NATIONAL LAW UNIVERSITY DELHI

CADR NEWSLETTER

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NATIONAL

Supreme Court of India gives the go ahead for the appointment of Arbitrator in Offshore-BPCL matter (07 October 2025)

SOffshore Infrastructures Limited ("Appellant"), a contractor, entered into an agreement in 2016 with M/s Bharat Petroleum Corporation Limited ("Respondent"). The agreement involved composite works at the Bina factory. After the appellant raised its final bill on 20.03.2018, it also issued a No Claim Certificate on 03.10.2018. Thereafter, the Respondent made its last payment on 11.06.2019, which had been adjusted for liquidated damages. On 14.06.2021, the Appellant was constrained to refer the dispute to Arbitration. Clause 8.6 of the General Conditions of Contract provided for Arbitration with the Respondent's Managing Director or its Nominee to act as the Arbitrator. It is pertinent to mention that this clause had been rendered invalid by the amendments made to the Arbitration and Conciliation Act, in 2015.

The Appellant filed an application under Section 11(6) of the Arbitration and Conciliation Act, 1996, before the High Court of Madhya Pradesh on 14.03.2022. The High Court dismissed the application (and a subsequent review petition), holding it was barred by limitation. The High Court ruled that the three-year limitation period began from the date of the NCC (03.10.2018) and thus expired on 02.10.2021, rendering the application filed in March 2022 out of time. This was, finally, challenged in an appeal to the Supreme Court.

TA bench of Justice Dipankar Datta and Justice Augustine George Masih allowed the appeal and set aside the High Court's judgments. The Supreme Court held that the application was filed within the period of limitation. The Court held that even though the Cause of Action arose at the date when the final bill became due for payment, the High Court erred by not placing due reliance on the Supreme Court order in In Re: Cognizance for Extension of Limitation. This particular order had explicitly clarified that the period from 15.03.2020 and 28.02.2022 was to be excluded from the computation of limitation as a result of the COVID-19 pandemic. After such exclusion, the case of the Appellant was well within the time period.

The Court further held that the arbitration agreement did not become non existent merely because the appointment mechanism was no longer permitted. Placing reliance on Perkins, the Court held that the core intent to arbitrate subsists. Furthermore, the Court retained power under Section 11(6) to appoint an arbitrator, and therefore, the same was referred to the Delhi International Arbitration Centre for appointment of an Arbitrator.

Orissa High Court quashes MSME award in IOCL-ANCL case, declares "works contracts" beyond Act's scope (10 October 2025)

Indian Oil Corporation Ltd. ("IOCL") in November 2017 issued a lump sum turnkey "works contract" to Adarsh Nobel Corporation Ltd. ("ANCL") for the "Provision of Additional VR Tank at Paradip Refinery". IOCL in December 2018 cancelled the contract on the ground that ANCL had abandoned work. Thereafter, ANCL, after availing MSME registration in January 2021, preferred a claim before the Micro and Small Enterprises Facilitation Council (MSEFC), within the ambit of Section 18 of the MSMED Act, 2006. Thereafter, an award was issued, which directed IOCL to pay ANCL approx. Rs. 2.43 Crores with interest.

ANCL proceeded with execution proceedings (EXP. No. 585 of 2023) for enforcement of the award. IOCL had raised objections under Section 47 of the CPC stating the award to be a nullity and void ab initio on the ground that MSEFC had no inherent jurisdiction. IOCL also argued that the MSMED Act was not applicable to "works contracts" (a matter of ratione materiae) and that ANCL was registered after the contract.





The Executing Court rejected IOCL's objections through a series of orders. Such dismissal was disputed by IOCL under the current writ petition. (Severally, the High Court had already vacated the main award in an other parallel writ petition on 20.09.2025).Justice Dr. Sanjeeb K Panigrahi allowed the writ petition, holding that the execution proceedings were infructuous as the underlying award was void. The Court's decision rested on two key findings. Firstly, it held that the MSEFC lacked inherent jurisdiction over the dispute. Following a line of judicial precedents (P.L. Adke, National Textile Corp), the Court ruled that the MSMED Act's dispute resolution mechanism is intended for simple "supply of goods or rendering of services," not for complex, composite "works contracts." The arbitration was thus a "stillborn exercise." Secondly, while the Court noted that objections under Section 47 CPC are technically not maintainable against an arbitral award (as it is not a "decree" in the true sense), it held that the Executing Court had erred by failing to examine whether the award was a nullity due to a patent lack of jurisdiction, a question it was empowered to consider.

High Court of Delhi upholds termination of arbitration; rules unregistered Agreement to Sell for UP property is unenforceable (15 October 2025)

Gaurav Aggarwal (Petitioner) filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 impugning an arbitral award dated 10.01.2025, which was passed in a dispute arising out of an Agreement to Sell (ATS) dated 05.01.2024, wherein the Petitioner had agreed to purchase sub-leasehold rights in a flat in Noida, Uttar Pradesh from Richa Gupta (Respondent). Following the termination of the ATS by the Respondent, the Petitioner invoked the arbitration agreement and sought specific performance of the agreement.

The Respondent filed an application under Section 32(2)(c) of the Act before the Sole Arbitrator to terminate the proceedings. The Respondent contended that the ATS was unenforceable for want of stamp and registration. It was thus contended that state amendments applicable to Uttar Pradesh make the registration of an Agreement to Sell for immovable property compulsory. The learned Sole Arbitrator accepted the said contention and held that the ATS is a "contract for sale" within the meaning of Section 54 of the Transfer of Property Act and that in consequence of not being registered and stamped, the document was not enforceable in law, i.e., barred by Section 49 of the Registration Act and Section 35 of the Stamp Act, as applicable in UP. Consequently, the arbitral proceedings were terminated.



A bench of Justice Amit Bansal rejected the Petitioner's Section 34 challenge and upheld the arbitral award. The High Court found no perversity or infirmity in the findings of the arbitrator. It agreed with the legal conclusion of the arbitrator that even a contract for the sale of "leasehold or sub-leasehold rights" amounts to a "contract for sale" under Section 54 of the TPA. The Court clarified that, as the property was situated in Uttar Pradesh, the State Amendment to the Registration Act, as effectuated by Uttar Pradesh would apply, which laid out a requirement for registration, in the present facts. Thereafter, the Court affirmed the Arbitrator’s finding that the unregistered ATS could not be enforced, thus justifying the decision to terminate the proceedings as no specific relief could be granted.

INTERNATIONAL

Threat of electricity utility claims loom over Pakistan from middle eastern investors (23 October 2025)

Saudi and Kuwaiti investors, led by Al Jomaih Power and Kuwait's National Industries Group, have threatened Pakistan with a US$2 billion arbitration claim under the Organisation of Islamic Cooperation (OIC) investment agreement, accusing the state of obstructing a major power-sector investment. The investors issued a notice of dispute to Pakistan's Attorney General on 20 October 2025, citing interference in the operations and tariff regulation of K-Electric (KE), Karachi's main power utility that was partly privatized in 2005. The investors, who hold about 30% indirect ownership in KE through KES Power (KESP), have been alleging consistently that Pakistan unlawfully blocked a US$1.77 billion sale of KE to Shanghai Electric since 2016, delayed payments of tariff subsidies, and pressured the energy regulator NEPRA to impose revisions that would cause KE losses of about US$350 million annually.

They further claim that Pakistan failed to prevent businessman Shaheryar Chishty from taking control of KESP through his company Sage Venture Group, allegedly in violation of securities laws and aided by regulatory inaction. The investors accuse Chishty of mismanagement, asset stripping, and conflicts of interest in the management of the Cayman-based fund IGCF, which controls KESP. These disputes have led to multiple parallel proceedings in the Cayman Islands, the United Kingdom, and Pakistan, including two LCIA arbitrations and an appeal before the Privy Council.

The OIC claim comes after years of unresolved disputes and a failed mediation, with the investors alleging a state-backed campaign to devalue their investment and force them to sell at a loss. Pakistani regulators have maintained that their actions were lawful, while IGCF's general partner described the arbitration threat as an extraordinary and aggressive move motivated by long-pending commercial rivalry.

UK Supreme Court Upholds Nigeria's £20 Million Costs Order in P&ID Case (22 October 2025)

The UK Supreme Court has upheld a £20 million costs order in favour of Nigeria, rejecting Process & Industrial Developments' (P&ID) argument that the payment should have been made in Nigerian naira instead of British sterling. The court ruled that costs should generally be paid in the currency in which a party was billed and paid its lawyers, noting that costs orders are discretionary and not meant to compensate for loss like damages awards. The court dismissed the P&ID claim that Nigeria gained a "windfall" due to the naira's depreciation. It affirmed that Nigeria had used sterling-based funds. The decision follows Nigeria's successful challenge to P&ID's fraudulent US$11 billion arbitral award, which was set aside in 2023.







ICSID Tribunal Rejects US Investor's US$286 Million Claim Against Nicaragua Over Avocado Plantation Seizure (21 October 2025)

An ICSID tribunal has dismissed all claims brought by US company Riverside Coffee against Nicaragua, rejecting its US$286 million DR-CAFTA claim concerning the alleged seizure of its avocado and coffee plantation during the 2018 civil unrest. The tribunal held that Nicaragua's actions were justified under the treaty's essential security interests clause, which permits states to adopt necessary measures taken in good faith during periods of crisis.

Riverside alleged that paramilitary groups, supported by local authorities, occupied its 3,000-hectare plantation and destroyed assets, forcing its management to flee. After hearings in Washington DC, the tribunal concluded that Nicaragua neither directed nor controlled the occupiers and that law enforcement acted reasonably to prevent further violence. It found no expropriation, noting that Riverside was not substantially deprived of its property after 2018, and determined that a 2021 court order requiring perimeter surveillance constituted a legitimate security measure rather than state interference. Accordingly, the tribunal further rejected claims of discrimination and MFN violations, finding no evidence of less favorable treatment.



Paris Court of Appeal Upholds US$22 Million ICC Award in Favor of Georgian Roads Department (9 September 2025)

The Paris Court of Appeal has upheld an ICC arbitral award requiring Italian construction company Astaris (formerly Astaldi) to pay US$22 million to Georgia's Roads Department. It rejected the claims that the company's Italian insolvency proceedings barred enforcement. Astaris sought to annul the award on the ground that enforcement violated international public policy, arguing that its Italian insolvency plan prevented payments to unsecured creditors. The Court of Appeal dismissed this, holding that Italian insolvency law did not establish that the Roads Department was an unsecured creditor and that no breach of public policy had occurred. It also rejected Astaris's claims that the tribunal exceeded its mandate or violated due process, finding that the damages awarded were consistent with the record and expert evidence.

Dutch Supreme Court Ends Russia's Decade-Long Challenge to Yukos Arbitration Awards Worth Over US$65 Billion (17 October 2025)

The Dutch Supreme Court has definitively rejected Russia's final appeal against the US$65 billion arbitral awards in favor of former Yukos Oil Company shareholders, concluding over a decade of set-aside proceedings. The Court dismissed Russia's attempt to revive claims that the 2014 UNCITRAL awards were tainted by procedural fraud. It upheld prior findings by the Amsterdam Court of Appeal that Russia's fraud allegations were raised too late and would not have altered the tribunal's decision. The Supreme Court also affirmed that two shareholder entities that relocated from Cyprus to the Isle of Man in 2023 remained valid parties and held that Russia had no legal grounds to challenge the appeal court's findings. Courts in the UK, Singapore, and the US have similarly rejected Russia's sovereign immunity claims, reinforcing the enforceability of the Yukos awards.



UPDATES

AAA Launches AI-Powered Mediator Search Tool to Boost Mediation Access

The American Arbitration Association (AAA), a world leader in ADR, launched its AAAi Mediator Search platform on 6th October 2025. This new platform leverages Artificial Intelligence (AI) to enhance transparency and efficiency in the mediator selection process. Users, ranging from consumers to international corporations, can identify and evaluate qualified mediators based on user-selectable criteria, such as subject-matter expertise, geographic location, professional experience, language proficiency, and fees. Results are ranked by relevance, and users can immediately access mediator profiles, resumes, and even file a case. The project is an expression of the AAA's strategic mission of broadening access to mediation, which it advocates as a powerful, relationship-sustaining, and outcome-directed alternative to dispute resolution. By streamlining the collaborative process of identifying an appropriate neutral, the site aims to increase access and make mediation a more desirable first choice for resolving disputes worldwide.

Singapore and China Sign Joint Declaration to Deepen Commercial Dispute Resolution Cooperation

TOn 24 October 2025, at the 5th Singapore-China International Commercial Dispute Resolution Conference, held in Singapore, a historic Joint Declaration on Cooperation in Promoting International Commercial Dispute Resolution was signed. The declaration was made by 10 institutions from both countries, such as the Ministry of Law of Singapore, the China Council for the Promotion of International Trade, the Singapore International Arbitration Centre, and the Singapore International Mediation Centre. It is designed to benefit enterprises by encouraging higher awareness and accessibility of ADR opportunities and stimulating experience sharing, and maintaining high standards of professionalism. The conference itself concentrated on new issues such as conflicts resulting from the use of AI in proceedings and improving efficiency via procedural innovation, evidencing the progressive orientation of both countries toward updating the resolution of conflicts in a more intricate world.

Australian Arbitration Week 2025 Draws Global Attention to Sydney

Australian Arbitration Week (AAW) 2025 was held in Sydney between October 12 and October 17, 2025. The event is a major annual gathering of top international and domestic arbitration practitioners, academics, and business professionals. Hosted by several organisations such as the Australian Centre for International Commercial Arbitration, the week comprised an extensive

program of conferences, seminars, and networking activities. Core topics included essential themes of the day, including the future of investment treaty arbitration, where technology (and AI) and ADR intersect, the enforceability of awards, and how Australia has developed as a prime seat for international dispute resolution in the Asia-Pacific region. The event highlights Australia's commitment to enhancing its reputation as a very attractive and sophisticated venue for the settlement of high-value, complex investor-state and commercial disputes, focusing on efficiency, neutrality, and best practice standards.

Karnataka's Special Mediation Drive Settles Over 5,500 Cases

October 7th marked the successful completion of the "Mediation For the Nation" Special Mediation Drive, which began on July 1, 2025, in Karnataka, India. The novel 90-day drive, ideated by the Karnataka State Legal Services Authority (KSLSA), was designed to address the massive pendency of cases in high courts, district courts, and taluk courts. The initiative helped in the resolution of 5,575 cases out of more than 76,000 cases identified and referred for mediation at the state's mediation centres. The cases resolved cut across different categories, with matrimonial cases (including conciliation that resulted in 159 couples being reunited), partition suits, motor vehicle claims, and cheque bounce cases being the most common. The successful result puts in bold relief the great potential of focused mediation campaigns to significantly lower judicial pendency, deliver efficient and affordable justice, and foster a culture of consensus-making in the judicial process, especially for cases affecting the everyday life of citizens.

EUIPO Hosts Major IP Mediation Conference in Malta

The European Union Intellectual Property Office (EUIPO) organised the IP Mediation Conference 2025 on October 16-17, 2025, in Malta. The hybrid conference gathered judges, lawyers, in-house counsel, and business leaders to discuss the strategic application of ADR in intellectual property disputes. The theme gravitated towards pragmatic and strategic uses of mediation, particularly in fields such as geographical indications, patents, trademarks, and domain name disputes. The main spotlight was a session set for 'Interacting with the Future - AI in IP Mediation,' where professionals discussed how AI applications could improve risk analysis and data-driven decisions in the mediation process. The conference asserted the EUIPO's commitment to encouraging mediation as a cost-efficient and sustainable process for resolving intricate IP disputes, providing a critical forum for training and networking among IP and ADR professionals worldwide.

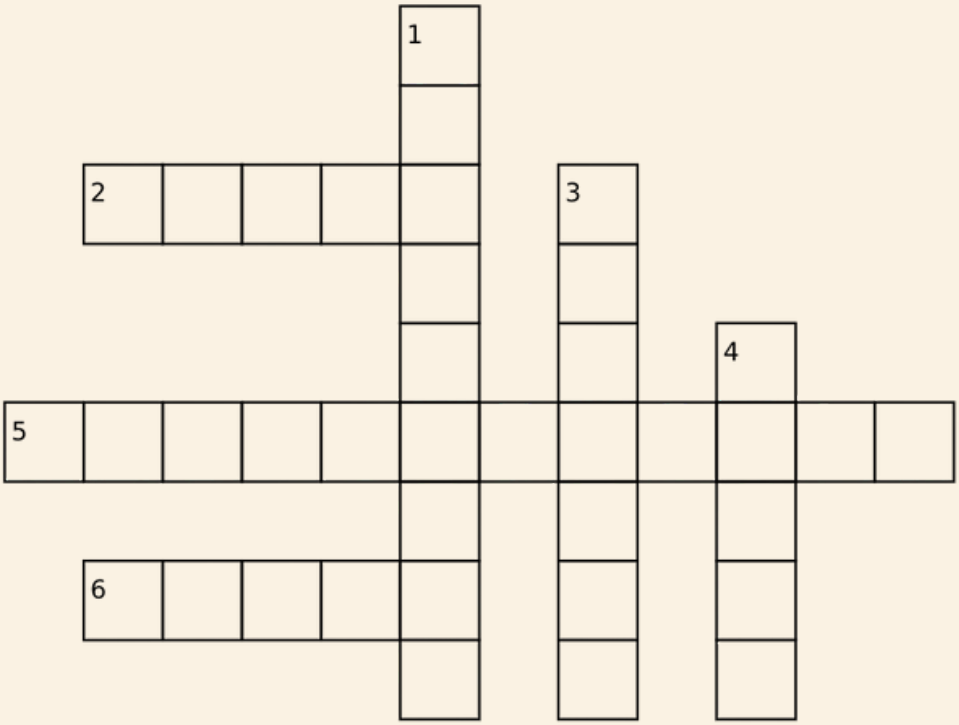
Infinity Lexathon Society Hosts International Mediation Championship

The IIIrd International Mediation Championship (IMC 3), conducted by Infinity Lexathon Society, conducted its live rounds of mediation from October 25 to 26, 2025, after conducting a training session on Sports ADR on October 24. The virtual competition invited student teams from across the world to exhibit their mediation and negotiating skills with an emphasis on the practical application of ADR principles.

The competition included a prize package with cash rewards and highly sought-after Top Tier Internships with law and mediation firms such as Triumvir Law and CAMP Mediation, highlighting the close relationship between student competitions and professional career building in the ADR industry. The championship is integral in developing future generations of ADR professionals by introducing them to challenging real-world issues and offering mentorship by industry leaders.

CROSS-EXAMINATION!

This concise word puzzle is constructed exclusively from the subject matter and recent developments detailed in this issue and one clue from the previous issue.
We hope you enjoy this exercise!



Down:
1. AAA's newest digital peace table (9)
3. This fruit couldn't toast its investor's $286 million hopes before ICSID (7)
4. IP minds + mediation + a Mediterranean breeze (5)

Across:
2. Viral limitation relief (5)
5. Kuwait and Saudi say Pakistan's power game is shocking (7, 5)
6. When "No Oral Modification" meant no money either (look back) (5)

1.MEDIATION 2. COVID 3.AVOCADO
4.MALTA 5.UTILITY CLAIM 6. SEPCO

THE TEAM

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