



BIAC

Bangladesh International Arbitration Centre (BIAC)

The Institution for Alternative Dispute Resolution

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"Institutionalization of ADR in the country will raise confidence of the investors" says Commerce Minister Quader

Thursday, 30th May 2013:

Commerce Minister Hon'ble Ghulam Quader stated that institutionalization of ADR in the country will raise confidence of the investors. He was speaking at the concluding session of the Foundation Course on Mediation, organized by BIAC and Centre for Effective Dispute Resolution (CEDR), UK on Thursday, 30 May, 2013 at Ruposhi Bangla Hotel. He stated that on several occasions when he was abroad, potential investors asked him about the dispute settlement mechanism in the country. The presence of BIAC, with trained arbitrators and mediators, would send a positive signal to the investors, he observed. We are at a stage in economic development when our institutions and procedures for dispute settlement must be made efficient, fair and business-friendly, he stated. Developed and major developing countries have already made the required changes in their laws, and created appropriate institutions; the trends established abroad must also be accepted by us, with necessary adaptation for our



circumstances, he maintained.

The Minister complimented BIAC for organizing this training, with trainers from the world-famous CEDR. Twenty four trainees from different professions, namely, lawyers, bankers, company executives, teachers, NGO representatives, engineer participated in the programme. Certificates were issued to successful participants.

While presiding over the Meeting, BIAC Chairman Mahbubur Rahman, emphasized that trained manpower is essential to make ADR successful in the country. He expressed his gratitude to IFC for supporting BIAC.



Participants of Foundation Course on Mediation, 27-30 May, 2013

In his welcome statement, BIAC Chief Executive Dr. Toufiq Ali said that over the last decade we have been observing that public policy has promoted settlement of disputes, particularly commercial disputes, outside of courts. Of late, several laws have made mediation mandatory. BIAC is committed to providing a service to businesses for conforming to the laws as well as to take advantage of the opportunities that arise. IFC Program Manager Dr. Masrur Reaz stated that the training on mediation is a milestone on the way

to institutionalization of ADR in the country. IFC is delighted at the way BIAC is progressing and is privileged to support BIAC which is working to institutionalize formal ADR.

Important statements were also made by Barrister Rafique-ul Huq, Latifur Rahman, Chairman of Transcom Group, Ms. Rokia A. Rahman, President, MCCI, Md. Sabur Khan, President, DCCI, a representative of participants Barrister Faiyaz Bin Hasan and Andy Grossman, Director of CEDR, who came from London for the training.

"Bangladesh is Institutionalizing Arbitration"

Wednesday, 12th June, 2013:

"With conclusion of Training of Trainers on Arbitration by BIAC, Bangladesh goes a definite step toward institutionalizing Arbitration in the country" said Law Minister Hon'ble Barrister Shafique Ahmed while addressing as Chief Guest at the Closing Ceremony of Training of Trainers on Arbitration held on 12th June 2013 at Hotel Pan Pacific Sonargaon. With over 2.4 million cases pending in our courts, as at the end of last year, and complex court procedures, foreign companies and investors feel unprotected and discouraged to enter into commercial deals with Bangladeshi companies, he observed. He lauded the role of the Bangladesh International Arbitration Centre (BIAC) for promoting the cause of ADR in the country.

The Training of Trainers was organized by BIAC in collaboration with International Law Institute (ILI), Washington DC. The programme was supported by International Finance Corporation (IFC). BIAC Chairman Mahbubur Rahman, who is also

President of ICC-B, chaired the function. In his speech he congratulated the participants for successfully completing the ToT. He emphasized that the country required trained arbitrators and counsels to make our arbitration law effective.

BIAC Chief Executive Dr. Toufiq Ali said twenty-five trainees attended this ToT. Most of them are lawyers, either practicing in the courts, or working with law firms, banks, or in Universities. Those who qualify at this session should be able to conduct training sessions on arbitration in future, he hoped.

This programme of Training of Trainers (ToT) on Arbitration, which commenced on 9th June 2013, is the culmination of a series of trainings, namely, the Basic Training in Arbitration in January, followed by Advanced Arbitration Training in February this year.

Representative of IFC Masrur Reaz, Washington-based International Law Institute (ILI) trainer David Branson, and two trainees Manal Mohammed and Nabil Ahsan also spoke on the occasion.



Hon'ble Law Minister with Participants of TOT on Arbitration, 9-12 June 2013

DFID Review Mission at BIAC

Ms. Shahnila Azher, Team Leader and Senior Private Sector Adviser, Growth and Private Sector Team along with Muhd. Rafiquzzaman, Governance Adviser of Department for

International Development of UK Government visited BIAC on 7 May 2013 and met with BIAC officials to discuss about BIAC's past activities and future programme.

Get together of newly trained Arbitration Trainers held at BIAC

A get together of Trainees who have participated in recently concluded ToT on Arbitration was organized at BIAC on 27 June 2013. The participants showed great interest to continue their attachment with BIAC as well as to meet regularly with their fellow participants for common benefit. A number of ideas were floated during the get-together event. The participants decided to consider these ideas further with the objective of giving a formal shape to the gathering in the near future.



Dignitaries visiting BIAC

21 May 2013



His Excellency Mr. Iwan Wiranata - Atmadja
Ambassador of The Republic of Indonesia

3 June 2013



His Excellency Mr. Gerben De Jong
Ambassador of The Netherlands

5 June 2013



Mr. Darryl Lau, Consul, Consulate
of The Republic of Singapore

'Doing Business in Bangladesh'

UK Foreign & Commonwealth Office (Foreign Ministry) recognizes the role of Bangladesh International Arbitration Centre (BIAC) in their publication "Bangladesh: Doing Business Guide". Extracts from the Guide are reproduced below:

What companies should consider when doing business

When appointing an agent UK companies should consider the following:

The agent has the authority to act or carry on a business and therefore should do every lawful thing necessary to execute such an act or business. The 1972 Contract Act prescribes the rights and liabilities of an agent and also of the principal. If an agent acts beyond the terms of the

agency agreement, the principal will not be liable for these acts.

Most agency agreements have a clause that permits either party to give due notice if it is intended that the agreement is to be terminated. It is prudent to include a contract clause which agrees to allow an independent arbitrator outside of Bangladesh to settle any disputes between parties. However, the Bangladesh International Arbitration Centre (BIAC) was launched in 2011 becoming the country's first arbitration centre for the settlement of commercial disputes.

BIAC is an initiative of the International Chamber of Commerce in partnership with the Dhaka Chamber of Commerce and Industry and the Metropolitan Chamber of Commerce and Industry. The contact details of BIAC are:

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To download Bangladesh Doing Business Guide visit:

<http://www.ukti.gov.uk/export/countries/asiapacific/southasia/bangladesh/doingbusiness.html>



His Excellency Mr. Robert W. Wilson CMG High Commissioner
of the United Kingdom visits BIAC on 18 June 2013

A Note on International Arbitration outside Bangladesh

David J Branson



There are more Bangladesh companies and counsel entering into arbitration agreements every year with foreign parties. There are those agreements that require the arbitration seat in

Bangladesh. It is best when arbitrating in Bangladesh to state in the arbitration agreement that the Rules that will govern the arbitration are the Bangladesh International Arbitration Centre Rules ("BIAC Rules"). They are comprehensive and neutral-no foreign party should have fair reasons to object to the BIAC Rules. Further, while foreign institutions, like the Hong Kong International Arbitration Centre, or the International Chamber of Commerce, are able to administer arbitrations in Bangladesh, or any other country, when they do so, they aren't "hands on" and, in particular, will not know the local legal community which is vital for an institution to appoint an arbitrator or Chair at the seat. Only BIAC will have that important ability to appoint wisely for the given case.

If, however, your client does not have the bargaining power to require arbitration at a seat in Bangladesh, and you must agree to a seat in another country, there are many important substantive and procedural legal issues that will confront the Bangladesh practitioner who engages in an arbitration proceeding outside Bangladesh.

It is important to become familiar with the local state arbitration statute which governs the conduct of the arbitrators and the relationship between the local courts and the arbitration. Compared to arbitration in Bangladesh, there are important differences in arbitration practice elsewhere involving selection of arbitrators, and the duty of arbitrators to be independent and impartial. There are also important differences in pre-arbitration discovery practices in international arbitration. It is now routine for arbitrators to order each party to

produce documents from its files, including emails, to the other party so that the opposing party can decide if it wishes to use any such documents to support its case. Unfortunately, much arbitration practice relating to discovery in Europe has evolved to accommodate wide ranging American style discovery. Lastly verify time limits under the local statutes: for example under the New York Convention, awards may only be set aside in the country where made. In many countries, such as Bangladesh, there is a short time bar to make a motion to set aside an award (60 days), whereas in others, the time limit may be 90 days (the Model Law standard) or a year or more.

These differences are good reasons to argue for arbitration in Bangladesh, where practices are more likely to follow a more limited discovery regime and the arbitrator Chair will have a better understanding of the governing law. One notable issue--the Bangladesh practice of court review of decisions on the law, incorporated in the Arbitration Act, carried over from the former British based arbitration act, is a boon to some, who treasure accurate results on the legal issues in arbitration, and the bane of others, who promote arbitration efficiency. While the possibility exists for judicial review under the UK Arbitration Act 1996, Section 69, parties may exclude review in their agreement. That is not so in Bangladesh. Counsel negotiating an arbitration agreement will argue that point as required.

David Branson was the chief trainer in the BIAC arbitration training programme in Bangladesh. Currently a Visiting Fellow at the City University of Hong Kong, School of Law, he is an Attorney-at-Law, Washington DC, and has basic degrees from Cambridge University, UK and Georgetown University, USA.



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