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BIAC

Bangladesh International Arbitration Centre (BIAC)

The Institution for Alternative Dispute Resolution

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Third Anniversary of BIAC observed on 8 May 2014

BIAC started functioning in 2011 as the country's first institution providing arbitration and mediation services. This year, BIAC is celebrating its 3rd Anniversary. As a part of its 3rd Anniversary celebrations, BIAC organized a Dialogue entitled "**Is Arbitration Losing Ground to Mediation for Settlement of Commercial Disputes?**" on 8 May 2014 at 6.30 pm at Ruposhi Bangla Hotel. The keynote speaker at the dialogue was Washington DC based Attorney-at-Law Joseph R Profaizer. Hon'ble Abul Hassan Mahmood Ali MP, Minister for Foreign Affairs was the Chief Guest. Over 200 guests including former Chief Justices and Justices, senior lawyers, senior civil and military officers, distinguished business leaders, prominent business men and media personalities attended the dialogue. Leading TV channels and news papers of Bangladesh covered the event.



As part of its Anniversary Celebration, BIAC brought out a publication containing reports on activities of BIAC in last three years as well as articles by experts in ADR, particularly arbitration and mediation from home and abroad. The publication was widely distributed among BIAC stakeholders, other ADR Centres in the region and the media. In addition, two local English language newspapers brought out special supplements on the occasion of BIAC's 3rd Anniversary.

The full text of the Speech of the Chief Guest Hon'ble A.H. Mahmood Ali, Foreign Minister, is reproduced in this newsletter. The Speech of the Keynote Speaker will be published in a forthcoming BIAC publication.

Advanced Arbitration Training, 4-8 May 2014

A weeklong training programme in Advanced Arbitration jointly organized by BIAC and the International Law Institute (ILI), Washington DC was held at Pan Pacific Sonargaon Hotel from 4-8 May 2014.

Forty two trainees, from different professions and organizations participated in the programme. At the end of the programme, participants were assessed and certificates were distributed. Two trainers from International Law Institute (ILI), Washington DC, Carlos I. Davila and Joseph R. Profaizer conducted the training programme.



As a part of the programme, BIAC organized lunch-time speeches by eminent personalities to share their views and experience. On the first day, a Bangladeshi professional experienced in domestic and foreign arbitration, Barrister Ajmalul Hossain QC, presented his perspectives on arbitration related issues. He pointed out that Bangladesh public policy is supportive of ADR, specially arbitration and mediation. This is clear from recent amendments of important laws. Now, it is vital that judges, lawyers and potential clients change their mindset to implement the provisions of these laws.

On the second day, Mr. Munawar Misbah Moin, Group Director of Rahimafrooz (Bangladesh) Ltd. gave an account of a World Trade Organization dispute settlement case his company had been involved in. Rahimafrooz had been exporting

batteries to India, but faced unfair anti-dumping duties. This was taken up at the WTO, and after one round of discussion, the Indians agreed to withdraw the duties. He also spoke of the dramatic changes taking places in the rural sector, and Rahimafrooz's solar lighting programme.

The third speaker was Ms. Sonia Bashir Kabir, Country Head, Dell Bangladesh. While presenting the activities of Dell in the country, she highlighted the disputes that arise when distributors participate in tenders, and how she has developed the process of certifying authorized participants. In addition, she spoke of the problems when retailers do not follow the recommended pricing of Dell, and what Dell has to do to resolve the problem. She spoke of the initiatives being taken by Dell to facilitate access to computers by women and students.

Accreditation Course on Mediation, 24-29 May 2014

BIAC organized the 3rd Accreditation Course on Mediation, from 24-29 May 2014, in collaboration with Centre for Effective Dispute Resolution (CEDR), UK. The course was arranged with the support from International Finance Corporation (IFC).

Twenty four trainees from different professions, namely, lawyers, bankers, company executives, teachers participated in the programme. Four

officers from Bangladesh Armed Forces and one from Ministry of Foreign Affairs also participated. Accreditation will be awarded, following successful completion of assessments of the participants by CEDR. Four trainers: Mr. Andrzej (Andy) Grossman, Ms. Baria Ahmed, Ms. John Quilter, Mr. Chula Rupasinha came from CEDR, London to conduct the training.



Participants who receive CEDR certificates will be included in BIAC's Panel of Mediators. In last two trainings CEDR has accorded certificates in mediation to seventeen trainees, while eleven have

obtained accreditation. Trained mediators are an essential requirement for mediation to be successful in the country.

High Commissioner of Australia visits BIAC on 12th May 2014

The Australian High Commissioner His Excellency, Mr. Greg Wilcock visited BIAC on 12th May 2014. BIAC Chairman Mahbubur Rahman, Chief Executive Toufiq Ali and other BIAC officials gave a presentation on BIAC activities.



Law Minister urges greater use of Alternative Dispute Resolution

Dhaka, Jun 2 UNB – Law Minister Anisul Huq has said greater use of alternative dispute resolution system can help rapid settlement of disputes and ease the load of huge pending cases. People have the right to get justice in short time and at a low cost," he told a training course on the system in Dhaka on Sunday. The training was jointly organized by Judicial Administration Training Institute (JATI) and Bangladesh Investment Climate Fund at BIAM. Law and Justice Division Secretary Abu Saleh SK Md. Zahirul Haque presided over the session. Joint Secretary to the Division Abu Ahmed Jamader and JATI Director (Training) Osman Haider also spoke at the programme.

Anisul Huq called for creating greater awareness about the usefulness of ADR system. He urged

judges and lawyers to be more active in making the system successful. He said 23 lakh cases have been pending with lower courts across the country. Outside his speech he replied to some questions from reporters. Asked about growing number of false cases he attributed it to lack of enforcement of the relevant provision in the penal code. The provision provides for punishment for filing false cases, he said. Asked if the government will appoint more judges to handle backlog of cases, he said, 'It takes time to appoint judges. Besides, we have to think about financial problem.' Replying to another question on the dispute among prosecutors of International Crimes Tribunals trying war crime cases, Anisul Huq said steps will be taken to resolve it. (Reproduced from UNB Report)

BSEC Workshop on 5 June 2014

Bangladesh Securities & Exchange Commission (BSEC) organized a Workshop on Enhancing Efficiency of the Capital Market: Establishing a Securities Markets Administrative Tribunal on 5 June 2014. BSEC had requested for input from BIAC on the proposed Securities Markets Administrative Tribunal, which is expected to provide for ADR

mechanism for settlement of license-related and other disputes. BIAC provided detailed comments on the proposed Rules establishing Tribunal and participated in the Workshop. The Consultant engaged by Asian Development Bank to frame the Rules appreciated BIAC's comments and stated that these would leave substantive impact on the draft proposal.

Briefing Session for the Representatives of Print Media at BIAC on 16 June 2014

BIAC organized a Briefing Session for the representatives of print media on 16 June 2014 at BIAC office. The briefing was on 'Role of BIAC in promoting Out-of-Court-Settlement of Disputes'. Representatives from several national newspapers participated in the programme. A presentation on BIAC activities was arranged for the media representatives. Chairman Mahbubur Rahman and BIAC Officials participated in the programme.



Presentation on ADR at G4S on 3 April 2014

BIAC Chief Executive Toufiq Ali made a presentation on Arbitration and Mediation at BIAC, and on the need for appropriate dispute settlement provisions in contracts, for the officers and management of G4S Security Services Bangladesh(P) Ltd at its Pragati Sarani Office. G4S Managing Director Selim Chowdhury and about thirty officers of the company were present at the session. G4S officials also participated in the Advanced Arbitration Training of BIAC.

Seminar at Southeast University on 26 June 2014

Southeast University's Centre for Legal Research and BIAC organized a Seminar on ADR in Bangladesh Laws: Arbitration & Mediation on June 26, in the University's Seminar Hall. The Seminar was intended to present to the faculty and students of the Law & Justice Department of the University the changes that have been brought about by recent amendments of the laws to accommodate ADR and also to present the students new opportunities in their career path.

BIAC Chief Executive Toufiq Ali presented the keynote paper, while Vice Chancellor of the University Dr. Anwar Hossain was the Chief Guest.

Dr. Toufiq Ali briefly described our existing judicial



processes which are characterized by complex procedure, resulting in huge backlog of cases. To respond to the needs of society, the legislature has

enacted several amendments to our laws to provide for out-of-court settlement of disputes, including commercial disputes. He described the emergence of BIAC as an institution to improve trade and investment environment in the country by providing a forum for settlement of commercial disputes expeditiously and at a reasonable cost, outside our court system. Within last three years of its existence

BIAC has formulated Arbitration Rules and Mediation Rules incorporating transparent and flexible procedures for arbitration and mediation. Two lawyers, who had received training in programmes organized by BIAC, also spoke of their experience. The students asked a number of questions, which indicated their interest in the subject.

Speech of Hon'ble A. H. Mahmud Ali, Minister for Foreign Affairs at BIAC's 3rd Anniversary Dialogue "Is Arbitration Losing Ground to Mediation, for Settlement of Commercial Disputes?" at Ruposhi Bangla Hotel on Thursday, 8th May 2014

Mr. Chairman,

Hon'ble Former Chief Justices,
Excellencies,

Dr. Toufiq Ali, Chief Executive,

Mr. Joseph Profaizer, Keynote Speaker

Distinguished Guests and Participants,

Assalamu Alaikum and a very good evening.

I am delighted to be present at the 3rd Anniversary Celebration of the Bangladesh International Arbitration Centre - BIAC.

A fundamental requirement for trade and investment to flourish is quick and cost-effective methods to resolve commercial and investment disputes. Institutions such as BIAC provide exactly this option to businesses.

In developed and many developing countries, ADR is widely used to settle commercial disputes. Out-of-court settlement of commercial disputes, owing to its many advantages, is the preferred choice of businesses around the world. For our businessmen and entrepreneurs, in this globalized world of today, it is imperative that they incorporate global best practices.

Our Government is fully aware of the need to shorten the time for judicial proceedings. Of the roughly two and half million cases pending in our courts, about forty percent are civil in nature. Many of these civil cases can be resolved using ADR techniques. Accordingly, we have taken the initiative to change many laws to provide for ADR. Barrister Rafique-ul



Huq has already referred to many of these. As an example, I can cite the changes to our civil procedure code, the money loan court act, customs, VAT and income tax laws to provide for ADR.

Distinguished Guests ,

I would like to refer to my personal association in some of these ADR processes. When the UNCITRAL Model Law was being negotiated and approved in the UN in 1985, I was involved in that Process. And, I am delighted that Bangladesh has enacted the Arbitration Act of 2001 based on that Model Law. With proper implementation, this should be of immense benefit to our businesses.

Ladies and Gentlemen,

Today, BIAC is launching its Mediation Rules and Code of Conduct for Mediators. It is, of course, the first institution in Bangladesh to do so. In a society such as ours, Mediation has a very special place. Although we have practiced mediation from time immemorial, we are now adapting modern techniques to our age-old practices.

I am aware that BIAC has already arranged for the training of mediators, many of whom are now CEDR-accredited. I know some of the trained mediators also quite well. In fact, I support this process wholeheartedly; trained Mediators are essential to implement the changes we have brought about in our laws to incorporate ADR. As a sign of our commitment to such training, I am assigning an officer of my Ministry to undergo the mediation training to be held later this month.

Distinguished Guests,

Bangladesh has always been a strong advocate and adherent of international law. We consider arbitration and mediation to be two potentially effective tools in resolving international disputes and conflicts. During Hon'ble Prime Minister Sheikh Hasina's previous term in office, Bangladesh has set two distinguished records of engaging with arbitration and mediation as part of our foreign policy pursuits.

Firstly, the Government of Bangladesh has taken recourse to the Permanent Court of Arbitration to seek an equitable solution to the maritime boundary delimitation with our neighbour India in the Western channel of the Bay of the Bengal. I had the opportunity to present Bangladesh's case at the hearing held at the Permanent Court in the Hague in December last year. We are expecting the verdict to emerge in June this year.

Secondly, Bangladesh has become a member of the UN Group of Friends on Mediation in 2011/ 12. We are a regular sponsor of the UN General Assembly Resolution on Mediation. Our Government has made it a point to promote mediation in international affairs as a logical expansion of our internationally acclaimed involvement with UN Peacekeeping and Peace building activities. We believe our growing engagement with international mediation efforts

would add a new dimension to the peace-centric trajectory in our foreign policy.

Dear participants,

I have listened carefully to Mr. Joe Profaizer. Like a true lawyer, he has informed us of the benefits of both mediation and arbitration, but has not taken sides. It is my hunch that he practices arbitration more than he does mediation. However, as he has pointed out, mediation is cheaper, faster, more effective and more comfortable for the parties using it. These are the very reasons why I think the prospects for mediation in Bangladesh are very bright.

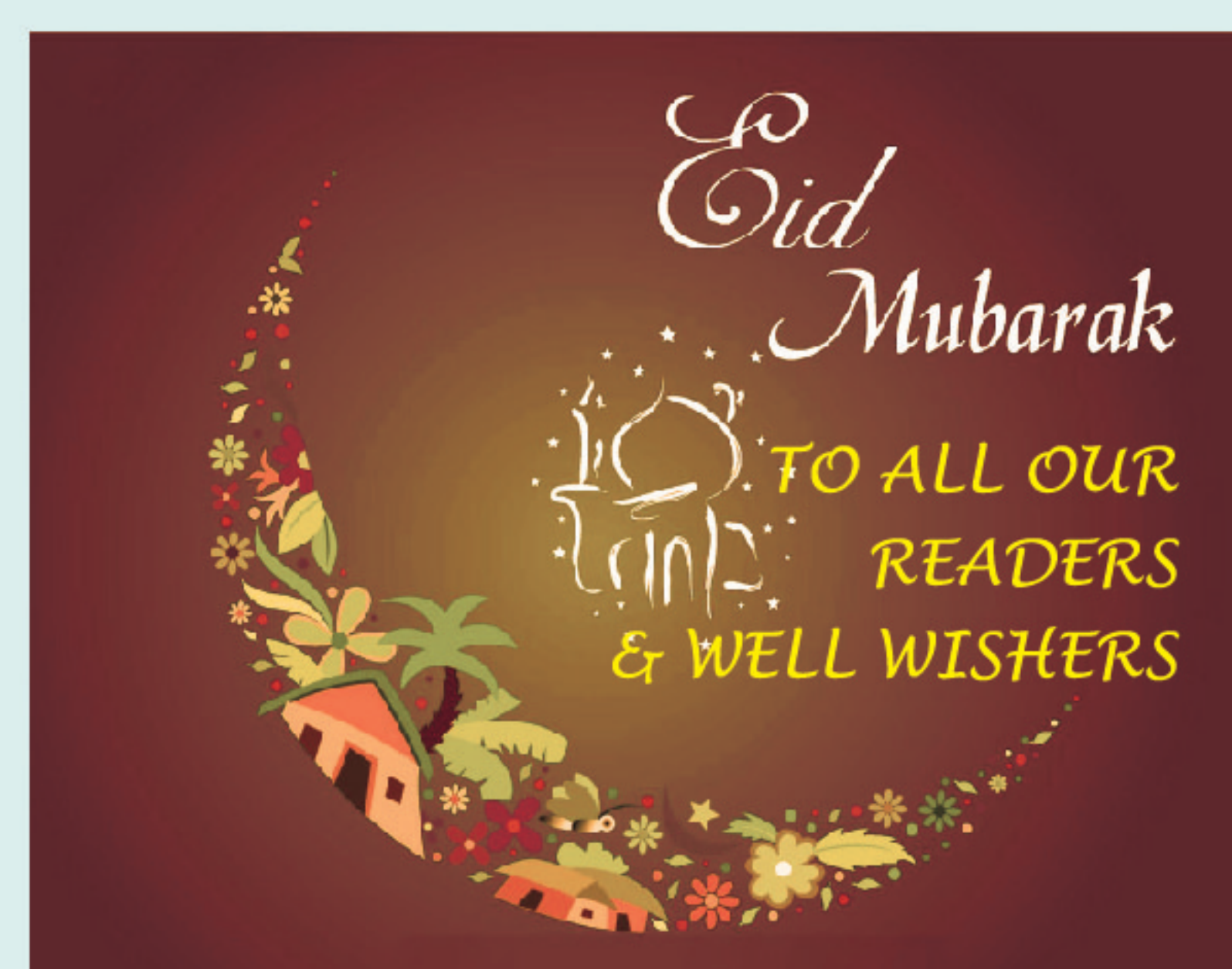
I am convinced that BIAC will generate confidence through awareness- building and specialized training of arbitrators and mediators. In course of time, the public and business sector will begin to fully utilize what BIAC has to offer. And, this will be a boost to both domestic and foreign investors, encouraging them to engage more in Bangladesh.

Ladies and Gentlemen,

As I conclude, I would like to convey my thanks to the Keynote Speaker for his excellent speech, enlightening us with his knowledge and insights on arbitration and mediation.

I would also like to felicitate the Bangladesh International Arbitration Centre at its 3rd Anniversary and wish it all success in the days ahead.

I thank you.



Bangladesh International Arbitration Centre *The Institution for Alternative Dispute Resolution*

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