

Dispute Resolution Hotline

October 27, 2015

ARBITRATION REFORMS IN INDIA: END OF THE ENDLESS SAGA?

- A twelve-month timeline for completion of arbitrations seated in India;
- Flexibility for parties to approach Indian courts for interim reliefs in aid of foreign-seated arbitrations;
- Introduction of 'costs follow the event' regime;

On October 23, 2015, the President of India has promulgated the Arbitration and Conciliation (Amendment) Ordinance, 2015 ("**Ordinance**"). The Ordinance substantially amends the provisions of Arbitration and Conciliation Act, 1996 ("**Act**"). The Ordinance is aimed at taking drastic and reform-oriented steps to bring Indian arbitration law at par with global standards and provide an effective mechanism for resolving disputes with minimum court interference.

The objective of the Act is to provide a speedy, cost-effective dispute resolution mechanism which would give parties finality. The amendments introduced by the Ordinance are in the right direction keeping in mind the objectives of the Act.

In 1996, the Act was passed with a view to bring in winds of change but fell into a chasm of its own. A number of decisions from the Courts slowly but surely ensured that the preferred seat in any cross-border contract was always a heavily negotiated point and, more often than not, ended up being either Singapore, New York or London, the established global arbitration centers. Foreign investors and corporates doing business in India were just not ready to risk the Indian legal system. However, developments in the arbitration scenario in India through recent court decisions have now shown the support of the judiciary in enabling India to adopt international best practices with respect to arbitration.

The road to the Ordinance was set by 'The Law Commission of India's Report No. 246' ("**Law Commission Report**")¹ which proposed amendments to the Act. One may recall that a similar attempt was made in 2010, wherein Ministry of Law and Justice had released a consultation paper suggesting certain amendments to the Act. Overall, most of the amendments brought in the Act are a reflection of the Law Commission Report and only time will tell how judiciary reacts to the new amendments.

Please find below a snapshot to the major amendments:-

- Flexibility for parties to approach Indian courts for interim reliefs in aid of foreign-seated arbitrations;
- Jurisdiction insofar as international commercial arbitrations, whether seated in India or abroad, to lie before the High Court;
- Extensive guidelines incorporated relating to the independence, impartiality and fees of arbitrators;
- Detailed schedule on ineligibility of arbitrators;
- A twelve-month timeline for completion of arbitrations seated in India;
- Expeditious disposal with indicative timelines of arbitration applications which are required to be filed before Courts;
- Incorporation of expedited/fast track arbitration procedure;
- Interim orders passed by Tribunals seated in India are deemed to be order of Courts and are thus enforceable;
- Detailed provisions in relation to award and determination of costs by Tribunals seated in India – introduction of 'costs follow the event' regime;
- Limitation of grounds on which awards arising out of International Commercial Arbitrations seated in India may be challenged; and
- No more automatic stay on filing of a challenge to an arbitral award - requirement of a specific order from Court;

The link to our comprehensive analysis of the new Ordinance is available [here](#).

- **International Dispute Resolution and Arbitration Practice**

You can direct your queries or comments to the authors

Research Papers

The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

Global Capability Centers

May 27, 2025

Fintech

May 05, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

¹ The Law Commission Report was handed over to the Ministry of Law and Justice on August 5, 2014

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.