

Dispute Resolution Hotline

April 23, 2010

CHEER FOR ARBITRATION: CONSULTATION PAPER RELEASED

The Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") was enacted to provide a pro arbitration regime with minimal judicial intervention. However, certain decisions of courts in India interpreted provisions of the Arbitration Act in a manner that led to an increase in judicial intervention and curtailment of party autonomy. These decisions, which have been discussed later, resulted in considerable public debate and were widely criticized by jurists and practitioners.

Litigation in India is known to be a much prolonged process and arbitration offers an efficacious alternative for resolving disputes expeditiously. Owing to the complexities of the existing arbitration regime in India, a need was felt to introduce amendments in the Arbitration Act to bring it in conformity with international best practices.

Based on the recommendations of the 176th Report of the Law Commission of India, The Arbitration Amendment and Conciliation (Amendment) Bill, 2003 ("**Bill**") was introduced in Parliament in December, 2003. In July, 2004 the Bill was referred for in-depth study to a committee chaired by Justice Dr. B.P. Saraf and later the Bill was referred for examination to the Departmental Relating Standing Committee on Personnel, Public Grievances, Law and Justice ("**Standing Committee**"). The Standing Committee was of the view that the provisions of the Bill still contained room for excessive intervention by Courts in arbitration proceedings. The Standing Committee further expressed the view that since many provisions of the Bill were contentious, the Bill may be withdrawn and a fresh legislation may be brought into effect after considering the recommendations of the Standing Committee. Accordingly, the bill was withdrawn from Parliament.

The Union Ministry of Law and Justice ("**Ministry**") has now released a [consultation paper](#) proposing key amendments in the Arbitration Act. Though a much belated move, it is nevertheless a step in the right direction and provides hope that India would soon become an arbitration friendly jurisdiction. Please click [here](#) for our analysis of the consultation paper.

Please write to us should you have any comments or suggestions on the consultation paper. We will consider them while forwarding our recommendations to the Ministry.

- **Gautam Dembla & Shafaq Uraizee-Sapre**

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.

Research Papers

Medical Device Industry in India

April 28, 2025

Clinical Trials and Biomedical Research in India

April 22, 2025

Structuring Platform Investments in India For Foreign Investors

March 31, 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

**Vaibhav Parikh, Partner, Nishith
Desai Associate on Tech, M&A, and
Ease of Doing Business**

March 19, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025