



## International Arbitration

Due to the increase of volumes of trade & investment and cross-border transactions involving Bangladesh, cross-border agreements are being signed with popular arbitration clause of ICC, SIAC, HKIAC, ICSID etc. where the sit for arbitration commonly outside of Bangladesh. The country is witnessing visible growth of its related service industries. International Arbitration is one such service sector currently in demand. In any International disputes, where one of the Parties are from India, Pakistan or Bangladesh, it is always advantageous for the Parties as well as the institutions in question, to have Arbitrators who are well versed and have understanding of the language, culture and special needs of the Parties involved. Party appointed Arbitrator is always better served if the Arbitrator is appointed from the same region.

Our International department mostly composed of lawyers from ADR, Land & Tribunals team providing services to our local and international clients for international arbitration.



*"Their response times are excellent and they make you feel generally very well informed."* – Chambers & Partners, 2019.

The 'very responsible, responsive and knowledgeable' Mohammed Forrukh Rahman heads the firm."

**International Arbitration is a rapidly growing area of practice of Rahman's Chambers. We have a separate department comprising three lawyers who are responsible for such matters. The Chambers acted as local counsel for Power Sector Company, Ship Owner in a number of international arbitration e.g. LCIA, GMAA and ICC.**

In 2018 Mr. Rahman enlisted in the prestigious **Panel of Arbitrators of SAARC Arbitration Council (SARCO)**. He is also a **Fellow of Hong Kong Institutes of Arbitrators**. Under the leadership of Mr. Rahman the chambers meet the needs of the clients.

This year, in 2018 we were busy in handling both local and international arbitrations. In most international arbitration we acted as local counsel and provided legal, factual and documentary support for international arbitration taking place outside Bangladesh e.g. LMAA, CIAC etc.

#### The following works completed by Chambers successfully:

- In 2018 we have advised a Piraeus based shipping company P.L. Ferrari & Co. Srl and the concerned P & I club regarding arbitration laws of Bangladesh, enforcement of foreign arbitral award in Bangladesh, conflict between contrasting arbitration clause stated in several agreements, similarities between local and foreign arbitration laws etc. in the area of **Shipping**. While international arbitration is pending in LMAA.
- In 2018 we have advised Bunge S. A., Switzerland on local arbitration laws, applicability of foreign arbitral award in Bangladesh, whether arbitration clause will prevail in action in rem case and prepared an arbitration application to restrain the opposite side from selling off assets unless foreign arbitral award is obtained in the area of **Shipping**. While international arbitration is pending in LMAA.
- In 2018 we have advised MAN Industries (India) Ltd. on Arbitration proceedings under Singapore International Arbitration Center (SIAC), finality and enforcement of foreign arbitral award in Bangladesh in a matter involving a dispute arising out of a tender contract for procurement of Anti-Corrosion Coated Line Pipe, Station Pipes and Casing Pipes.
- Mr. Rahman advised Bangladesh Power Development Board (BPDB) in an international arbitration took place in International Chamber of Commerce (ICC), France over a period of time on different issues including enforcement of arbitral award involving a Power Plant Project.
- We acted as a local counsel for Komrowski Maritim GMBH, Germany in an international arbitration taking place in London Maritime Arbitrators Association (LMAA) and German Maritime Arbitration Association (GMAA) and successfully assisted the client in discharging an interim injunction order passed by a local court in Bangladesh involving **Shipbuilding Contract**.

In Bangladeshi Context, third party funding for arbitrators' fee & other expenses of the arbitration proceeding has the potential of gaining popularity.

## Third Party Funding Arbitration

Third Party funding companies conduct their own evaluation on the merit of the case and may decide whether they will fund or not in international arbitration. For international arbitration seats in Singapore and Hong Kong chambers at the request of the parties may open a discussion with third party funding institutions if necessary irrespective of the origin of the parties accordingly which also includes Bangladesh.

## SARCO

For international arbitration SAARC Arbitration Council (SARCO) is now becoming more popular among the SAARC member states. It is an inter-governmental body mandated to provide a legal framework/forum within the region for fair and efficient settlement of commercial, industrial, trade, banking, investment, and such other disputes, as may be referred to it by the member states and their people. It is formed by signing an agreement among the member states during the Thirteenth SAARC Summit held in Dhaka on 12-13 November 2005.

## International Commercial Arbitration

We act as **counsel or arbitrator** in international commercial arbitration whether it is adhoc basis or institutional

## International Investment Arbitration

We act as **counsel or arbitrator** in international investment arbitration whether it is before **SIAC, HKIAC, ICSID or SARCO or ICC.**

## Institutional Arbitration

### ICC

**International Chamber of Commerce (ICC)** arbitration clause is popular both in Government contract as well as in contract between private parties signed where one of the parties is Bangladeshi. It is particularly popular for agreement where one of the parties is from another jurisdiction.



## ICSID

Express ICSID arbitration clause is often found in contracts signed between foreign investors and Government or any Government agency. Particularly in investment agreements Bangladesh is a signatory to the ICSID Convention to provide guarantees & standard protection to foreign investors. Further a number of bilateral treaties with different countries expressly agreed to resolve disputes with ICSID.

## HKIAC

**Hong Kong International Arbitration Center (HKIAC)** is gaining popularity day by day. The volume of Arbitration conducted by **HKIAC** is also increasing annually. Cross border transactions involving South Asian countries and also the **Association of Southeast Asian Nations (ASEAN)** countries often prefer to incorporate **HKIAC** standard clause because of its reputation, understanding and ability to deal with Arbitration in different languages, especially Mandarin, Cantonese etc.



## SIAC

**Singapore International Arbitration Center (SIAC)** is the most popular Arbitration center in the Asia Pacific region. **Singapore** as a host nation has earned its reputation for neutrality and speedy disposal. The **SIAC** arbitration clause is also quite popular in Bangladesh due to the geographical proximity of the country and **ease of access** by business travelers, parties even within Bangladesh prefer to choose **SIAC** as a venue for resolving disputes.



## CIETAC

The volume of trade between **Bangladesh** and **China** has increased in recent years, not only in the garment sector but also in infrastructure, development etc. for example, bridge, power plant, embankment, construction etc. Due to the preference of our Chinese clients, nowadays, the **China International Economic and Trade Arbitration Commission (CIETAC)** clause is prevalent in cross border transactions between Bangladesh and China.



## PCA

The **Permanent Court of Arbitration (PCA)** regularly acts as an appointing authority under UNCITRAL rules. In ADHOC arbitration, there's no rule which is more popular than UNCITRAL rules. As per requirement, the appointing authority is **PCA** which effectively renders its services wherever there's a need for an Arbitrator.



## LCIA

The **London Court of International Arbitration (LCIA)** is one of the oldest Arbitration institutions attributed in developing the practice of **International Arbitration** as a pioneer and torch bearer alongside **ICC**. The decision of LCIA is often cited in International Arbitration involving Bangladesh.



## ICDR

The **International Centre for Dispute Resolution (ICDR)** is the international division of the **American Arbitration Association (AAA)** and the world's leading provider of dispute resolution services to businesses in matters involving cross-border transactions. The ICDR was created over 20 years ago so that parties could have use of the top-quality service platform of the AAA with a separate international operational structure that includes rules. For ICDR international arbitrations, US remain the most popular host country, and New York the most popular seat.



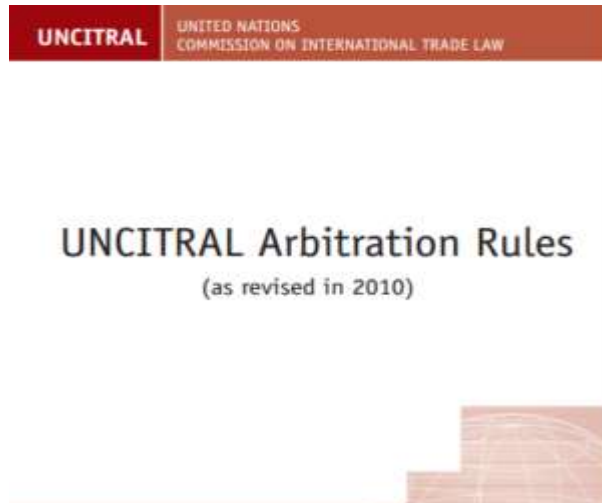
## LMAA

In most charter parties involving Bangladesh incorporate **London Maritime Arbitrators Association (LMAA)** clause. Any disputes involving ship owner, charterer, cargo receiver, consignee, arises where the ship is in the territory of Bangladesh often refers to LMAA.

## AD-hoc Arbitration

## UNCITRAL Rule

The **United Nations Commission on International Trade Laws (UNCITRAL)** is quite popular amongst Arbitration when it comes down to **ADHOC Arbitration**. The Rules comprehensively deals with appointment of Arbitrator, arbitration proceeding in such a manner which suits the needs of the Parties who are not interested in Institutional Arbitration, for e.g.: State Party.



### Arbitration Act, 2001 of Bangladesh

For local arbitration, the **Arbitration Act, 2001** of Bangladesh is most vital and popularly used as an Arbitration clause. Under the Act for selecting arbitrator parties need to go to District Court which is a time consuming procedure. Arbitration Act also provides for challenging the arbitration award and also enforcement mechanism.

#### Our Related Clients:

- Bunge S. A., Switzerland
- P.L. Ferrari & Co. Srl, Piraeus
- MAN Industries (India) Ltd.
- Power Division, Ministry of Power, Energy and Mineral Resources.
- Komrowski Maritime GMBH