The New Law on Arbitration

The Institute for the Development of Commercial Law and Practice (ICLP) has recently established the ICLP Arbitration Centre in Sri Lanka. The centre has its office in the World Trade Centre and functions as a separate body of the ICLP and provides the means of settling commercial disputes expeditiously, economically and privately under the new arbitration law. This law, enacted as the Arbitration Act No. 11 of 1995, applies to all in Sri Lanka after the 1st of August 1995.

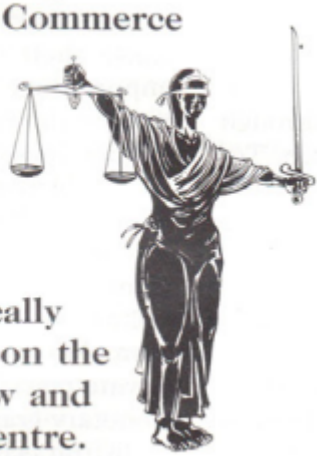
The centre will work in close cooperation with the Arbitration Institute of the Stockholm Chamber of Commerce and under an Agreement that ICLP will enter into with the former, the centre is assured of exchange of information concerning training and program development activities, exchange of publications, information material and reference material and the provision of administrative services for conducting arbitration proceedings, recording evidence and storage of information.

The rules of the centre are modelled on the Arbitration Institute of the Stockholm Chamber of Commerce and changes have been made only where necessary, to make the ICLP Arbitration Centre rules accord with Sri Lankan laws and conditions found in Sri Lanka.

The Arbitration Act is operative from the 1st of August 1995 and offers the legal support necessary for the settling of commercial disputes. The provisions of this Act does not apply to arbitral proceedings conducted under any other law which has special provisions for arbitration.

The Arbitration Agreement must be in writing and may be in the form of an Arbitration clause in the contract or in the form of a separate agreement or in an exchange of letters, or any other means which would provide a legally acceptable record of the Agreement. Any dispute which the parties have agreed to submit to arbitration may be thus decided on, unless it is contrary to public policy or is not capable of determination by Arbitration. The intent to give precedence to the principle of party autonomy permeates of the entire law.

ICLP along with Swedecorp of the Stockholm Chamber of Commerce has drafted a new Arbitration Law and set up an Arbitration Centre which would go a long way to resolve commercial disputes expeditiously, economically and privately. A report on the main features of this law and the ICLP Arbitration Centre.



The law allows the parties involved to determine the number of Arbitrations and the procedure for their appointments. The Arbitral Tribunal has the power to determine the rules of procedure in an arbitration proceeding. It also has the power to determine the admissibility, relevance and weight of the evidence before it. A party to an Arbitration Agreement may appear before the Arbitrary Tribunal personally or where it is a body of persons, they may be represented by an Attorney-at-law.

The High Court has the power to compel witnesses to appear before the Arbitral Tribune to produce documents and to give evidence at the Arbitration proceedings. The High Court has also the power to enforce interim measures, in order to protect the subject matter of the dispute before the Arbitral Tribunal.

The verdict of the Arbritration Tribunal would be in accordance with those rules of the law that are chosen by the parties as applicable to the substance of the dispute. The Tribunal will decide based on general Justice and fairness or trade usages only if it has been explicitly instructed so by the parties concerned. The decision of the Tribunal (which may be a panel of arbitrators, or a single arbitrator appointed by the others or a chairman) will be final and binding on the concerned parties.

The parties concerned can request the Tribunal to correct the award or verdict in case of any computation or clerical errors or omissions in the award or if any modifications to the award is needed, within 14 days of receipt of the award.

A party to an arbitration may within one year after expiry of fourteen days of the

award of the Tribunal apply to the High Court for the enforcement of the award.

The law also gives effect to the convention of the Recognition and Enforcement of Foreign Arbitral Awards to which Sri Lanka is a signatory. This provision enables for the enforcement of Foreign Arbitral Award although the arbitration proceedings are conducted outside Sri Lanka.

For more information on the new Arbitration Law and the ICLP Arbitration Centre, contact the latter at:- 24th Floor, East Wing. World Trade Centre, Echelon Square, Colombo 1. Tel: 447737 or 327414-15.