

Dispute Resolution Hotline

August 20, 2018

INDIA - PROPOSED AMENDMENTS TO ARBITRATION LAW: A SOLUTION WITH MANY PROBLEMS

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The Lok Sabha, on August 10, 2018, passed the Arbitration and Conciliation (Amendment) Bill, 2018 ("Bill") with the aim of further improving the arbitration regime and particularly institutional arbitration in India. Notably, this Bill is premised on the Report of the High Level Committee to Review the Institutional Arbitration Mechanism in India chaired by Justice B.N. Sri Krishna ("Committee").

In brief, the Bill, *inter alia*, proposes the following amendments:

- Creation of Arbitration Council of India ("ACI") for grading and accreditation of arbitral institutions to promote and encourage arbitration and other alternate dispute resolution mechanisms;
- Arbitrators to be appointed by arbitral institutions (as recognized by the ACI) designated by the Supreme Court (for international commercial arbitrations) or the High Court (in other cases);
- International commercial arbitrations to be excluded from the 12-months' timeline under Section 29A of the Arbitration and Conciliation Act 1996 ("Act"). The time-period is to be calculated from the date of completion of pleadings;
- Introduction of an express provision to maintain confidentiality of arbitral proceedings;
- Introduction of an express provision on arbitral immunity;
- Schedule containing qualifications and experiences of arbitrators to be appointed;
- Applications challenging an award should be decided only on the basis of the record of the arbitral tribunal.

While the Bill awaits clearance from the Rajya Sabha, the amendments require further consideration. Some of the amendments, may, in fact create more confusion or be detrimental to the growing acceptance amongst foreign parties particularly investors in having India as a seat of arbitration. In [this article](#), the authors give an overview of such aspects which may be re-looked.

– Shweta Sahu, Ashish Kabra & Vyapak Desai

You can direct your queries or comments to the authors

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