

**Speech of the President, ICC International Court of Arbitration at the inaugural session of the 'National Initiative Towards Strengthening Arbitration in India' organised by the Government of India in New Delhi on October 21, 2016**

*Hon'ble President of India, Mr. Pranab Mukherjee,*

*Hon'ble Chief justice of India, Mr. T.S. Thakur,*

*Hon'ble Union Minister for Finance and Corporate Affairs, Mr. Arun Jaitley,*

*Vice Chairman, NITI Ayog, Dr. Arvind Panagriya,*

*Hon'ble Judge of the Supreme Court, Mr. Uday Umesh Lalit,*

*Secretary General, ICADR, Mr. B.S. Saluja,*

*Distinguished Guests,*

*Ladies and Gentlemen,*

It is an honor and a privilege to inaugurate what is one of the most important, and long overdue, events for international arbitration on the global stage.

This conference will send a powerful message to the international business community.

It will send the message that the Government of India is actively supporting international arbitration as a fair and legitimate means of resolving international business disputes.

And it will convey the message that India will soon become one of the main arbitration centers, in Asia and globally.

India has a vibrant and robust arbitration community.

New arbitral centers are appearing, such as the Mumbai arbitration center, to which I wish good luck.

The rise of robust and market-oriented local arbitration centers is a positive development and will encourage the dissemination of international arbitration standards in India.

Arbitration Institutions need, as the ICC Court does, to foster expeditious and cost-efficient procedures to resolve business disputes based on a fair, legitimate and transparent process.

And I am very glad that ICC India and the ICC Arbitration Committee are now actively promoting these values across India.

Ladies and Gentlemen, India has a long history in resolving disputes, including disputes concerning the public interest, by arbitration.

The institution of Panchayat arbitration by elders on property disputes, torts and sometimes even criminal cases, has existed for centuries.

Now India is embracing modern international commercial arbitration.

As we all know, much of the remarkable growth of international commercial arbitration in recent years has taken place here in Asia.

There is a global shift of the world's economic pendulum towards Asia.

In the years to come, more wealth and a greatest share of the world's growth will be generated in Asia, and of course in India and China, the two largest countries in the region.

Arbitration will follow the trend of global economy.

What we see at the International Chamber of Commerce already confirms the rise of India in our caseload.

Over the last 5 years, the number of Indian parties submitting to ICC arbitration has grown by 35 %.

Globally, India forms part of the top 10 countries in ICC arbitrations.

There are multiple encouraging signs that India is on the track of establishing confidence in its legal system, which is a fundamental condition for any country to become an international arbitration venue.

I take great comfort in the Indian Supreme Court's decision in *Ayyasamy*, which was handed down less than three weeks ago, holding that "*The basic principle which must guide judicial decision making is that arbitration is essentially a voluntary assumption of an obligation by contracting parties to resolve their disputes through a private tribunal*" and that "*The duty of the court is to impart to that commercial understanding a sense of business efficacy*".

Enforcement of the parties' bargain based on the principle of party autonomy is a fundamental condition of a positive arbitration environment.

Minimal interferences by Court in the arbitral process is another fundamental condition.

To that effect, the Delhi High Court said in July 2016 in the case of *McDonalds India Private Limited* that "Courts need to remind themselves that the trend is to minimize interference with arbitration process".

Yet, there are still too many courts in India making anti-arbitration injunctions, and that is a serious obstacle to the development of trust in the Indian legal system.

The recent amendments to the Indian arbitration act are also a welcome development.

It is a reform oriented step to bring Indian arbitration law at par with international standards, in particular by ensuring the independence and impartiality of arbitrators, by controlling costs, and by narrowing the grounds for possible challenges of an award made in India.

Section 29A is however a cause for concern because it mandates parties, even in institutional arbitration, to go to court to seek an extension of the time-limit of the arbitration beyond 18 months.

In many large and complex arbitrations, there will be the need to extend that time-limit.

But it is simply not right, if the parties have elected institutional arbitration, to force them to go to Court.

The law should enable the arbitral institution elected by the parties, in accordance with its arbitration rules, to extend the time-limit.

This particular provision is extremely unfortunate, for it will discourage international institutions to place the seat of the arbitration in India.

It needs to be fixed if India wants to become an international arbitration venue on the same foot as Hong Kong or Singapore.

Ladies and Gentlemen, India needs arbitration.

Arbitration is an indispensable condition for the development of international commerce, because parties to international contracts need a neutral forum to resolve their differences, they need a forum that is flexible, freed of the intricacies of court litigation, and adapted to their need of a time and cost efficient resolution of the dispute.

And arbitration needs India.

The development of arbitration in Asia cannot be left to the competition between Singapore and Hong Kong.

We need more reliable and robust arbitration venues in Asia, and India needs to be part of them.

And we need more diversity in our pool of arbitrators, and I would like to see many more Indian arbitrators sitting in our international tribunals.

We at the ICC want to see more cases seated in India, more hearings taking place in India.

In order to achieve this, we need to multiply the number of arbitration events, trainings around the country, and conferences such as this one.

We also need to establish a positive dialogue between the arbitration community and the judiciary, because there can be no reliable arbitration system without supportive and arbitration friendly courts.

India holds an enormous potential to become one of the leading arbitration jurisdictions of the future.

There needs to be a legal framework that enforces the parties' bargain to arbitrate, that limits court interferences in the procedure, and enforces awards with minimal review.

I would like to wish this conference every success, and express my hope that the debates in the next two days will contribute to setting the basis for a bright future for India as international arbitration venue.

Thank you very much for your attention.