



“The Road to LCIA India”

a brief introduction

on the occasion of the celebration of the establishment of LCIA India

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The road to *LCIA India*

In April 1883, the *Court of Common Council* of the City of London set up a committee to consider the establishment of a tribunal for the arbitration of trans-national commercial disputes arising within the ambit of the City.

This initiative came from the London business community, which was becoming increasingly dissatisfied with the ponderous, and often expensive process of litigating through the English Courts.

As *The Law Quarterly Review* was to report at the inauguration of the tribunal a few years later:

"This Chamber is to have all the virtues which the law lacks. It is to be expeditious where the law is slow, cheap where the law is costly, simple where the law is technical, a peacemaker instead of a stirrer-up of strife."

What the business community wanted was the adjudication of their disputes by their peers; by a tribunal precisely familiar with the area of business in which the dispute had arisen.

The origins of this concept were to be found in the ancient courts of *Pie Poudre* (from the French *pied poudreux*, meaning vagabond), set up by boroughs to settle disputes between merchants on market days and described by Sir William Blackstone as *"the lowest and at the same time the most expeditious court of justice known to the law of England"*.

Then, later, in the committees of the Stock Exchange and the Corn Exchange.

The committee duly submitted its proposals, the following year, for a tribunal to be administered by the City Corporation and the London Chamber of Commerce. But the urgency appears to have diminished and the plans gathered dust until the passing of the English Arbitration Act of 1889, two years after which, the *City of London Chamber of Arbitration* was established.

In 1903, the chamber was re-named the *London Court of Arbitration* (LCA), in which guise it paddled gently through tranquil waters, not too often disturbed by disputes falling within its remit, for the next 70 years.

In 1975, the Institute of Arbitrators (later the Chartered Institute of Arbitrators) joined the London Chamber and the City Corporation in the administration of the LCA, and in 1981 the name of the Court was changed to the *London Court of International Arbitration*, today's LCIA, better to reflect the nature of its work.

In 1985, not far short of its centenary, new and innovative rules were promulgated and the LCIA Arbitration Court was established, marking the coming of age of the LCIA as an international institution.

In 1986, the LCIA became fully independent of the three founding bodies and set about establishing its position in the international arena, under the guidance of Sir Michael Kerr, the first President of the LCIA Court, and Bertie Vigrass, the first Registrar of the independent LCIA.

They were most ably assisted in this endeavour by an illustrious Arbitration Court on which Sir Michael was followed, as President, by Karl-Heinz Böckstiegel, Yves Fortier, Gerold Hermann and Jan Paulsson, who holds that office today, and among the members of which we have been privileged to have had Fali Nariman and Dushyant Dave, and to have, today, Zia Mody.

And so, with philosophy and practices true to its forbears, and with the great support of a small and dedicated staff and of the most generous members of its Court and Board, the LCIA has made great strides in recent years, and is now routinely spoken and written of in the same sentence as the other leading international institutions, including the ICC and the American Arbitration Association.

Thus, the LCIA is one of the longest-established arbitral institutions, and also one of the most modern and forward-looking. Although based in London, the LCIA is thoroughly international in outlook and practice, providing efficient, flexible and impartial administration of arbitration and other ADR proceedings, regardless of location, and under any system of law.

In the decade from 1999 to 2008, the LCIA's annual arbitration caseload has increased by more than 250% and the LCIA's offices and staff have grown commensurately.

Having built its reputation and its growing business on firm foundations, the LCIA Board decided, in 2006, that the institution should set its sights on new horizons. It was, after all, routinely administering high value and complex arbitrations between parties from all jurisdictions, the great majority of whom were not English parties, and it seemed time to extend its operational centres beyond its London base.

Since 2006, then, I have had the pleasure and privilege of visiting India on a number of occasions to discuss the project that comes to fruition here today, with members of the legal and business communities, Ministers and senior Civil Servants, to whom, together, in particular, with Dushyant Dave and Zia Mody, we owe a debt of thanks for their encouragement and support.

In pursuit of these same new horizons, the LCIA was very pleased to enter, last year, into a joint venture with the Dubai International Financial Centre to form DIFC-LCIA. But *LCIA India* is the LCIA's first independent office outside London and will offer, here in India, all the services offered by the LCIA in the UK, and with the same meticulous care to ensure the expeditious, cost effective and totally neutral administration of arbitration conducted under its auspices.

But why India?

In short, because India, more than many of the jurisdictions that we might have considered, has all the elements that we believe should make a success of this historic venture.

Though these are extraordinarily tough economic times, India is weathering the storm much better than many economies and we are certain that India will play a leading part in the global recovery that will see a resurgence of international trade and, with it, a still greater demand for effective means of resolving international disputes and a gradual shift from *ad hoc* to institutional arbitration.

India has a legal profession and judiciary of outstanding ability and reputation, and affords us the great convenience of the universal use of the English language.

There is no denying the sometimes controversial arbitration-related decisions of the superior Indian Courts, but many decisions that are supportive of arbitration are overlooked and we believe that India is on the road to establishing itself as a more arbitration-friendly jurisdiction, within which *LCIA India* will be pleased to play its part.

The LCIA is, therefore, delighted to be establishing this subsidiary, which it hopes will make a real contribution to the practice and conduct of international commercial arbitration in India, whilst adding to the dispute resolution options currently available to parties doing business in and through India, and the wider Asia Pacific region.

We see this as an opportunity not only for the LCIA, but for our fellow arbitral institutions in India and for the Indian business and legal communities, with all of whom we welcome the opportunity of working.

Adrian Winstanley
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