the Chinese company requested the Hong Kong company to cancel the assignment agreement and proposed to receive the Hong Kong party's equity in the same conditions. After such request and proposal were refused by the Hong Kong company, the Chinese company filed a lawsuit against the Hong Kong company.

Questions:

- 1) Was the said assignment agreement effective under Chinese law? Why?
- 2) What was the right of the Chinese party in the matter of Hong Kong party's equity assignment under Chinese law?