

## Corpsec Hotline

August 30, 2007

### ARBITRATION: THE HAGUE OR NEW DELHI? THE FLIGHT IS YOURS!

A recent proposal by the Permanent Court of Arbitration, The Hague to establish a regional centre in New Delhi, India has been accepted by the Ministry of Law and Justice, Government of India ("Law Ministry"). The Permanent Court of Arbitration and the Law Ministry are now working together on drafting a Memorandum of Understanding ("MOU"). Once the MOU is ratified by both the Permanent Court of Arbitration and the Law Ministry, India will be the third regional centre outside The Hague, the other two being Costa Rica and South Africa. The centre is likely to be established by the end of the year 2007.

### Positive impact on foreign investors

There has been a significant increase in cross border transactions including investments into different industries/sectors in India, increased outsourcing activity and technology licensing. However, investors and companies setting up operations in India or transferring their IP have been wary of the long delays caused by legal proceedings in the Indian courts. The need for an alternate dispute resolution mechanism becomes more compounded in view of the reality that subordinate courts in India have more than 2.5 million cases pending. Therefore, this gives rise to the need for alternate dispute resolution mechanisms, which are cost-effective, reliable and speedy.

Most foreign parties prefer choosing destinations outside India for the purpose of arbitration proceedings primarily because of unfamiliarity with the institutional arbitration and arbitration rules in India. Often Indian parties are left with no choice but to accept the foreign institutional arbitration and venue, adding significant costs in the event of a dispute arising. In fact if the witnesses are located in India and evidence is available within India, it becomes expensive for even a foreign party to have arbitration outside India. With the setting up of the regional office of the Permanent Court of Arbitration, New Delhi, companies will benefit from the availability of an arbitration forum which would match the facilities offered at The Hague, at a far lower cost. The establishment of the regional centre will benefit from India's vast talent pool of arbitration experts and retired judges, who would bring with them a sound appreciation of Indian law and the Indian legal process. Additionally, the regional centre in New Delhi can be used as a regional arbitration hub for disputes which may arise in the South East Asian region.

According to reports, the Permanent Court of Arbitration's New Delhi office, its arbiters, staff and officials will enjoy immunity and privileges similar to those which are granted to officials of United Nations. Thereby, granting a significant autonomy to the officers of the regional office, New Delhi.

Source: The Economic Times, August 24, 2007

- **Rajesh Pathania & Gowree Gokhale**  
You can direct your queries or comments to the authors

### 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

### Clinical Trials and Biomedical Research in India

April 22, 2025

### Structuring Platform Investments in India For Foreign Investors

March 31, 2025

### India's Oil & Gas Sector— at a Glance

March 27, 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 |

**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