

# Quarterly Bulletin

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## BIAC

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

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Encouraged by Bangladesh public policy and growing requirement of businesses to settle disputes outside court system, three prominent business chambers of Bangladesh, namely, International Chamber of Commerce Bangladesh (ICC-B), Metropolitan Chamber of Commerce & Industry (MCCI), Dhaka and the Dhaka Chamber of Commerce & Industry (DCCI) obtained a license from the Government in 2004 to establish the Bangladesh International Arbitration Centre (BIAC) as a not-for-profit organization.

Bangladesh International Arbitration Centre (BIAC) formally started its operation on 9th April 2011. BIAC is an ADR service-provider organization, facilitating resolution of domestic and International commercial dispute in an expeditious manner, through Arbitration and Mediation. BIAC has its own Arbitration and Mediation Rules. BIAC's Panel of Arbitrators consists of 13 eminent jurists among them 6 are former chief justices and justices. 38 expert and trained Mediators are in the BIAC's list of Mediators. BIAC has developed all the facilities required for systematic and comfortable arbitration and mediation. Till date, BIAC has handled 235 ADR cases, among which 20 are mediation cases.

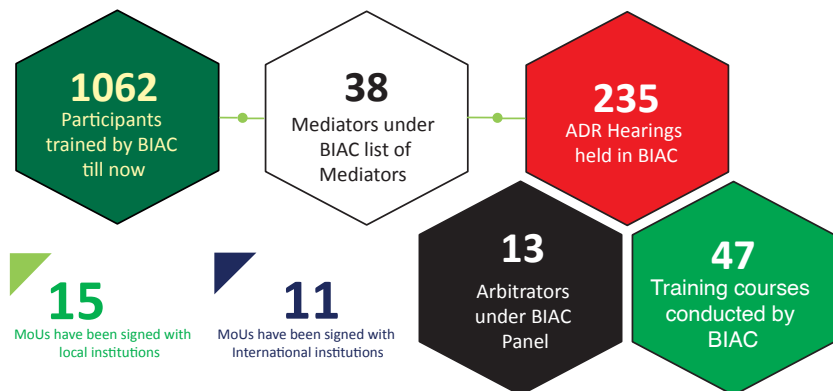
BIAC offers excellent facilities for arbitration and mediation hearings, including two state-of-the-art meeting rooms with audio-aides and recording facilities, arbitrator's chambers, private consultation rooms, transcription and interpreter service. BIAC provides all necessary business facilities like video conferencing, powerful multimedia projection, computer and internet access, printing, photocopying. Full-fledged secretarial services and catering service are also available on request.

As the only ADR institute in the country, apart from facilitating arbitration and mediation, BIAC also provides training courses on ADR, especially Arbitration, Mediation and Negotiation. This Year BIAC has taken an initiative of providing specialized ADR training course for different sectors. For instance, ADR in Artha Rin Adalat Ain, ADR in Procurement Disputes, ADR in Human Resource Management and others. BIAC is now planning to organize training programmes in abroad jointly with

those ADR centres which BIAC has already signed the collaboration agreement. Till date, BIAC has organised twenty four (24) arbitration training courses, fifteen (15) mediation training courses and eight (8) negotiation training courses.

From the very beginning, BIAC has been working hard to create awareness about ADR facilities by conducting several outreach programmes, seminars, workshop and dialogues BIAC has arranged around

## STATISTICS SINCE INCEPTION



> BIAC is committed to be a credible and a sustainable national institution that aims to offer international commercial best practices on ADR service to individual and institutions seeking

> BIAC aims to embed the use of ADR as a commercial best practice to help/assist/facilitate creation of an ecosystem that fosters investment and is conducive to business.

### DID YOU KNOW

It takes only 388 days for a case to be solved by ADR while in civil litigation, it is 15.3 years on average!

200 workshop/seminar/dialogue till 30th June.

BIAC has got recognition by signing cooperation agreement with 11 International ADR Centres. Namely The Permanent Court of Arbitration (PCA), SAARC Arbitration Council, Islamabad (SARCO), Kuala Lumpur Regional centre for Arbitration (KLRC), Vietnam International Arbitration Centre (VIAC), Malaysia Arbitration Tribunal Establishment (MATE), Thailand Arbitration center (THAC), Singapore International Arbitration centre (SIAC), Indian Institute of Arbitration and Mediation (IIAM), Hong Kong Mediation Center (HKMC), Mainland-Hong Kong Joint Mediation Center (MHJMC), Hong Kong International Arbitration Centre (HKIAC), Moreover, 15 leading corporate companies and financial institutions have signed Memorandum of Understanding (MoU) to seek BIAC's assistance in matters related to ADR and BIAC.



## **Bangladesh International Arbitration Centre**

*The Institution for Alternative Dispute Resolution*

### **BIAC BOARD MEMBERS**



**Mr. Mahbubur Rahman**  
Chairman, BIAC Board



**Mr. Latifur Rahman**  
Member, BIAC Board



**Ms. Nihad Kabir**  
Member, BIAC Board



**Mr. Abul Kasem Khan**  
Member, BIAC Board

### **BIAC MANAGEMENT**

**Muhammad A. (Rume) Ali**  
Chief Executive Officer

**Mahbuba Rahman Runa**  
Senior Counsel

**Ashiqur Rahman**  
Manager (Accounts & Finance)

**Rubaiya Ehsan Karisma**  
Assistant Counsel

**Shahida Parvin**  
Office Executive

**Syed Shahidul Alam**  
Administrative Officer

### **What's inside**

#### **BIAC QUARTERLY BULLETIN**

Vol. 6 Number 2, April – June 2017

**02**

**BIAC NEWS**

**12**

**INTERNATIONAL NEWS**

**17**

**ARTICLES**

**21**

**Events News**



## The 27<sup>th</sup> BIAC Board Meeting was held on Thursday, 8 June, 2017



The 27<sup>th</sup> Meeting of the BIAC Board was held on Thursday, 8 June 2017 at 2:00 pm at BIAC Office, Suvastu Tower (6th Floor), 69/1, Pantha Path, Dhaka.

The meeting was presided over by Mr. Mahbubur Rahman, Chairman, BIAC Board. BIAC Board Members Mr. Latifur Rahman, President, International Chamber &

Commerce Bangladesh (ICC-B), Dhaka and Mr. Abul Kasem Khan, President, Dhaka Chamber of Commerce and Industry (DCCI) were present at the meeting. Another Member of BIAC Board Ms. Nihad Kabir, President, Metropolitan Chamber of Commerce & Industry, Dhaka (MCCI) was not present at the meeting as she was abroad.

BIAC Chairman welcomed the Members of the Board specially, new BIAC Board Members, presidents of DCCI and MCCI and he stated that their experience and skills will be an asset to BIAC.

The Chief Executive Officer, with the permission of the Chairman, discussed BIAC's current and future activities in the meeting. Board members gave their valuable suggestions and decisions.

## BIAC Chairman Mahbubur Rahman appointed as an Arbitrator of CIETAC, China.



Mr. Mahbubur Rahman, the Founder Chairman of Bangladesh International Arbitration Centre (BIAC) has been appointed as an Arbitrator of The China International Economic and Trade Arbitration Commission (CIETAC) recently. Mr. Rahman is the sole Arbitrator appointed from Bangladesh by CIETAC.

A renowned business leader, Mr Rahman is the President of International Chamber of Commerce (ICC) – Bangladesh. He was the Former President of Federation of Bangladesh Chambers of Commerce & Industry (FBCCI), Founder Vice President of SAARC Chamber of Commerce & Industry (SCCI) and Vice Chairman of Bangladesh Foreign Trade Institute (BFTI). Mr. Rahman is

the Chairman & CEO of ETBL Holdings Limited and Chairman of Eastland Insurance Co. Ltd. He is also the Director of Karnaphuli Fertilizer Co. Ltd (KAFCO) and Member, Board of Governors of UN ESCAP Business Advisory Council, Bangkok and Asia Economic Community Forum (AECF), Seoul.

CIETAC is one of the major permanent arbitration institutions in the world. Formerly known as the Foreign Trade Arbitration Commission, CIETAC was set up in April 1956 under the China Council for the Promotion of International Trade (CCPIT). CIETAC independently and impartially resolves

economic and trade disputes by means of arbitration.

BIAC is a not-for-profit organization and is the only government licensed Alternative Dispute Resolution (ADR) institution in the country. BIAC has received recognition as an ADR institution from several international bodies including The Permanent Court of Arbitration (PCA), The Hague; Hong Kong International Arbitration Centre (HKIAC), Singapore International Arbitration Centre (SIAC) and Thailand Arbitration Center (THAC) amongst others. It has also signed cooperation agreements with several Banks and Corporate officer in Bangladesh.

### **BIAC Participants receive CIArb Certificate and qualify CIArb Associate members**

A four day-long training programme on “Introduction to International Arbitration” was organized jointly by Bangladesh International Arbitration Centre (BIAC) and Chartered Institute of Arbitrators (CIArb) from January 18-21, 2017 in Singapore.

The training programme was inaugurated by Mr. Mohammad Shahidul Haque, Secretary, Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh. Mr. Francis Xavier SC, Chairman, CIArb Singapore Branch, Ms. Lim Seok Hui, Chief Executive Officer of Singapore International Arbitration Centre (SIAC), Mr. Muhammad A. (Rume) Ali, Chief Executive Officer of BIAC and Mr. Aatur

Rahman, Secretary-General of ICC, Bangladesh were present at the inauguration ceremony of the training programme.

This course leads to receiving accreditation, provided by CIArb, UK which is recognized worldwide. A total number of 50 participants from different sectors including Ministries, Defence Forces, NBR, Bangladesh Bank, legal heads from corporate and banks and members of legal professionals have participated in the training programme.

The result has been published on 13 June 2017. Among them 23 participants have qualified to apply to become an Associate Member of CIArb.

**BIAC congratulates the candidates  
who have qualified to become an Associate Member of CI Arb.**



**A.S.M. Waheeduzzaman**  
Director  
National Board of Revenue (NBR)



Barrister  
**Abdullah Muhammad**  
Rafiqul Islam



Advocate  
**Afrin Ahmed**



**Akhtarunnessa Khanum**  
Assistant Manager (Legal Affairs)  
IDCOL



Barrister  
**Arunav Das**



**Atisha Rahber**



Advocate  
**Fahima Barrin**  
Bangladesh Supreme Court



Advocate  
**Fariha Zaman**



**Fokhruzzaman Bhuiyan**  
Director-Corporate Affairs  
Transcom Beverages Ltd.



**Md. Ashrafur Islam Khan**  
Ret. Judge



**Md. Niamul Kabir**  
Programme Manager  
BRAC



**Mohammad Abdul Wadud**  
Deputy Managing Director  
The City Bank Ltd.



**Mohammad Kamruzzaman**  
Sr. Asst. Vice President & Head of  
Legal Dept. Mutual Trust Bank



**Muhammad Mazharul Islam**  
Executive Legal  
Transcom Beverages Ltd.



Advocate  
**Muhammad Rafiul Islam**



**Munira Islam**  
Joint Director  
Banking Regulation & Policy  
Department Bangladesh Bank



Advocate  
**Nabeela Raihan**



**Shafayat Ullah**  
Senior Vice President & Head of Legal  
The City Bank



**Sultana Sohely Sarmin**  
Squadron Leader  
Bangladesh Air Force



**Swapan Kumar Roy**  
Additional Commissioner of Taxes  
National Board of Revenue



**Syed Abdullah Md. Tashbir Hasan**  
Pupil  
The Legal Consultants



**Zakir Abu Mohd. Syed**  
Senior Lecturer  
Northern University Bangladesh



**Zubair Ahmed Bhuiyan**  
Head of Chambers  
Bhuiyan & Mir

(In Alphabetical order)



**ADR Week: Global Mediation Forum & Pound Conference  
held on 23<sup>rd</sup>-26<sup>th</sup> May, 2017**



Bangladesh International Arbitration Centre (BIAC) supported the international event THAC ADR Week recently organized by the Thailand Arbitration Center (THAC) from 23-26 May, 2017 in Bangkok, Thailand. The event comprised of “Global Mediation Forum” held during 23-25 May and “The Global Pound Conference (GPC) Series” held on 26 May in the Eastin Grand Hotel, Thailand. THAC organized this event for the first time in association with United Nations UNCITRAL and sponsor partners George Mason University Korea, Thai Arbitration Institute (TAI), World Mediation Organization, Herbert Smith Freehills, Global Pound Conference IMI, Thai Airways and Thailand Convention and Exhibition Bureau (TCEB).

25 participants from Bangladesh included lawyers and officials from corporate, government, defense, public and private and central bank along with BIAC Senior Counsel Ms. Mahbuba Rahman attended this international

event. Participants were provided with certificates at the closing ceremony. In the Opening Ceremony THAC Managing Director (Mr. Pasit Asawawattanaporn) expressed special gratitude to BIAC for supporting the event and escorting so many participants. The event was very informative and equally interesting. Speakers gave insight into the history of mediation and how mediation relates to IT, psychology and a whole spectrum of areas.

BIAC signed a Memorandum of Understanding with THAC back in October 2016. THAC is established to provide Arbitration, Mediation to resolve civil and commercial disputes in Thailand and other countries while BIAC is the first and only alternative dispute resolution centre in Bangladesh. Both organizations by virtue of this MoU have been exploring areas of cooperation and facilitating the resolution of commercial disputes involving business entities in both countries.

## BLAST and Safety & Rights Society organised a seminar on ADR in Labour Law



On the occasion of International Labour Day, Bangladesh Legal Aid Services and Trust

(BLAST) and Safety & Rights Society (SRS) jointly organized a seminar at the Press Conference Hall on 2nd May 2017 to discuss about the effectiveness and incorporation of Alternate Dispute Resolution (ADR) in the Bangladesh Labour Law. The Honorable Minister of Labour and Employment, Mr. Mujibul Haque acknowledged the effectiveness of ADR and promised to look into the matter of incorporating it into the Labour Law. BIAC senior Counsel Ms. Mahbuba Rahman and Assistant Counsel Ms. Rubaiya Ehsan Karishma attended the seminar.

## Bangladesh Legal Times organized Seminar on ADR: Perspective and Challenges



On April 29th 2017, Bangladesh Legal Times organized a seminar titled “ADR: Perspective and Challenges” at the London College of Legal Studies (South). The event comprised of the presence of Honorable Justice Mr.

Syed Refaat Ahmed as the keynote presenter along with other notable discussants. From the Judges’ perspective Justice Ahmed mentioned that Courts intend to protect companies from premature winding up, and such applications should not be accepted without addressing the long term viability of the corporate entity. Courts urge parties to take mediation as an avenue of first instance and to take it very seriously. The discussion concluded with the unanimous opinion that Lawyers can play a vital role in implementing ADR and our existing Law needs amendment to accommodate that. BIAC Assistant Counsel Ms. Rubaiya Ehsan Karishma attended the seminar.

## Doing Business Workshop (Session on Enforcing Contracts) organized by BIDA



Bangladesh Investment Development Authority (BIDA) organized a 4 day long technical workshop on Doing Business Reform, with support from Trade and Competitiveness (T&C) global practice of World Bank Group (WBG) from April 10-13, 2017. The purpose of the workshop was to hold specific targeted discussions on the specific roles and possible actions by the implementing agencies and improve Bangladesh ranking from 176 to double digit



by 2021. BIAC was invited to the Enforcing Contracts session of the workshop wherein the WBG specialists recommended in and out of court restructuring. The major dilemma is to reduce the time and cost of resolving disputes

which can be dealt with by the introduction of Alternate Dispute Resolution (ADR) mechanisms. BIAC Assistant Counsel Ms. Rubaiya Ehsan Karishma attended the workshop.

## **BIAC becomes associated partner to the European Mediation Training for Practitioners of Justice (EMTPJ) project**

**14 April, 2017**



The Association for International Arbitration (AIA) Brussels, Belgium first sent an email addressed to the BIAC Chairman on 14 April 2017 inviting BIAC to collaborate with the AIA for EMTPJ program (The European Mediation Training for Practitioners of Justice) and become an accredited centre to EMTPJ. This program was launched in 2010 via a grant from the European Commission, recognized by CI Arb, UK and assessed by IMI

(international Mediation Institute). Every successful participant can apply to the Belgian Federal Commission for accreditation as a mediator in civil and commercial matters; they can also apply for accreditation in different countries. The ultimate goal of the course is to introduce “European Mediators” and to promote cross-border mediation in civil and commercial matters. The AIA sent a Standard Declaration Form and signing this form BIAC has become a certified Associated Partner Mediation Institute to the EMTPJ Project. The 8th EMPTJ will be conducted in Brussels on 14-25 August, 2017 (100 hour intensive course) and upon successful assessment the EMTPJ alumni can apply to BIAC as well as other mediation centers to be included in the list of accredited mediators.

## **BIAC signed a collaboration agreement with IIAM (Indian Institute of Arbitration & Mediation)**

**5 April, 2017**



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

Chief Executive Officer of Bangladesh International Arbitration Centre (BIAC) Mr. Muhammad A. (Rumee) Ali and President of Indian Institute of Arbitration & Mediation (IIAM) Mr. Anil Xavier recently signed a

Collaboration Agreement on behalf of their respective organizations. This Collaboration Agreement is intended to explore areas for co-operation in respect of the use of facilities and services of both the centers on

Mediation. Both the organizations hope that such initiative of signing this agreement will help both countries to work together for resolving commercial disputes.

Indian Institute of Arbitration & Mediation (IIAM) is one of the pioneer institutions in India, providing an institutional Alternative Dispute Resolution (ADR) service, which includes international and domestic commercial Arbitration, Mediation, Negotiation and conducting training programs in ADR. IIAM is a non-profit organization

registered in India and commenced activities in the year 2001.

IIAM is the only institution in India approved by the International Mediation Institute (IMI) at the Hague, Netherlands for qualifying mediators for IMI certification. IIAM is a member of the Asian Mediation Association (AMA) and the Asia Pacific Regional Arbitration Group (APRAG). IIAM is the country representative of India for Mediation world, UK.

## BIAC signed collaboration Agreement with HKMC (Hong Kong Mediation Centre) and MHJMC (Mainland Hong Kong Joint Mediation Center)

3 April, 2017



內地—香港聯合調解中心  
Mainland - Hong Kong Joint Mediation Center



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

Chief Executive Officer of Bangladesh International Arbitration Centre (BIAC) Mr. Muhammad A. (Rumee) Ali signed collaboration agreements with Hong Kong Mediation Centre (HKMC) and Mainland-Hong Kong Joint Mediation Center (MHJMC). Ms. Amy Wong, Secretary General, HKMC and Mr. Francis Law, Founder Chairman of MHJMC and President HKMC, MHJMC signed Collaboration Agreements. This Collaboration Agreement is intended to explore areas for co-operation in respect of the use of facilities and services, joint organization of trainings, seminars, exposure visits and exchange of knowledge and information etc for mutual benefit and development of the centres on Mediation. The organizations hope that such initiative will help both countries to work together for resolving commercial disputes.

Hong Kong Mediation Centre (HKMC) was

established in 1999. It is the first non-profit corporate mediation institution with charitable status in Hong Kong and has been committed to promote mediation for more than a decade. Currently there are nearly 800 General Accredited Mediators in HKMC. They are a group of professionals in various fields such as Health Care, Education, Legal, Social Welfare, Industrial and Commercial, Construction and Engineering, who are committed to the promotion of mediation to resolve disputes in Hong Kong.

Mainland – Hong Kong Joint Mediation Center (MHJMC) is set up by the China Council for the Promotion of International Trade (CCPIT) / China Chamber of International Commerce (CCOIC) Mediation Center and the Hong Kong Mediation Centre with the vigorous support of the Department of Justice in December 2015. It is the first joint mediation center in Hong Kong set up by

major mediation institutions in the two places. It aims to provide a platform for resolving cross-boundary commercial disputes, formulating the professional standards of

mediators, mediation advocates and other disputes management professions for the Mainland and promoting Hong Kong as the center of disputes resolution.

## **BIAC signed MoU with Mars Financial And Legal Consultancy Limited (MARS) on**

**3 May , 2017**



Mr. Muhammad A. (Rume) Ali, Chief Executive Officer of Bangladesh International Arbitration Centre (BIAC) and Md. Rokon Uddin Miah, Managing Director of Mars Financial And Legal Consultancy Limited (MARS) signed a Memorandum of Understanding (MoU) on behalf of their respective organizations in Bangladesh. This MoU is intended to explore areas for

co-operation in respect of jointly organizing training and seminar, knowledge sharing and other relative issues on ADR. Senior officials from both the institutions were present during the signing ceremony.

MARS is a debt recovery company which has service agreements with some well known banks in Bangladesh. MARS agreed to refer loan related cases from their direct clients as well as their client banks to BIAC for resolution through mediation or arbitration. Also, to assist and obtain cases referred by the Money Loans Court of Bangladesh, employ BIAC facilities and jointly organize ADR awareness programs and trainings. BIAC can refer cases to MARS where one of the parties fails to appear for mediation and after successful mediation BIAC can handover cases to MARS to take necessary action as per the successful mediation agreement.

## **MoU with Mutual Trust Bank Limited**



Bangladesh International Arbitration Centre (BIAC) has signed a Memorandum of Understanding (MoU) with Mutual Trust Bank Ltd (MTB) to assist resolution of commercial

and money loan disputes through ADR at a signing Ceremony held on Tuesday 6 June, 2017 at the Corporate Office of Mutual Trust Bank Ltd. at Gulshan, Dhaka.

Muhammad A. (Rume) Ali, Chief Executive Officer of BIAC and Anis A. Khan Managing Director & CEO of Mutual Trust Bank Ltd (MTB) signed the agreement on behalf of their respective institutions. Senior officials from both the institutions were present during the signing ceremony.



This agreement provides a framework to facilitate resolution of contractual and commercial disputes (if arises) of Mutual

Trust Bank Ltd (MTB) using ADR methods such as Arbitration and Mediation, through ADR expert services of BIAC.

## World Bank Group- Bangladesh Debt Resolution Project: Grant Agreement signed

BIAC was primarily supported from 2011 to 2015 through the “Bangladesh Investment Climate Fund (BICF) funding which helped establishment of BIAC. With this financial support, BIAC established its physical facilities, completed organizational setup, recruited necessary personnel and enacted necessary regulation to administer ADR process in Bangladesh. Phase I of the project was led by Trade and competitiveness Global Practice. Now WBG is going to start project

Phase –II. Project Phase –II will be led by Finance & Markets Global Practice. Under this phase WBG will provide support to BIAC strengthening capacity to cater to the resolution of economic disputes out of court by providing assistance through a two year Grant Agreement of US\$ 300,000 based on core areas of support and milestone to be achieved. The Grant Agreement has already been signed on 23 May 2017 by both parties.

## BIAC is going to organize Accreditation Course on Mediation in Thailand



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



A seven day–long training programme on “Accreditation Course on Mediation” is going to be organized jointly by Bangladesh International Arbitration Centre (BIAC) and Thailand Arbitration Center (THAC) from 23-29th July, 2017 in Thailand. It is supported by the Mainland Hong Kong Joint Mediation Centre (MHJMC), China.

This course is designed for bankers, government officials, corporate officers, HR, sales, procurement, risk managers, entrepreneurs, professionals, academics, scholars, lawyers, in-house counsels and others interested in mediation as a method of settlement of commercial disputes. No prior experience in mediation is necessary for participating in this course.

This course leads to receiving accreditation,

provided by MHJMC, which is recognized worldwide. A total number of 31 participants from different sectors including commercial & government banks, defence, corporate offices, financial Institutes will attend this training.

There is a huge demand of Mediators in different sectors of our country. Upon completion of this course, the successful participant will be recognized both nationally and internationally as an Accredited Mediator. Their expertise in their relevant field can help them resolve disputes fairly and expeditiously as mediators. An Accreditation certificate will be awarded on the successful completion of this training and news of participants will be displayed on BIAC website.



Former Chief Justice  
**Latifur Rahman**  
passes away

Former Chief Justice Latifur Rahman, who was the Chief Adviser to Caretaker Government in 2001, passed away on 06 Jun 2017. He breathed his last while undergoing treatment at Samarita Hospital in Dhaka early Tuesday. He was 81 years old at that time.

Mr. Latifur Rahman took oath as a permanent judge in 1981. He became an Appellate Division judge on January 15, 1990 and became the Chief Justice on January 1, 2000. On February 28, 2001, he retired as the Chief Justice. He took oath as the Chief Advisor of the Caretaker Government on July 15, 2001.

He was an arbitrator in the BIAC panel of arbitrators since 2012 and has been a well wisher to BIAC. His presence and guidance in all BIAC activities and events since inception including in the preparation of BIAC rules are invaluable to the BIAC family. BIAC remembers with gratitude, his support and contribution without which, BIAC's task would have been much more difficult. Mr. Mahbubur Rahman, Chairman, BIAC Board on behalf of BIAC Board and CEO, Mr. Muhammad A. (Rumee) Ali offered their condolences to his family. We pray to the Almighty to grant him and his dear and near ones the strength to bear this loss and He in His infinite Magnanimity may grant his soul eternal peace.

## International News

### Hong Kong passes legislation to permit third party funding of arbitration

October 2016, Hong Kong

The Hong Kong Legislative Council has passed amendments to the Arbitration Ordinance to permit third party funding of arbitration in Hong Kong.

The amendments follow reforms proposed by the Hong Kong Law Reform Commission in October 2016 which recommended permitting third party funding of arbitration and associated proceedings with appropriate safeguards and regulation.

Hong Kong, in line with similar recent legislation in Singapore, has taken a 'light touch' approach for an initial three year period and has provided clear ethical and financial standards for funders to meet. Notably, the

legislation also provides that a funded party must notify the tribunal and every party of the existence of funding and the identity of the funder either at the commencement of the arbitration or, if the agreement is made later, within 15 days of it being made. Such a requirement does not currently exist in other major arbitration jurisdictions, including as England & Wales, and those jurisdictions will watch with interest how this measure impacts both the funding and arbitration markets.

This legislation will be welcomed by the arbitration and funding communities and will serve to enhance Hong Kong's offering as a global arbitration seat.

### SARCO Director General's visit to the International Cotton Association

Liverpool, United Kingdom



Mr. Thusantha Wijemanna, Director General SARCO visited International Cotton Association (ICA) on the invitation of Mr. Kai Hughes the Chief Executive Officer of the

Association. He was met by Mr. Hughes, Mr. John Gibbon, Head of Arbitration and Ms. Lisa Shannon Enforcement Officer of ICA at their Liverpool office. The parties exchanged with each other their experience with regard to conduct of Arbitration and enforcement of Arbitral awards. SARCO's intentions to have a specialized set of regulations for settling Cotton related disputes through Conciliation and Arbitration was conveyed to ICA. The Director General emphasized on the fact that Arbitrators & Conciliators from the region will be more effective in settling regional disputes. The parties agreed to collaborate with each other on activities which are beneficial for both parties.



## Permanent Court of Arbitration (PCA) signed Cooperation Agreement with Mumbai Centre for International Arbitration (MCIA)

June 26, 2017



On 26 June 2017, a cooperation agreement was concluded between the Permanent Court of Arbitration (PCA) and the Mumbai Centre for International Arbitration (MCIA).

The cooperation agreement establishes a framework for the two organizations to work

together towards the promotion of arbitration as a means for the peaceful settlement of international disputes. In addition, it formally recognizes the benefits of cooperation among international arbitral institutions.

On a practical level, under this agreement, the PCA will be able to hold hearings and meetings at the MCIA's premises in Mumbai, and the MCIA will assist with the arrangement of local support services for such events.

<https://pca-cpa.org/en/news/pca-signed-cooperation-agreement-with-mcia/>

## ILI Welcomes Saudi Arabia Board of Grievances on ADR and Judicial Training

May 2017



The International Law Institute, in collaboration with the World Bank-International Finance Corporation (IFC), hosted a delegation from the Board of Grievances of Saudi Arabia, consisting of ten judges of the Board, and members of the Saudi Arabian General Investment Authority (SAGIA). Training focused on Alternative Dispute Resolution, Investment Arbitration, and Judicial Training in the United States.

Discussions included topics such as Alternative Dispute Resolution with panelists, Anne Marie Whitesell, Director of the ILI Center for Alternative Dispute Resolution and

Director of the Georgetown University Law Center's Program on International Arbitration and Dispute Resolution; Eckhard Hellbeck, Partner with White & Case LLP, who discussed the role of judges in arbitration; Jacob Lebowitz, Founding Partner of Posey Lebowitz, who focused discussion on the role of judges in mediation, and the policy aspects of court annex mediation. Additionally, presentations were made on Investment Arbitration, by Dr. Borzu Sabahi, Partner of Curtis, Mallet-Prevost, Colt & Mosle LLP, followed by a judicial training by Jim Chance, Senior Judicial Education Attorney, with the Federal Judicial Center in Washington, DC. The event concluded with closing remarks from Nina Mocheva, Senior Financial Sector Specialist at World Bank Group and Ms. Kim Phan, Executive Director of the ILI.

<http://www.ili.org/about/news.html>

## CIArb response to European Commission plans for MIC

1 June, 2017

By Sabina Adascalitei MCIArb Research and Academic Affairs Coordinator

At the end of last year, the European Commission announced that it would begin developing plans for a multilateral investment court (MIC). CIArb responded to the Commission's consultation paper by addressing three key areas that raise concern.

### Sustainability

The MIC proposes a system that will be funded by the states that are party to the reform. It is unlikely that states will agree to publicly fund this system, as it does not seem sustainable. Specifically, with the UK's withdrawal from the EU, the money that would be required to fund the MIC can be used to fund different projects.

Furthermore, the Commission has not provided enough details to help estimate the overall costs of funding the MIC.

For example, there is no information with regard to the operational costs of the MIC. Similarly, not enough information is available to determine the needs, duties and remuneration of the secretariat of the MIC.

Since there is no data publicly available on this matter, these concepts remain obscure and confusing to the wider international community. It should also be noted that as the EU would seek to engage global partners on a multilateral initiative, both the US and post-Brexit UK are committed to driving strong bilateral trade programmes.

This will add to a complicated global environment of simultaneous trade treaties

and dispute resolution systems, one where confusion and mixed messages could hinder acceptance of an MIC and therefore prevent the critical mass of participants required for the success of this initiative.

### Accountability and Impartiality

There are two issues arising out of the proposed composition of the MIC. Firstly, there is an issue concerning the talent pool. The success of high-value, complex arbitration cases is due in part to the power of the parties to appoint their arbitrator of choice, based on their qualification and expertise.

This choice should not be limited. Appointing the same fixed adjudicators, who will be part of the former judiciary, will achieve the contrary.

Furthermore, limiting the choice of arbitrators will diminish parties' confidence in the whole process, mainly because they cannot be certain that the individuals deciding their case will possess the necessary set of skills.

Secondly, MIC adjudicators should not only possess high qualifications, but they should also be independent and impartial.

It is doubtful whether this can be achieved through the current proposition – where contracting parties select individuals behind closed doors with no transparent and inclusive process in place. This would eventually result in pro-state impartial judges.

To avoid this, the profiles of prospective adjudicators should be publicly available and followed by an individual assessment to determine their suitability.

## Enforceability

The EU multilateral reform, as it stands, raises a serious question as to how enforceable the awards coming from the MIC will be in ICSID/New York Convention 1958 third countries (essentially all countries that are not EU Member States, Canada and Vietnam).

With regard to ICSID, Articles 26 and 53 of the ICSID Convention prohibit “other remedies” and so, the EU appellate review system would be *prima facie* incompatible with these provisions.

The Commission might consider that amending the ICSID Convention would be a viable solution, but it should be borne in mind that Article 66 requires unanimity in this respect.

A “final award” from the MIC, by definition, could have been subject to appellate review on fact and on law in addition to any of the grounds stipulated under Article 52 of the ICSID Convention. *Prima facie* this runs counter to the prohibition of “other remedies” in Articles 26 and 53 of the ICSID Convention.

It would therefore not be unreasonable for a contracting state to the ICSID Convention (but which is not a member of the MIC) to scrutinise whether such a “final award” should be recognised and enforced by their domestic courts as an ICSID award. This will be the case despite the presence of “deeming” provisions employed by the MIC’s

instruments that oblige MIC parties to treat its final awards as ICSID awards, but which are not opposable to non-parties.

The Commission further notes that other awards could be enforced under the New York Convention 1958. The New York Convention is more flexible than ICISD, especially in terms of what can pass as an award, but it raises compatibility issues with regard to Art V.

It is not clear at this stage whether signing up to the MIC would represent a possible waiver of the challenges provided under Art V of the New York Convention.

Should the Commission clarify that a waiver of Art V shall be sought, this will impose a high burden on the domestic courts of New York Convention contracting states that are not part of the MIC.

In other words, these domestic courts will have to individually assess whether an award from the MIC is indeed a New York Convention award and if so, whether the challenge-related provisions under Art V have been effectively waived.

In addition, it does not seem likely that such courts will allow for a waiver of all the challenge provisions contained in Art V, especially when looking at public policy or *lex fori* grounds

<http://www.ciarb.org/news/ciarb-news/news-detail/news/2017/06/01/ciarb-response-to-ec-commission-plans-for-mic>

## CPR Institute Launches New International Mediation Procedure

**Wednesday, 23rd March 2017**

The International Institute for Conflict Prevention & Resolution (CPR) announced that effective March 1st 2017 a new mediation procedure can be used anywhere in the world. The CPR Mediation Procedure, which is specific to the United States, remains effective.





The new procedures were drafted by a CPR's European Advisory Board (EAB) led by Alex Oddy of Herbert Smith Freehills and Isabelle Robinet-Muguet of Orange with input from CPR's Mediation Committee led by Erin Gleason Alvarez of AIG and Rick Richardson of GlaxoSmithKline.

The procedure includes ground rules for the proceeding, the selection of the mediator and exchange of information during the mediation.

According to Noah HANft, the President &

CEO of CPR "This new international mediation procedure will better support global businesses in preventing and resolving commercial disputes more effectively, it was a pleasure to work with EAB and Alex and Isabelle to create this new procedure." - The International Institute for Conflict Prevention & Resolution (CPR)

Web-link:

<http://www.leadersleague.com/en/news/cpr-institute-launches-new-international-me...>

## Historic decision: Court refers three cases to LCCI for mediation

Thursday, 7th April 2017

It was a monumental moment for Pakistan's business community as the Lahore High Court (LHC) referred three disputes to the Lahore Chamber of Commerce and Industry (LCCI) for mediation.

In only two hours, one case was resolved amicably, while the other two were under process. It is expected that this giant leap will reduce the burden of non-traditional cases from the judiciary besides saving time and capital of the business community.



LCCI President Abdul Basit welcomed this decision and termed it a new era for the business fraternity.

Web-link:

<http://www.tribune.com.pk/story/1371053/historic-decision-court-refers-three-cas...>

## International Council for Commercial Arbitration (ICCA) Visit to Beijing

April 2017

After successful seminar in Washington DC in April 2017, ICCA President Donald Donovan travelled to Beijing. Together with immediate past ICCA President Albert Jan van den Berg and ICCA Governing board Member Teresa Cheng, Mr. Donovan met with representatives of the China Ministry of Foreign Affairs, the Supreme People's Court (SPC), the China Ministry of Commerce ("MOFCOM"), the Beijing Arbitration Commission (BAC) and the China International Economic and Trade Arbitration

Commission (CIETAC). The meeting served as an opportunity for these organizations and ICCA to discuss the latest issues on international arbitration in China.

The discussions laid down an excellent basis for the ICCA-Tsinghua University Working group to continue to conduct projects which seek to enhance and further develop arbitration law and practice in China.

From- ICCA Newsletter June, 2017

## ARTICLES



## Mediation as a Preferred Dispute Resolution Mechanism in Inter-Se Disputes in Family Run Businesses in India

**Anant Merathia**

*LLM (Singapore), FCI Arb(UK)\**

Family run businesses have been an integral part of the Indian economy since ancient times. Today, India boasts of a glorious culture of family businesses sprouting from varied communities and regions. Statistics suggest that family businesses made a 66% contribution to the Gross Domestic Product (GDP) in 2016, occupying a significant position in the Indian economy.

As is common in any large scale ventures; these businesses are not free from the presence of disputes. Given the importance of family businesses in the financial sector, it is imperative to ensure that the disagreements that arise within such collectives are settled in a manner such that the damage caused to the family as well as the corporate body, is minimum.

A family business may be defined as 'a corporation wholly owned and managed by members of single family'. The primary aim of such business enterprises is to make the business potentially sustainable and continue through generations. India is a home to the Tatas, the Birlas and the Ambanis. The

country has witnessed family businesses grow, evolve and also split up.

### ***Disputes and Challenges***

The subject matter of the disputes in family owned businesses ranges from claims with regard to position, property, assets, enjoyment of rights with respect to properties, shares, refusal to recognize the rights of other family members and many more. While these represent a generic bracket of issues that may arise, there are some problems, which are particular to family businesses. Despite these, family businesses remain an integral part of the Indian economy because of the numerous advantages such as members adhering to the principles and ethics of founding members, existence of an element of trust, speedy formulation of decisions, out of box thinking in crisis situations and dedication to philanthropy.

However, like in any form of business and enterprise, family businesses also have their share of challenges. Inefficient succession planning, conflicts caused by other family

members, differences in interest between different family members are some key ones. Businesses in the recent years, failed to hold on to a legacy and have split up in the second or third generation. For instance, the Birlas split after three generations, the Ambanis in the second generation, and the Bajajs in the third generation, the Jindals have divided the empire operationally.

### ***Mediation to resolve family business disputes***

Mediation may be defined as the process whereby parties to a dispute attempt to resolve the conflict between them through the assistance of an acceptable third party and arrive at a mutually agreeable solution. It seeks to counter tendencies to towards competitive, win-lose strategies and resolves disputes amicably for sustenance of the business. In India, Mediation is governed by the Arbitration and Conciliation Act, Section 75 of this Act lays down that the conciliator and the parties should keep all matters relating to the proceedings confidential, including the settlement agreement.

Family businesses thrive on reputation and goodwill. In such a situation, the ideal mechanism for settlement of disputes would be one, which relies upon stringent levels of confidentiality and secrecy. Each party makes a free and informed choice about the proceedings as well as the final settlement in mediation. This self-determinism coupled with the confidentiality requirement would enable the parties to confide and trust the mediator. Unlike litigation, mediation is undertaken voluntarily.

The mediator's duty is to remain neutral

throughout the proceedings and their personal preferences or perceptions do not have any bearing on the dispute resolution process. It enables the parties involved in family business disputes to discuss their issue openly. Mediation is quick, inexpensive and private, informal process and not limited by rules of evidence, procedure or remedy. The mediator is the very last person to give up and is an optimistic third party who proceeds structurally and helps to define interests of the parties. A trusted friend, a family therapist, a professional mediator or other family members can be mediators in a dispute in a family business. For instance, in the dispute between the Ambani brothers, their mother Kokilaben as well as Mr. K.V Kamath, a family friend, facilitated the mediation process and helped the brothers arrive at a solution.

The most important concern surrounding mediation is that it is non-binding and one party may fail to respect the terms of the settlement. The remedy in such a situation is a civil suit that can be initiated by the party that has to bear the consequences of the breach. It is important to ensure that the proceedings conclude within a limited time frame. Despite these shortcomings, the mechanism is best suited to settle family related disputes.

If mediation fails, arbitration and/or litigation become the other options which have their own features and challenges; the scope of which will be beyond this article. Mediation therefore is the best way to resolve family run business disputes given the unique set of issues involved not only in India but in other Asian countries too as family ethos are similar in them.



## Why We Need an ADR Czar

**Michael Stephens**

*FCIArb Former CIArb President and a member of the West Midlands Branch*

Her Majesty's Courts and Tribunal Service has never generated the same strong emotions in the popular psyche as, say, the National Health Service.

Nonetheless, the right to treatment from the state and the right to justice are equally important to the public. It's easy to take both rights for granted.

In the current climate, with both major parties committed to current spending plans for the foreseeable future, radical action is needed to avoid a justice crisis.

Now is the time to ensure the complete integration of alternative dispute resolution (ADR) mechanisms as a formal and institutionalised part of the civil justice system. Now is the time for central government to acknowledge the role that ADR can play in the wider economy.

ADR does not just refer to those well-known techniques of arbitration, mediation and adjudication, but also to less advertised methods such as expert determination, dispute boards and early neutral evaluation.

For two fundamental reasons, the Chartered Institute of Arbitrators calls on government to aspire to meet these two ambitions in the course of reform of civil justice: first, to develop a co-ordinated legal education and business engagement strategy to promote the benefits of ADR; and second, to review the role ADR has to play in the wider economy, culminating in the establishment of an ADR commissioner appointed by the

Department for Business, Innovation and Skills.

It is the challenge for BIS to co-ordinate legal education and business engagement strategy to promote the benefits of ADR and expand current court annexed schemes as much as it is the brief of the Ministry of Justice to do so.

An ADR commissioner – appointed by BIS and working with other bodies such as the Civil Justice Council – could make a real impact in this area. If ADR is to be taken seriously in any project of reform, it needs a champion.

A commissioner, as well as helping to drive civil justice reform, could support both the government and the engineering and construction sectors in the establishment of a network of dispute boards or in the review of standard form contracts.

UK policymakers are in a position to demonstrate global leadership and to support the development of international markets for professional services. London remains the international centre for commercial dispute resolution; but why should not Birmingham or Manchester, Leeds, Newcastle or Bristol also be great hubs of ADR practitioners?

These are exciting times. It may be some generations before we have the same chance to reinvigorate the civil justice system. By educating the professions and the public, we can in turn look to change the culture on the part of both.



**BIAC Med-Arb clause**

“Any dispute or difference arising out of or in connection with this contract shall first be referred to the Bangladesh International Arbitration Centre (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules. If a settlement cannot be reached within sixty (60) days following the appointment of the Mediator(s), then such dispute or difference shall be referred to BIAC to be finally settled under the rules of arbitration of the Bangladesh International Arbitration Centre, by one or more arbitrators appointed in accordance with the said Rules.”

**How can you engage BIAC?**

- Register cases under BIAC Arbitration Rules 2011 and Mediation Rules 2014
- Parties can use BIAC facilities to conduct any ADR case which is not under BIAC Rules
- Pursue BIACs sector based training on arbitration, mediation and negotiation
- Signing of Memorandum of Understanding
- Signing of Co-operation Agreement
- Advisory Services on ADR

**Benefits of adding BIAC Med-Arb clause in the contract**

- Parties know beforehand how to solve their conflicts (if any)
- The panel of Mediators / Arbitrators know BIAC Rules
- The timeline is predetermined
- Number and procedures of choosing Arbitrator/ Mediator are fixed
- The costs to resolve the whole dispute are predictable

**BIAC Med-Arb clause can be included in:**

- Procurement contract
- Sale contract
- Loan Agreement
- Lease Agreement
- Joint-venture agreement
- Employment agreement
- Any other contracts

## EVENTS NEWS

## BIAC's Upcoming Events

Organization	Events	Date	Venue
BIAC & Thailand Arbitration Center (THAC)	Accreditation Course on Mediation	23-29 July, 2017	THAC Thailand
Bangladesh International Arbitration Centre (BIAC)	ADR Appreciation Training	8 August, 2017	BIAC
Bangladesh International Arbitration Centre (BIAC)	Community Mediation	Coming Soon August, 2017	BIAC
BIAC & International Cotton Association (ICA)	Seminar	4 September, 2017	Pan Pacific Hotel Sonargaon
Bangladesh International Arbitration Centre (BIAC)	BIAC 6 <sup>th</sup> Anniversary	Coming Soon October, 2017	Pan Pacific Hotel Sonargaon
Bangladesh International Arbitration Centre (BIAC)	Art of Negotiation	Coming Soon November, 2017	BIAC
BIAC & Chartered Institute of Arbitrator (CI Arb)	Introduction to International Arbitration	6-9 December, 2017	Singapore

# CELEBRATING OUR 2016 ACHIEVEMENTS WITH A RESOLUTION TO GROW BEYOND!

WISHING A PROSPEROUS YEAR AHEAD!

Green Delta Insurance is being honored with numerous awards and accolades in the year 2016 and achieved a unique height in the Industry. For such we express our sincere gratitude to all our Shareholders, Board of Directors, Clients, Regulators, International Finance Corporation (IFC), United Nations Global Compact, Policy makers, Local and International support partners, Credit Rating Agency of Bangladesh, Business Associations and all the Green Delta Family Members for their unimpeded support and cooperation.

HAPPY NEW YEAR 2017



**SAFA AWARD**  
Best Presented Annual Report



**AAA CREDIT RATING**



**UN GLOBAL COMPACT RECOGNITION**  
AS A 2016 LOCAL SDG PIONEER



**INTERNATIONAL ARC AWARD**  
Best Presented Annual Report



**ICSB GOLD AWARD**  
Best Corporate Governance



**ICAB AWARD**  
Best Presented Annual Report



**IFM AWARD**  
Best Non-Life Insurance Company



**ICMAB AWARD**  
Best Presented Annual Report



Our Subsidiaries

