

BIAC

# Quarterly Bulletin

Volume 8

Number 3

July-September 2019



**ALTERNATIVE  
DISPUTE  
RESOLUTION**

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

International Chamber of Commerce Bangladesh (ICC-B), the world business organisation and two prominent business chambers of Bangladesh namely, Metropolitan Chamber of Commerce & Industry (MCCI), Dhaka and Dhaka Chamber of Commerce & Industry (DCCI) obtained a licence from the Government in 2004 to establish the Bangladesh International Arbitration Centre (BIAC) as a not-for-profit organisation.

BIAC formally started its operation on 9th April 2011. It is an ADR service-provider organisation, facilitating resolution of domestic and international commercial disputes in an expeditious and amicable manner, through Arbitration and Mediation. BIAC has its own Arbitration and Mediation Rules. BIAC's Panel of Arbitrators consists of 12 eminent jurists among them 5 are former Chief Justices of Bangladesh. 38 experts and trained Mediators are in BIAC's List of Mediators. BIAC has developed all the facilities required for systematic and comfortable Arbitration and Mediation and has handled 284 ADR hearings till date.

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

As the only ADR institution in the country, apart from facilitating Arbitration and Mediation, BIAC also provides training courses on ADR, especially Arbitration, Mediation and Negotiation.

BIAC has taken initiative of providing specialised ADR training courses for different sectors, for instance, ADR in Money Loan Court Act, ADR in Procurement Disputes, ADR in Human Resource Management and others. BIAC also organises training programmes abroad jointly with those ADR centres which BIAC has signed collaboration agreements with. Till date, BIAC has organised 33 arbitration training courses, 21 mediation training courses and 9 negotiation training courses and trained 1440 participants.

From the very beginning, BIAC has been working hard to create awareness about ADR facilities by conducting several outreach programmes, seminars, workshops and dialogues. BIAC has arranged 109 workshops/seminars/dialogues as of September 2019. BIAC has received recognition by signing cooperation agreements with 17 International ADR Centres, namely, The Permanent Court of Arbitration (PCA), SAARC Arbitration Council (SARCO), Asian International Arbitration Center (AIAC), 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), Institute for the Development of Commercial Law and Practice (ICLP) Sri Lanka, Bombay Chamber of Commerce & Industry (BCCI), India, Bridge

Mediation and Consulting Pvt. Ltd., India, International Commercial Arbitration Service Center of Kunming (KICASC), China, Badan Arbitrase Nasional Indonesia (BANI) and The Philippine Institute of Arbitrators (PIArb).

Moreover, 25 leading corporate companies, banks, real estate companies, NGOs, insurance companies, universities, law firms and financial institutions have signed Memoranda of Understanding (MoU) to seek BIAC's assistance in matters related to ADR, namely, Green Delta Insurance Company Limited, Building Technologies and Ideas Ltd. (bti), Friendship Bangladesh, The City Bank Limited (CBL), First Security Islami Bank Limited (FSIBL), Dhaka Bank Limited (DBL), Eastern

## STATISTICS SINCE INCEPTION



## MISSION

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

## VISION

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 to resolve commercial dispute

Bank Limited (EBL), Islami Bank Bangladesh Ltd. (IBBL), Mutual Trust Bank Ltd (MTB), IFIC Bank Limited, Mars Financial And Legal Consultancy Limited (MARS), Anwar Group of Industries (AGI), Apex Group of Companies, International Centre for Diarrhoeal Disease Research, Bangladesh (icddr'b), RANGS Group, Skayef Bangladesh Limited (SK+F), Summit Alliance Port Ltd., TRANSCOM LIMITED, University of Liberal Arts Bangladesh (ULAB), Prime Bank Limited, London College of Legal Studies (South), Rahman & Rabbi Legal, London College of Legal Studies (North) and AB Bank Ltd and One Bank Ltd.



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

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**Mahbubur Rahman**

### Members



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**Rokia Afzal Rahman**



**Nihad Kabir**



**Osama Taseer**

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**M A Akmal Hossain Azad**

Director

**Mahbuba Rahman Runa**

General Manager

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Manager (Accounts & Finance)

**Rubaiya Ehsan Karishma**

Counsel

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Commercial officer

**Shahida Parvin**

Administrative Officer

### Editor

M A Akmal Hossain Azad

### Editorial Associates

Mahbuba Rahman Runa

Rubaiya Ehsan Karishma

## From the Editor

This issue of the BIAC Quarterly Bulletin marks the 8th founding anniversary celebrations of Bangladesh International Arbitration Centre (BIAC). On this occasion an international seminar themed “Effective ADR Process to Resolve Financial Disputes for a Sustainable Financial Sector” was organised by BIAC on 31 August 2019 at the Pan Pacific Sonargaon Hotel, Dhaka which was graced by the Minister for Law, Justice & Parliamentary Affairs Mr. Anisul Huq, MP and Minister for Commerce Mr. Tipu Munshi, MP as Chief Guest and Special Guest respectively. Speaking on the occasion the Law Minister reiterated the Government’s decision in principle to incorporate appropriate Clauses for Arbitration and Mediation in all Government contracts. He said that the Government has also taken steps to ensure that both foreign and local arbitration awards can be enforced in Bangladesh and we are encouraging all Government entities to choose Bangladesh at the first instance as the place of arbitration for contracts.

Legal experts, academicians, bankers and Alternative Dispute Resolution (ADR) specialists of high eminence including Mr. Pasit Asawawattanaporn, Managing Director, Thailand Arbitration Center (THAC); Ms. Paramita Dasgupta, Practice Manager, Finance, Competitiveness and Innovation, IFC/World Bank Group, Singapore; Professor Simon Askey, Dean, Under Grad Laws, University of London, UK; Dr. Khaled Hamid Chowdhury, Bar-at-Law, Advocate, Appellate Division of the Supreme Court of Bangladesh; Mr. M. Shah Alam Sarwar, Managing Director, IFIC Bank Ltd. and Mr. Mashrur Arefin, Managing Director, The City Bank Ltd. spoke at the seminar. We are optimistic about the outcome of the event. We are also confident that its recommendations will contribute a lot towards unifying the world financial bodies and others in the journey of BIAC in integrating best practices of ADR with the judicial infrastructure in the country and beyond.

Hope you will enjoy this edition of our Bulletin which includes among other things, articles and interviews on the perception and understanding of ADR and news on activities of BIAC and other ADR institutions across the globe. We will appreciate views and suggestions from our valued readers for further improvement of this humble publication.

## BIAC Quarterly Bulletin

Vol. 8, Number 3, July-September 2019

### Contents

BIAC News	04
International News	14
Articles	17
Interviews	18
Med-Arb Clause of BIAC	20
BIAC Membership	21
Events News	23

## BIAC News

### Bangladesh Bank team reports on 2<sup>nd</sup> International ADR Conference held in Bangkok

1 July 2019



Bangladesh International Arbitration Centre (BIAC) led a delegation of 17 participants from Bangladesh to Bangkok, Thailand to the 2nd International ADR Conference organised by Thailand Arbitration Center (THAC) and supported by BIAC from 13-14 May 2019. The participants represented Bangladesh Bank, The City Bank Limited, Janata Bank, Krishi Bank, Islami Bank Bangladesh Limited, IDCOL, AB Bank Limited and legal experts. Mr. Mohammed Shahidul Haque, Senior Secretary, Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs presented a keynote on “New Innovations in Alternative Dispute Resolution (ADR) by Arbitral Institutions”.

Leading the five member delegation from Bangladesh Bank Ms. Rahima Khatun, Deputy Director, Foreign Exchange Operation Department, Bangladesh Bank submitted a report to BIAC recently on the event including her observation on Alternative Dispute Resolution (ADR). We are pleased to share our brief observation on the report below:

The officer has given an insight on ADR along with its prevalent practice and procedure in Bangladesh. She has also enumerated a few challenges and opportunities of ADR in the country. She visualized challenges as among other things, disconnection between rules and reality, non cooperation of the lawyers, resistance from the bar, lack of public awareness, need for correction of legal shortcomings, risks to quality control, lack of funding, etc.

Among opportunities, she has identified: speed, expertise, privacy, creating a better climate for resolution, expediting procedures, enhancing flexibility, providing more control over the outcome, costs to the parties, costs to the State and saving of court time etc.

She referred to the Keynote Speech delivered at the Conference by Mr. M.

Shahidul Haque, Senior Secretary, Legislative and Parliamentary Affairs Division where he had urged upon BIAC to work on ADR with Law Commission Bangladesh which can be an effective and efficient tool to attract FDI in Bangladesh.

She has rightly said that the disputants want decision and that too as quickly as possible. As the problem of over-burdened courts has been faced all over the world, new solutions were searched. Various tribunals were the answer to the search. In Bangladesh, there are so many tribunals, however, even after the formation of these tribunals, the administration of justice has not become speedy.

She has put forward some suggestions which include attitudinal change towards ADR resulting in active implementation of ADR and the burden on the courts reduced. She has emphasised the need for instilling awareness as imperative to bring in a change in the attitudes.

She opined that arbitral awards should be made binding on the parties and no appeal to the court should be allowed unless it is arrived at fraudulently or if it is against public policy.

She has also suggested that legal education and law schools should focus on the arts of conciliation and negotiation and not merely on litigation. Lawyer client interests should also be molded towards a primary focus on ADR failing which the recourse should be towards litigation.

## BIAC participates at the Career Fair 2019 of London College of Legal Studies (South)

6 July 2019



By invitation from London College of Legal Studies (South), Dhaka, BIAC participated at the “LCLS (South) Career Fair 2019” held on the College campus on 6 July 2019. This annual event of LCLS (South) was aimed at placement of a significant number of potential candidates having Law degree from LCLS (South) in reputed law chambers, business organisations and legal entities. It also provided participants with an opportunity of mutual networking and apprising one another of their personal and institutional goals and objectives in the

legal arena of the country. A BIAC team led by General Manager Ms. Mahbuba Rahman Runa, took part in the Fair and introduced BIAC to participants visiting the BIAC stall. The Fair provided an excellent opportunity for organisations including BIAC to meet forthcoming graduates, upcoming lawyers and Barristers and both parties secure a mutually rewarding experience. Visitors, mostly students and young lawyers were enthusiastic about

BIAC’s ongoing programmes, especially its training and academic pursuits including thematic seminars, symposia, workshops and discussion sessions. The BIAC team briefed visitors about its programmes and achievements as the country’s only Alternative Dispute Resolution (ADR) institution and urged upon visitors to take part in its upcoming training and outreach events. Barrister Khaled Hamid Chowdhury, Head of Laws, LCLS (South) visited the BIAC stall and reiterated to work together with BIAC in the coming days.

## Argentine Minister visits International Chamber of Commerce-Bangladesh

15 July 2019

Secretary for Agro Industry of the Argentine Republic H E Mr. Luis Miguel Etchevehere, who is a Government Minister of Argentina visited International Chamber of Commerce-Bangladesh Secretariat on 15 July 2019 in the forenoon. He was accompanied by Mr. Jesus Maria Sylveira, Under Secretary, Agro Industrial Markets, Government of the Argentine Republic; H E Mr. Daniel Chuburu, Ambassador of Argentina to Bangladesh, based in New Delhi, India; Mr. Mariano Beheran, Minister Agricultural at the Embassy of Argentina in India; Mr. Gustavo Idigoras, President, Centre for Cereals Export, Buenos Aires, Argentina and Mr. Tobias Demarco from the Embassy of Argentina in India. Mr. Mahbubur Rahman, President, International Chamber of Commerce-Bangladesh (ICC-B) and Chairman, Bangladesh International Arbitration Centre (BIAC) welcomed the Argentine Minister and members of his delegation and briefed them about International Chamber of Commerce-Bangladesh and its recent activities. He also urged upon the Argentine Minister to help create



easy passage of Bangladesh businessmen to Argentina to help flourish Bangladesh-Argentina trade relations further for mutual benefit of both countries. A presentation on ICC-B was delivered before the audience.

The Argentine Minister appreciated ICC-B for its role in better doing business in Bangladesh and offered Bangladeshi business community to contribute more on trade between the two countries, especially in the field of access to Bangladesh of Argentine agricultural products including wheat, maize, cereals, fruits, powder milk, soy bean, yerba mate, etc. He also

emphasised the need of strengthening bilateral relations in the industrial sector.

Taking part in the discussion session, Mr. Jesus Maria Sylveira, Argentine Under Secretary, Agro Industrial Markets appreciated the growing economy of Bangladesh with the recent increase of GDP to the tune of over 8% and hoped that both countries will continue to increase trade volume between them. H E Mr. Daniel Chuburu, Ambassador of Argentina to Bangladesh said that Argentina exports crude soybean oil to Bangladesh worth 450 million US dollars per year and he expressed the need for boosting further trade relations with Bangladesh. With this end in view, the Ambassador said that one official from the

Argentine Embassy in New Delhi will soon be relocated in Dhaka for maintaining closer ties with Bangladeshi public and private sectors.

Among others, also present on the occasion were Ms. Rokia Afzal Rahman, Vice President, ICC-B; Mr. Muhammad A. (Rume) Ali, Chief Executive Officer of Bangladesh International Arbitration Centre (BIAC), Mr. Ataur Rahman, Secretary General, ICC-B; Mr. M A Akmal Hossain Azad, Director, BIAC; Mr. Ajay Bihari Saha, General Manager, ICC-B; Mr. Irshad Hossain, President, Petrochemical & Refiners Association of Bangladesh (PRAB) and Mr. Ramzul Seraj, Managing Director, Elite Group of Industries.

## CEO of Bangladesh International Arbitration Centre (BIAC) emphasises need of training on Alternative Dispute Resolution

23-24 July 2019



Inaugurating a two day long training course on arbitration and mediation, held at the Krishibid Institution Bangladesh Complex, Dhaka recently Mr. Muhammad A. (Rume) Ali, Chief Executive Officer of Bangladesh International Arbitration Centre (BIAC) emphasised the need of training on Alternative Dispute Resolution (ADR) to cater to the increasing requirement of businesses to settle disputes outside the court system in an expeditious and amicable manner. He said that ADR methods are growing forms of dispute resolution means in Bangladesh, especially in commercial and business

transactions. Use of ADR in resolution of disputes arising between the parties in financial and corporate sectors is essential for bankers, lawyers, entrepreneurs, corporate leaders and students of law, he said. Explaining BIAC's own Rules of Arbitration and Mediation, Mr. Ali stressed the need of being acclimatised with the methods and uses of ADR. He urged upon the trainees to become Members of BIAC and contribute to its efforts in adopting international best practices of ADR for resolving commercial disputes in the country. The training programme was organised by BIAC which was participated by 29 officials and representatives from banks, financial institutions, corporate houses, lawyers, university teachers and students of law. On the first day of the training course on 23 July 2019 Barrister Nabil Ahsan and Barrister Kazi Akhtar Hosain conducted sessions on arbitration. The training sessions on mediation were conducted by Barrister Khaja Salauddin Ahmed and Advocate Fariha Zaman on the second day on 24 July 2019. Mr. M A Akmal Hossain Azad, Director, BIAC gave away certificates among participants of the training course on both days. Ms. Mahbuba Rahman Runa, General Manager, BIAC coordinated the programme.

## BIAC signs MoU with ONE Bank Limited

21 August 2019



Bangladesh International Arbitration Centre (BIAC) has signed a Memorandum of Understanding (MoU) with ONE Bank Ltd (OBL) to assist resolution of commercial and money loan disputes through Alternative Dispute Resolution (ADR) at a simple ceremony held on 21 August 2019 at the BIAC

Secretariat, Dhaka.

Mr. Muhammad A. (Rume) Ali, Chief Executive Officer of BIAC and Mr. M. Fakhru Alam, Managing Director of ONE Bank Ltd signed the MoU on behalf of their respective institutions. Senior officials from both the institutions including Additional Managing Director of OBL Mr. Md. Monzur Mofiz and Director of BIAC Mr. M A Akmal Hossain Azad were present during the signing ceremony. This MoU provides a framework to facilitate the resolution of contractual and commercial disputes of One Bank Ltd using ADR methods such as Arbitration and Mediation, through ADR expert services of BIAC.

## UN Resident Coordinator and ILO Country Director visit BIAC

22 August 2019

United Nations Resident Coordinator in Bangladesh Ms. Mia Seppo and Country Director of International Labour Organization Mr. Tuomo Poutiainen visited BIAC on 22 August 2019. They were greeted by Chairman, BIAC Mr. Mahbubur Rahman. They went round BIAC facilities and were briefed about activities and achievements of BIAC by Mr. Muhammad A. (Rume) Ali, CEO of BIAC. They showed keen interest in the ongoing programmes of BIAC and vowed to work together to take advantage of BIAC's facilities for mitigating commercial disputes under their jurisdictions. Mr. M A Akmal Hossain Azad, Director



and Ms. Mahbuba Rahman Runa, General Manager of BIAC were also present.

## Ambassador of Spain visits BIAC

26 August 2019

H.E. Mr. Alvaro de Salas Gimenez de Azcarate, Ambassador of the Kingdom of Spain to Bangladesh visited BIAC Secretariat on 26 August 2019 in the afternoon. BIAC Chairman Mr. Mahbubur Rahman welcomed the Ambassador. In a briefing session the CEO of BIAC Mr. Muhammad A. (Rume) Ali gave the Ambassador an overview on the importance of Alternative Dispute Resolution (ADR) in Bangladesh and emergence of BIAC. Director, BIAC Mr. M A Akmal Hossain Azad delivered a presentation on the activities and recent achievements of BIAC.

BIAC Chairman Mr. Mahbubur Rahman mentioned that the presence of a licensed ADR option in enforcement of contracts is not well-known among the foreign investors. He requested the Ambassador to see that the Embassy can play an important role in helping BIAC to disseminate this information to potential Spanish investors. The Chairman of BIAC requested the Ambassador of Spain to recognise BIAC on the Embassy's official homepage by hosting the link to our website.

CEO of BIAC Mr. Muhammad A. (Rumee) Ali pointed out that the present process of loan recovery of financial institutions under the Money Loan Court Act 2003 aims at recovery of bad debts through liquidation of impaired assets. It is considered that in many situations recovery through a going-concern concept is a better option for the economy and other stakeholders. Ms. Rubaiya Ehsan Karishma, Counsel, BIAC mentioned how BIAC can assist potential investors in protecting themselves against the risk of Non Performance of contracts. Ambassador Azcarate showed keen interest in the activities of BIAC. He went round different sections of the BIAC Secretariat and inspected its facilities. He appreciated the efforts BIAC continues to make in the country for best use of ADR methods in resolving financial disputes and expressed willingness to assist



BIAC in the advocacy of ADR.

Mr. Nicolas Vazquez, Commercial Attache, Embassy of the Kingdom of Spain in Dhaka, Ms. Mahbuba Rahman Runa, General Manager, BIAC and Mr. Md. Fazlul Hoque, Managing Director, PLUMMY Fashions Limited also took part in the briefing session.

## BIAC celebrates 8<sup>th</sup> Founding Anniversary

31 August 2019



BIAC celebrated its 8th Founding Anniversary on 31 August 2019 at Pan Pacific Sonargaon Hotel, Dhaka and a seminar themed “Effective ADR Process to Resolve Financial Disputes for a Sustainable Financial Sector” was held on this occasion. Minister for Law, Justice & Parliamentary Affairs Mr. Anisul Huq, MP was the Chief Guest at the seminar, while Minister for Commerce Mr. Tipu Munshi, MP attended the event as Special Guest. Mr. Mahbubur Rahman, Chairman of BIAC moderated the seminar.



Speaking on the occasion as Chief Guest Law, Justice and Parliamentary Affairs Minister Mr. Anisul Huq, MP said that the Government of Prime Minister Sheikh Hasina has taken a decision in principle to incorporate

appropriate Clauses for Arbitration and Mediation in all Government contracts. The Government has also taken steps to ensure that both foreign and local arbitration awards can be enforced in Bangladesh and we are encouraging all Government entities to choose Bangladesh at the first instance as the place of arbitration for contracts, he said. The Law Minister stated that BIAC has been able to develop a neutral, efficient and dependable dispute resolution service.



Mr. Tipu Munshi, MP, Minister for Commerce in his address as Special Guest said that recommendations of the seminar will definitely help the role of BIAC to improve Bangladesh's rank in World Bank's Doing Business Index. He stressed on the need of interaction between

BIAC and presiding officers of courts, lawyers and jurists through seminars and workshops.



Mr. Mahbubur Rahman, Chairman, BIAC in his concluding remarks said that we should resort to a system that would allow us to resolve financial disputes and enforce contracts through expeditious and cost effective manner.

He informed that a committee formed by the Bangladesh Bank comprising BIAC, Bangladesh Bank and Association of Bankers Bangladesh has just submitted a draft Guideline for the banks in Bangladesh to Resolve Financial Disputes in Banking Institutions using ADR. The Guideline is under active consideration of the central bank, he said. He added that BIAC has received recognition by signing cooperation agreements with the Permanent Court of Arbitration, the Hague, the Netherlands which is the first permanent intergovernmental organisation to provide a forum for the resolution of international disputes through arbitration and other peaceful means.



At the beginning of the session, welcoming the guests, BIAC's Chief Executive Officer Mr. Muhammad A. (Rumee) Ali gave a brief account on BIAC's activities and achievements in the recent years in introducing globally

accepted best practices of ADR to resolve financial disputes in the country. He insisted that for a sustainable financial sector ADR can play a significant role in pre-empting disputes before going to courts.



Mr. Pasit Asawawattanaporn, Managing Director, Thailand Arbitration Center (THAC) in his speech said that the THAC and BIAC established collaboration in to cater to the need of dispute resolution in

businesses, commerce and potential trade roles across Asia and have been working together to promote ADR through organising trainings and conferences to increase ADR awareness.



Ms. Paramita Dasgupta, Practice Manager, Finance, Competitiveness and Innovation, IFC/World Bank Group, Singapore, in her speech said that IFC strongly believes that availability of efficient contract enforcement

mechanisms, both through formal court procedures and out of court mechanisms are fundamental for the proper functioning of market economies.



Professor Simon Askey, Dean, Under Grad Laws, University of London, UK, in his speech opined that a sustainable approach to arbitration must recognise that Arbitrators are appointed, because they can work in ways that parties are locally familiar with and which take account of shared attitudes of the parties.



Dr. Khaled Hamid Chowdhury, Barrister at Law and Advocate, Appellate Division of the Supreme Court of Bangladesh in his speech said that mediation is one of the most effective methods of ADR, as it is wholly party controlled, voluntary and flexible.



In his speech Mr. M. Shah Alam Sarwar, Managing Director, IFIC Bank Ltd. said that given both the Bank and the borrower are willing to rely on such a level of expertise to enforce their long term relationship, institutional ADR will bring in better prospects of doing business for both parties.



Mr. Mashrur Arefin, Managing Director, The City Bank Ltd., in his speech said that if pre-litigation Mediation and Arbitration is ensured, the burden on the courts will be lessened to a great extent and that will result in the reduction of the backlog of cases.

The seminar was attended among others by former Chief Justices, Judges of the Supreme Court, business leaders, prominent lawyers, representatives of corporate houses, Government officials, senior executives of banks and insurance companies, academicians, Ambassadors, representatives of Diplomatic Missions, heads of regional ADR institutions, international organisations and the Media. Senior Secretary, Legislative and Parliamentary Affairs Division Mr. Mohammad Shahidul Haque, Board Members of BIAC Mr. Osama Taseer and Ms. Nihad Kabir were also present.

## THAC Director visits Bangladesh International Arbitration Centre

1 September 2019



Ms. Tippawan Boonparanon, Director, Strategy and Business Development, Thailand Arbitration Center (THAC) accompanied by Ms. Priyanka Roy, Networking Officer, THAC visited Bangladesh International Arbitration Centre (BIAC) Secretariat on 1 September 2019 in the forenoon. The THAC delegation was welcomed by Mr. M A Akmal Hossain Azad, Director, BIAC. Ms. Tippawan

Boonparanon, Director, THAC went round different sections of the BIAC Secretariat and saw its facilities. A presentation on the background of emergence of BIAC, its activities and achievements was delivered by MS. Rubaiya Ehsan Karishma, Counsel, BIAC. Director, BIAC insisted on organising training programmes/workshops on ADR in Dhaka in collaboration with THAC. Director, THAC showed keen interest in the ongoing programmes of BIAC and reiterated THAC's support in all future activities of BIAC including organising a joint workshop in Dhaka soon. She also expressed satisfaction over recent conferences and training programmes held in Bangkok, organised by THAC and supported by BIAC. She hoped that BIAC will continue to extend its support to THAC's programmes in the days to come.

## General Manager of BIAC attends Brazil Russia India China South Africa (BRICS), South Asia and Southeast Asia International Commercial Arbitration and Mediation Cooperation Sub-Forum in Kunming, China.

3 September 2019

Brazil Russia India China South Africa (BRICS), South Asia and Southeast Asia International Commercial Arbitration and Mediation Cooperation Sub-Forum was held on 2-3 September 2019 in Kunming, capital of southwest China's Yunnan Province. Experts and scholars from BRICS and South and Southeast Asian countries attended the conference. Representatives from 11 countries and regions including the BRICS members attended the conference.

Ms. Mahbuba Rahman Runa, General Manager of Bangladesh International Arbitration Centre (BIAC) attended the conference as one of the speakers of the Conference. She highlighted the changes in our laws which have made settlement of certain disputes outside our court system mandatory and the increasing number of pending cases in our courts. She emphasised on the role lawyers can play in helping investors or disputing parties in speedy disposal of cases through ADR. She added that Settlement of



disputes outside the courts will ease congestion in our courts, as settlements outside the court usually take lesser time. She emphasised that trained manpower is fundamental to form ADR effective within the country, and narrated the role of the Bangladesh International Arbitration Centre (BIAC) for promoting ADR. She also highlighted that BIAC is conducting awareness building events and also arranging training side-by-side with its usual business of facilitating arbitration and mediation. She aspired

that in creating a better business environment in Bangladesh, BIAC will continue its efforts of dispute resolution in collaboration with local organisations and international ADR institutions as well. She described in brief the global ADR practices and compared the same to prevalent Bangladeshi practice. She emphasised institutional arbitration as vital for

generating confidence among investors and hoped that BIAC will be developed substantially to meet that pressing need in Bangladesh. Ms. Afrin Ahmed, Working Partner, Jural Acuity and Advocate, Supreme Court of Bangladesh and Ms. Christabel Randolph, Director, Legal and Corporate Affairs, Marico Bangladesh Limited also attended the conference from Bangladesh.

### **BIAC signs agreement for cooperation on the frame work of joint Promotion for the Establishment of Sino-Bangladesh International Engineering Dispute Adjudication Expert Board with KICASC, Kunming**

3 September 2019



BIAC signed an agreement for cooperation on the frame work of joint Promotion for the Establishment of Sino-Bangladesh International Engineering

Dispute Adjudication Expert Board with Kunming International Commercial Arbitration Service Centre (KICASC) on 3 September 2019 alongside the BRICS and South Asia and Southeast Asia International Commercial Arbitration and Mediation Cooperation Sub-Forum, in Kunming, China. The instrument of agreement was exchanged by Mr. He Liu, Director of Kunming Economic and Technological Development Zone Management

Committee and Ms. Mahbuba Rahman Runa, General Manager, BIAC on behalf of their respective organisations.

### **Director, BIAC meets Commercial Counsellor of the Royal Danish Embassy in Dhaka**

8 September 2019



Mr. M A Akmal Hossain Azad, Director, BIAC met Mr. Jacob Kahl Jepsen, Head of Trade Section and Commercial Counsellor of the Royal Danish Embassy in Dhaka on 8 September 2019 in the forenoon at the latter's office. They discussed matters of mutual interest. Director, BIAC briefed the Danish diplomat about BIAC's activities and recent achievements in the field of Alternative Dispute Resolution (ADR) and insisted on more Danish investment in Bangladesh. He sought cooperation by the Royal Danish Embassy in

Dhaka should the Danish investors face any difficulty in performance of commercial contracts with Bangladeshi parties. He said that the Embassy can play a pivotal role to guide Danish businesses to use the facilities of BIAC in mitigating investment contracts with their Bangladeshi counterparts. The Danish Embassy Head of Trade Section sought cooperation from BIAC as regards two outstanding business disputes between Danish and Bangladeshi parties, one in the Ready Made Garments sector and the other in the Shipping sector. He said that the Embassy will forward the cases to BIAC with a request to arrange settlement of the issues between the parties through arbitration. Ms. Samina A. Shahrukh, Senior Trade Adviser of the Danish Embassy was present during the discussion.

## Ambassador of Thailand visits BIAC

15 September 2019

Ambassador of the Kingdom of Thailand to Bangladesh Her Excellency Ms. Arunrung Phothong H. visited Bangladesh International Arbitration Centre (BIAC) on 15 September 2019 in the afternoon. Mr. Mahbubur Rahman, Chairman of BIAC welcomed the Thai Ambassador and briefed her about BIAC's activities. The Ambassador went round different facilities of BIAC along with the Chairman. A presentation on recent programmes and achievements of BIAC was delivered in a briefing session by BIAC Counsel Ms. Rubaiya Ehsan Karishma. The Ambassador showed keen interest in facilities and services offered by BIAC. The briefing session was also attended by the



Minister- Counsellor of the Royal Thai Embassy in Dhaka Mr. Kraichok Arunpairojkul, Managing Director, Evince Group Mr. Anwar- Ul- Alam Chowdhury (Parvez), Managing Director, Plummy Fashions Limited Mr. Md. Fazlul Hoque and BIAC Director Mr. M A Akmal Hossain Azad.

## Thailand Arbitration Center (THAC) and ADR-ODR hold Mediation Training Course in Bangkok, Thailand

20 September 2019



A five day-long certificate training course on Mediation was organised by Thailand Arbitration Center (THAC) and ADR-ODR, London in collaboration with BIAC to train comprehensive skills needed for the practice, use and applications of mediation from 16 to 20 September 2019 in Bangkok, Thailand.

Around thirty participants from different countries

including Thailand, Bangladesh and USA took part in the training programme. Fifteen trainees from Government organisations, Banks, Corporate and legal practitioners from Bangladesh participated in the training programme. Ms. Mahbuba Rahman, General Manager, BIAC led the BIAC team.

Mr. Rahim Shamji , Founder and CEO of ADR-ODR conducted the training as the Master Trainer along with Ms. Zoe Giannopoulou, Deputy CEO, International Projects, ADR-ODR and Dr. Khaled Hamid Chowdhury, Representative, Bangladesh, ADR ODR International. The closing ceremony of the training was moderated by Mr. Pasit Asawawattanaporn, the Managing Director of Thailand Arbitration Center (THAC) and certificates were awarded to the participants.

*“So much of life is a negotiation, so even if you're not in business, you have opportunities to practice all around you.”*

— Kevin O'Leary

## Executive Chairman, BIDA apprised of BIAC's activities

22 September 2019

Director, BIAC, Mr. M A Akmal Hossain Azad, met the new Executive Chairman of Bangladesh Investment Development Authority (BIDA) Mr. Md. Sirazul Islam at the latter's office on 22 September 2019 in the evening and congratulated him on his assumption of the high office of Executive Chairman of BIDA. The Director apprised him of the activities, recent achievements and upcoming programmes of BIAC. He said that BIDA has been very supportive to all our activities over the years, BIAC had nomination of officers from BIDA who participated in a number of training programmes and conferences on Alternative Dispute Resolution organised or co-hosted by BIAC at home and abroad. He thanked Executive Chairman,



BIDA for the organisation's continued support to BIAC. The Executive Chairman showed keen interest in the activities of BIAC and agreed to visit BIAC's facilities, after the BIAC Secretariat is relocated to Unique Heights at Kazi Nazrul Islam Avenue, next month.

*“Hard edges make truth and by necessity, truth is unbending. Unlike truth’s absolutism, justice is a qualitative substance; it is not an absolute tenet. Justice must be pliable in order to meet the needs of more than one person or one group. Justice goes against separation; it is a form of human superglue. Justice is what binds us as people. No human is capable of measuring out or dispensing unqualified justice. Justice naturally seeks conciliation and demands compromise.”*

— Kilroy J. Oldster

## International News

### Ethiopia Investment Commission's new portal goes live

5 July 2019



Ethiopia has launched a new website that is set to boost inward investment with a focus on Chinese investors.

A website that takes potential foreign investors on the complete business journey from considering Ethiopia as a destination through to the steps and incentives involved in investing in the country is now live. The online investment promotion portal of the Ethiopian Investment Commission (EIC) was developed with the support of the ITC's Partnership for Investment and Growth in Africa (PIGA). 'This is a one stop-shop for investors looking to invest in Ethiopia,' said Paul Kelly, Senior Trade Information Officer at ITC. 'Specific attention has been paid to the needs of Chinese

investors and features such as a WeChat account have been added to appeal to the needs of this specific audience,' Mr. Kelly said.

The portal was launched by the EIC in Addis Ababa in May 2019 and is supported by data from sources inside and outside of Ethiopia. 'The portal was designed by the International Trade Centre (ITC), taking into account best practices for the creation of such portals following an extensive review of the websites of leading investment promotion agencies around the world,' Mr. Kelly added.

The result is a content-generous investment promotion portal that allows the EIC to provide information across a number of areas: living and working in Ethiopia, investment procedures and incentives, the support system for investors and the opportunities available. The portal features several interactive maps, online calculators for tax incentives and labour costs and the display of critical economic and sector information through a suite of infographics.

[www.intracen.org/news/Ethiopia-Investment-Commissions-new-portal-goes-live/](http://www.intracen.org/news/Ethiopia-Investment-Commissions-new-portal-goes-live/)

### The Arbitration Foundation of Southern Africa (AFSA) establishes branch in Eastern Cape, South Africa

29 July 2019

A branch of the Arbitration Foundation of Southern Africa (AFSA) has been established recently in Mthatha in the Eastern Cape to provide arbitration and mediation services to both the public and private sectors in the Eastern Cape in South Africa. This follows an approach by a number of legal practitioners from the Eastern Cape who saw the need to establish an AFSA branch in this region. A committee was established comprising legal practitioners who practice in Mthatha, East London and Johannesburg. The committee members, now the founding members of the AFSA Eastern Cape branch, include: Adv V Notshe SC, Adv MM Matyumza, Adv V Msiwa, Adv E M Matanda, Adv B Metu, Adv SX Mapoma, Adv G Badela, Adv Z Ndesi

Gilikidla and practicing Attorneys Ms VS Mncedane, Mr T A Nkele, and Mr V Nosindwa.

The AFSA Eastern Cape branch will offer services to the whole of the Eastern Cape Province. The founding members are of the view that historically, the Eastern Cape has produced strong and competent lawyers, while a number of judges in the various courts of the country are products of Eastern Cape universities and practiced in the Eastern Cape before elevation to the bench. Future arbitrators and mediators who have successfully completed AFSA's Advanced Training Course, offered under the aegis of the University of Pretoria, will be excellent arbitrators.

[www.intracen.org/news/Ethiopia-Investment-Commissions-new-portal-goes-live/](http://www.intracen.org/news/Ethiopia-Investment-Commissions-new-portal-goes-live/)

## The Permanent Court of Arbitration signs Cooperation Agreement with New York International Arbitration Center

31 July 2019



A cooperation agreement was concluded between the Permanent Court of Arbitration (PCA) and the New York International Arbitration Center (NYIAC), with

effect from 1 July 2019. The cooperation agreement establishes a framework for the two organisations to work together towards the promotion of arbitration as a means for the peaceful settlement of international disputes. On a practical level, under this agreement, the PCA will be able to hold hearings and meetings at the NYIAC's premises, and the NYIAC will assist with the arrangement of local support services for such events. The PCA has signed cooperation agreements with other arbitration institutions and international organisations worldwide.

<https://pca-cpa.org/en/news/9030-copy/>

## The Philippine Institute of Arbitrators (PIArb) holds Fellowship Programme of the Philippines International Center for Conflict Resolution (PICCR)

22 August 2019



The Philippine Institute of Arbitrators (PIArb) and Chartered Institute of Arbitrators (CIArb) East Asia Branch, Philippines Chapter, in cooperation with Sycip Salazar Hernandez and Gatmaitan organised a Fellowship Programme of the Philippines International Center for Conflict Resolution (PICCR) on 22 August 2019 at the University of the Philippines at Taguig City in the Philippines.

Attorney Michael Macapagal, a partner at Quisumbing Torres and recently appointed as Deputy Secretary General of the Philippines International Center for Conflict Resolution (PICCR) was the main speaker. He discussed the "Key Features of the PICCR Arbitration Rules". These Rules aim at promoting (1)

the use of Arbitration and other forms of Alternative Dispute Resolution by providing facilities and administrative and dispute-management services at par with those of international arbitral institutions, (2) awareness of the benefits of Arbitration and other forms of Alternative Dispute Resolution throughout the Philippines by regularly collaborating with and tapping the nationwide network and resources of the Integrated Bar of the Philippines and (3) intensive and effective training for interested Arbitration and Alternative Dispute Resolution practitioners with a view to building the Philippines' capabilities in providing Arbitration and Alternative Dispute Resolution services. Attorney Macapagal is a member of the Chartered Institute of Arbitrators, former associate counsel at the Singapore International Arbitration Centre and a regular lecturer on International Arbitration in Mandatory Continuing Legal Education (MCLE). The session was hosted by the University of the Philippines Law Center.

<http://www.philippinearbitrators.org/home>

## New Brazilian Law authorises mediation and arbitration to discuss indemnification due to expropriation

27 August 2019

On August 27, 2019, Law No. 13.86/19 was published, amending Decree-Law No. 3.365/41 (the Brazilian

statute on expropriation) to authorise the definition of amount due to owners in expropriation of assets for

projects through mediation and/or arbitration. This new Law provides that the Government shall present to the owner an offer of amount to be paid as indemnification due to the expropriation. The owner has 15 days to answer, silence will be considered as denial of the offer.

In case of denial of the offer, besides the option of a judicial lawsuit, the owner has the alternative of choosing also mediation or arbitration to discuss the expropriation reimbursement amount. In both cases, the owner must choose one of the agencies or specialised institutions previously registered in the Government

database. Mediation will follow the rules provided by the Mediation Law, whilst Arbitration will follow the Arbitration Law. It will also be applicable the specific regulations provided by the agencies and specialised institutions. This is an important step to enable the use of arbitration in expropriation. Nowadays judicial lawsuits to discuss the amount of indemnification in expropriation cases usually take years to be decided, while Arbitration could be much faster.

<https://globalarbitrationnews.com/new-brazilian-law-authorizes-mediation-arbitration-discuss-indemnification-due-expropriation/>

## Singapore International Commercial Court considers first application to set aside an arbitral award

28 August 2019

In *BXS v BXT* [2019] SGHC (I) 10, the Singapore International Commercial Court (“SICC”) heard its first application to set aside an Arbitral Award. The SICC considered whether it had the power to extend the time limit imposed on bringing an application to set aside an award, particularly in circumstances where a setting aside application that has been brought out of time lacks merit.

The SICC also considered the wording of an arbitration agreement that failed to identify the

applicable version of the arbitral rules to determine whether the Singapore International Arbitration Centre (“SIAC”) had correctly allowed the arbitration to commence under the Expedited Procedure in the 2016 version of the SIAC Rules and whether a sole Arbitrator could be appointed contrary to the express terms of the Arbitration Agreement.

<https://globalarbitrationnews.com/singapore-international-commercial-court-considers-first-application-set-aside-arbitral-award/>

*“The most difficult thing in any negotiation, almost, is making sure that you strip it of the emotion and deal with the facts. And there was a considerable challenge to that here and understandably so.”*

— Howard Baker

## Articles

## Mediation Helps Businesses Resolve Conflicts Quickly and Affordably

**Stephen S. Hamilton**

*Attorney and Mediator, Montgomery & Andrews, Pennsylvania, USA*



Mediation can save disputing parties time and money, which makes it an increasingly popular and sometimes mandatory form of conflict resolution for businesses and individuals involved in civil litigation. In a mediation or settlement conference, a neutral negotiator tries to help adversaries reach a mutually acceptable agreement.

Mediation is relatively new in the U.S., but its success has prompted many New Mexico courts to require that parties try to reach pretrial accords.

### Why Mediation?

Mediation reduces the expense of settling a conflict and increases the likelihood that parties will quickly reach a satisfactory outcome. Most civil trials pit one expert against another as each side tries to prove its case. Expert-witness fees can reach tens of thousands of dollars, and attorney fees mount with intensive and time-consuming pretrial discovery. Mediation held early in the process avoids many of these costs if it leads to a settlement. A civil case typically takes more than a year, sometimes two, from its initial filing to the trial date. If a case goes to trial and ends in a judgment, it's not really over if either side appeals. Appeals can delay the resolution of the case by another two years, and a successful appeal may require a retrial, with further delays. A court ruling is impossible to predict. As First Judicial District Court Judge Steve Herrera used to tell litigants, trying a case before a jury is a form of legalized gambling; a pretrial settlement involves less risk. Indeed, a 2013 study by the National Center for State Courts found that mediated settlements are more likely to be accepted by opposing parties and paid

on time, than are court judgments entered after a protracted, expensive trial.

### Impartial Assessment

Most mediators or settlement facilitators are retired judges or attorneys with mediator experience. Their job is to impartially help each party evaluate its own and its opponent's cases. They don't represent or give legal advice to either side, though they can offer an opinion about the strength or weakness of a legal claim or defense. The mediator doesn't decide the case, and mediating parties can accept or reject the mediator's suggestions. Depending on the complexity of the case and the attitudes of litigants, mediation can last a few hours or a day or more.

Sessions are typically conducted caucus style: The mediator meets separately with one party and then proposes a settlement to the opponent; he then returns to the first party with a counterproposal. Multiple rounds of "shuttle diplomacy" are common, and the process often reveals important information that alters the nature and course of settlement discussions. Success depends on each party's willingness to keep an open mind about the other party's perspective and that of the mediator. Ideally, each side weighs the reasonableness of a proposed settlement against the risk of taking a case to court. If it's clear the parties won't compromise on a settlement, mediation ends. But a skilled mediator working with cooperative clients can often settle even complex cases. Confidentiality is key to success: Statements made in mediation can't be used in a subsequent trial should negotiations fail.

<http://financenewmexico.org/articles/general-business-advice/mediation-helps-businesses-resolve-conflicts-quickly-and-affordably/>

*"Peace is not the absence of conflict but the presence of creative alternatives for responding to conflict - alternatives to passive or aggressive responses, alternatives to violence."*

— Dorothy Thompson

## Interviews

*We welcome interviews of experts from corporate, financial, business and legal sectors as well as academicians on their perception and understanding of Alternative dispute Resolution (ADR), based on a number of questions put forward by BIAC. We are confident that these interviews will bring about more awareness about the norms and practices of ADR in the country and importance of introducing it to assist our judicial system in order to reduce the backlog of pending cases and the time taken to resolve commercial disputes. It is our pleasure to publish here the interview of Ms. Christabel Randolph, Director, Legal & Corporate Affairs at Marico Bangladesh Limited.*



**Christabel Randolph**

Director, Legal & Corporate Affairs  
Marico Bangladesh Limited



**BQB:** Globally, corporate bodies are moving away from using the traditional court based judicial system for resolving commercial disputes and adopting ADR. Do you believe that this global best practice has a future in Bangladesh? Why?

**CR:** The current pattern of dispute resolution in Bangladesh is symptomatic of the colonial legacy we have inherited, where we resort to the adversarial litigation system under our existing laws. However, as Bangladesh is aspiring to improve the investment climate to encourage both foreign investment and local entrepreneurs, efficient and smooth resolution of contractual/commercial disputes is imperative. Even though progress is slow the growth of ADR is a natural corollary to the economic growth trajectory we are pursuing.

**BQB:** What are the main obstacles in the mainstreaming of ADR in this country?

**CR:** There are a number of key obstacles to the mainstreaming of ADR and I would like to summarily list them:

Firstly, is the culture of the legal system. The system is geared to an adversarial approach to disputes and does not encourage parties to avail ADR as a first resort.

Secondly, is the erroneous perception that only specific types of “high-profile” disputes and deep-pockets are amenable for ADR.

Thirdly, is the lack of initiative or appetite of the business community to explore any mechanism other than what is typically advised by legal counsel or engage in generative dialogue with the legal fraternity on greater use of ADR.

Fourthly, is the outmoded education system in the public and private universities. ADR or any form of it is not covered in the course curriculum or as part of the vocational training for qualifying lawyers. Our education system has a great need for clinical legal education which is almost absent and without which aspiring lawyers/practitioners are not familiar or do not have an appreciation of ADR.

**BQB:** What are your thoughts on 'reputation risk', given that the legal cases are heard in courts of Bangladesh the proceedings are considered to be in the public domain?

**CR:** It would be a fallacy to think that the mere fact of cases being heard in courts does in and of itself pose a reputation risk. What affects reputation of parties to a dispute, is the manner in which the facts of the dispute are placed in the public domain and basic principles of truthfulness and fair disclosure. We are observing a shift in journalism with “court journalism” becoming a common practice where sub judice matters are routinely discussed, debated, analysed and even conclusions drawn in the media.

Moreover, we have also seen a shift in the approach of the judiciary with judges being more vocal with or in the media and court room proceedings being reported without any formal process governing the accuracy, fairness and prudence of such reporting. Earlier the rules/principles of contemptuous behaviour were strictly observed which mitigated foregone or inaccurate public conclusions being drawn on a sub judice matter. If those basic norms are observed, in my opinion, the perceived reputation risk of judicial proceedings would greatly be mitigated and also strengthen the confidence in our judicial processes, independence of judiciary and the rule of law.

**BQB:** Do you support insertion of ADR clause in all commercial contracts or do you feel the court system can adequately provide risk mitigation coverage without ADR clause in the contract?

**CR:** Inclusion of ADR clauses in commercial contracts is advisable but the actual impact/application will depend on how the system works in practice. I personally have always included ADR clauses to ensure timely and effective dispute resolution. However as mentioned earlier viewing ADR in isolation cannot ensure its success. We need reforms in our procedures as well as in our culture and capable institutions to create an environment where a variety of commercial risks and disputes can effectively be mitigated through ADR mechanisms. I think any business would prefer ADR over litigation if it is cost-effective, well-structured and time-sensitive.

**BQB:** One of the main risks businesses face is non-performance of contract. This has very impactful cost implications. For example, in disruption of supply chain with a long delay in resolution of a dispute in the courts could mean a long delay in the financial settlement. In such a situation, do you believe the court system provides sufficient risk coverage to parties to a commercial contract? Why?

**CR:** The court system is not meant to provide risk coverage to parties. The purpose of the judicial system is to dispense justice and ensure the rule of law. ADR should not be viewed as a sub-optimal mode of dispensation of justice and rather it should be viewed

as an effective and complementary part of our court system. Both judges and parties/persons need to understand that ADR can ensure fair outcomes for all. We have specific legislation on ADR in the form of the Arbitration Act 2001 as well as other subject-matter laws which include ADR as dispute resolution process (e.g. the civil procedure code, the value added tax act). Yet ADR has not gained momentum in Bangladesh. I feel a few reforms would not only support ADR but allow for a more vibrant civil litigation system:

a. Pre-trial procedures: There is no pre-trial procedure in Bangladesh. A civil suit is initiated simply by filing a plaint and there is no assessment whether the plaint actually discloses a cause of action. In America over 90% of civil law disputes are settled before the actual trial, through Alternative Dispute resolution (ADR) such as mediation or arbitration. Before initiating a legal action, the lawyer will send to the other party a demand letter seeking an out-of-court resolution of the dispute. If this fails, the party who wishes to sue will decide whether to initiate a legal action or seek arbitration. Judges call for a pre-trial conference through which a case can be resolved without trial. We need significant reforms in our civil procedure to ensure a filter to refer matters to ADR before cases progress to trial.

b. Financing mechanisms: While our laws do not expressly recognise legal financing but it's worth exploring the same in a limited manner for ADR processes where third party funding can be made available to parties in ADR. Champerty and maintenance is legal in most common law jurisdictions including India and the UK since 2013 has also legalised contingency fees in civil litigation. Third-party-financing for ADR processes will encourage its use especially by small and medium enterprises and lessen the initial (perceived) financial burden of ADR processes.

c. Fee payment in ADR processes: There should be strict application of rules regulating the quantum and staggering the payment of fees to prevent protracted ADR processes.

*“Resolving conflict is rarely about who is right. It is about acknowledgment and appreciation of differences.”*

— Thomas Crum

## SUGGESTED DISPUTE RESOLUTION CLAUSES OF 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 within sixty (60) days 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.”

### Arbitration Clause

“All disputes arising out of or in connection with this contract shall 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. Unless otherwise agreed by the parties, the laws of Bangladesh shall apply and the seat of Arbitration shall be Dhaka.”

### Mediation Clause

“Any dispute or difference arising out of or in connection with this contract shall be referred to the Bangladesh International Arbitration Centre (BIAC) for settlement through Mediation in accordance with BIAC Mediation Rules, before such dispute is submitted to Court or Arbitration.”

## YOU CAN AVAIL BIAC'S ASSISTANCE BY:

- Registering cases under BIAC Arbitration Rules 2019 and BIAC Mediation Rules 2019
- Using BIAC facilities to conduct any ADR case which is not under BIAC Rules
- Pursuing BIAC's sector based training on arbitration, mediation and negotiation
- Signing of Memorandum of Understanding/ Co-operation Agreement
- Availing Advisory Services on ADR

### How can adding BIAC Clause in your contract protect you :

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

### To protect you from future risks you should include BIAC Clause in:

- Procurement contract
- Sale contract
- Loan Agreement
- Lease Agreement
- Joint-Venture Agreement
- Employment Agreement
- Any other contracts.

Become a  
*Member*



### Benefits Include

1

- Inclusion and access to **BIAC Members Directory**
- Inclusion in **BIAC Directory of Mediators/Arbitrators**
- An **online profile** in the BIAC Website
- Invitation to exclusive **networking events/talks from experts**
- **Publish articles** in BIAC Quarterly Bulletin and any special publication
- **Priority registration** to BIAC organised events and courses
- **Complimentary Access** to BIAC Library
- **Discounts** on use of BIAC Facilities, Administrative Costs and selected courses
- Complimentary subscription to BIAC Publications

### Membership Criteria

Proof of **Experience** in ADR practice; or  
Completed an **introductory/ certificate course** on  
Arbitration or Mediation or Negotiation; or  
Completed a recognized **equivalent course**; or  
Registered for **BIAC's training course**, or  
Interested to be connected to **BIAC's ADR community**.

2

### Application Process

3

- Applicants must submit an application form either **on-line** / by **email** to info@biac.org.bd and biac.org.bd@gmail.com / **hard copy** or / **fax**.
- All applicants must submit a copy of a **valid ID card** e.g. National ID or Passport (for students: valid student ID)
- Applications are reviewed and subject to **approval by the BIAC Management**.
- Memberships are **annual**, and renewal is on the enrollment date.

### Subscription Fee

#### For National Members:

Admission Fee: BDT 5000 (including first year subscription)  
Annual Subscription: BDT 2500

#### For National Students:

Admission Fee: BDT 2000 (including first year subscription)  
Annual Subscription: BDT 1000

#### For International Members:

Admission Fee: USD 200 (including first year subscription)  
Annual Subscription: USD 100

4

# BIAC Membership Application Form

Please complete the application form and return it with the appropriate payment to:  
BIAC, Unique Heights (13<sup>th</sup> Floor), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.  
For further enquiries please contact BIAC: Tell: +8802-55138092-93; Fax: +8802-55138045;  
Cell No: 01314-447490; E-mail: [info@biac.org.bd](mailto:info@biac.org.bd), [biac.org.bd@gmail.com](mailto:biac.org.bd@gmail.com)

## Member's Information:

Title: (Mr. / Dr. / Mrs. / Ms.)

\*Full Name (Block letter as in Passport): .....

\*Passport no: ..... \* Date of issue: ..... \* Expiry date: .....

\* DOB: ..... Educational Status: .....

Profession: .....

Company: ..... Position: .....

Phone: Office: ..... Res: ..... Fax: .....

\*Mobile: ..... \* E-mail: .....

☐ Please attach a copy of your National ID card or Passport with this form.

**Payment Methods:** We kindly ask that you incur all related fees and send confirmation of the transfer to [info@biac.org.bd](mailto:info@biac.org.bd), [biac.org.bd@gmail.com](mailto:biac.org.bd@gmail.com)

☐ Cash

☐ Cheque

☐ Pay Order

☐ Bkash 01610006989

☐ Bank Transfer

Account details:

Account Name: Bangladesh International Arbitration Centre (Training)

Bank Name: Mutual Trust Bank Ltd.

Branch: Panthapath

Account Number: 0320001786

Bank Code: 003

SWIFT Code: MTB BDDH PPB

Bank Address: 69/1 Panthapath, Suvastu Tower, Dhaka 1205

## Personal Data:

1. Information provided in this application form will be used solely for the purpose of applying to be a member of BIAC, & in this connection the data herein will be dealt with by the BIAC staff and or by the BIAC Board.
2. After the application for membership of BIAC has been duly processed, the application papers of the candidate will be retained in a file established by BIAC for each applicant. Such information will be retained by BIAC for as long as it deems necessary or useful.
3. Applicant has the right to access to, and the correction of, his or her personal data as retained by BIAC. Applicants wishing to access or make corrections to their data should submit written requests to the Chief Executive Officer of BIAC.

## Declaration:

1. I authorize BIAC, its staff, employees and/or members of the BIAC Board to deal with, utilize and/or assess the data submitted by me as may be required in connection with my application for membership of the BIAC.
2. I understand that my data will become part of BIAC's files and may be used for all purposes deemed necessary or useful by BIAC.
3. I declare that the information given in support of this application is accurate and complete. I understand that any misrepresentation will disqualify my application and may lead to revocation of my application for the BIAC Membership should my application be successful.

Please sign below to confirm your agreement to the disclosure of the information contained in the application and your confirmation of its accuracy.

Signature: \_\_\_\_\_ Name (in print): \_\_\_\_\_ Date: \_\_\_\_\_

## EVENTS NEWS

## BIAC's Upcoming Events

Organization	Events	Date	Venue
Bangladesh International Arbitration Centre (BIAC)	Seminar on ADR with Students and Faculty of Northern University Bangladesh (NUB)	2 October 2019	NUB Campus Kazi Nazrul Islam Avenue
Bangladesh International Arbitration Centre (BIAC)	Meet the Journalists	4 <sup>th</sup> week of October 2019	BIAC Unique Heights
Bangladesh International Arbitration Centre (BIAC)	Training on Introduction to International Arbitration	4-7 November 2019	CIArb, Singapore
Bangladesh International Arbitration Centre (BIAC)	Roundtable on ADR with Legal Practitioners	16 November 2019	BIAC Unique Heights
Bangladesh International Arbitration Centre (BIAC)	Training on ADR	1 <sup>st</sup> week of December 2019	BIAC Unique Heights
Bangladesh International Arbitration Centre (BIAC)	Roundtable with Academicians	3 <sup>rd</sup> week of December 2019	BIAC Unique Heights

## Did You Know?

- *It takes from 3 months to 388 days for a case to be resolved by Arbitration under BIAC Rules, while in civil litigation it takes 15.3 years on an average!*
- *Mediation can even be done in a day; BIAC has successfully resolved a case through Mediation under BIAC Rules in 14 hours!*

# Turning these ships into skyscrapers puts thousands of lives at risk.

## Not good enough.

Over 90% of a ship can be recycled, making these vessels a valuable source of scrap steel for construction. But dismantling ships is dirty, dangerous work. Most banks would just walk away. But we're not most banks. See how we're making industries better from within at [sc.com/hereforgood](http://sc.com/hereforgood)

**Because we're not here for good enough.  
We're Standard Chartered, and we're Here for good.**

Here for good

