

● AIDING HEALTHY COMPETITION

GIFT CITY HAS THE POTENTIAL TO REDEFINE INDIA'S ROLE IN THE GLOBAL ADR LANDSCAPE

The next dispute resolution hub

WHAT DO ADANI Power, Future Retail, Antrix Corporation, BharatPe, and Reliance Infra-structure have in common? They all turned to the Singapore International Arbitration Centre (SIAC) to resolve complex commercial disputes. This choice not only reflects SIAC's status as a premier arbitration venue but also the inadequacy of comparable dispute resolution services in India.

This scenario is reminiscent of an era when individuals from different regions of India travelled to the US for treatment of serious medical issues. It was because such advanced medical care was not available in India then. This reflects a broader truth: while countries have geographical boundaries, markets do not. In our digital, interconnected world, the physical location of services matters far less than their quality, speed, and reliability.

Today, India is a hub for medical tourism, providing world-class healthcare at a fraction of international costs. What once cost India billions in outbound medical expenses has evolved into a multibillion-dollar industry that serves patients from across the globe. Just as India transformed its healthcare landscape, it can become a leader in alternative dispute resolution (ADR) offering world-class services at competitive prices. This would keep disputes and billions in foreign exchange within its borders, and also attract international cases.

Indian entities, including government bodies, are increasingly turning to international alternative dispute resolution centres (IADRCs) like SIAC, even for disputes involving only Indian parties. Indian arbitrators actively provide services at these centres. Indian parties rank among the top foreign users at SIAC, while Indian arbitrators are frequently listed among the most appointed nationalities. With both users and service providers originating from India, the country is well-positioned to establish its own IADRC. India's competitive edge in dispute resolution gives it a leg-up, bolstered by its favourable



cost structure, robust infrastructure, and vast pool of skilled professionals.

In today's competitive landscape where businesses fight for market share, resources, and profits, disputes over contracts, intellectual property, and regulatory compliances are inevitable. The diversity of participants with varying interests increases the likelihood of disagreements. Disputes, however, come with significant costs: they lock up scarce resources and divert time and money that could be used elsewhere. Moreover, prolonged disputes create uncertainty, deterring investment and hindering economic growth.

Given the limitations of traditional judicial systems, businesses are increasingly opting for ADR services for swift, fair, and cost-effective resolutions. As a result, the ADR market is booming, with the global market projected to reach \$15 billion by 2030, growing at a compound annual rate of 7%. The Asian market is expanding even faster, with a growth rate of 12%. Many countries are promoting ADR mechanisms and establishing IADRCs to meet this rising demand.

The Indian government is positioning GIFT City as a hub of innovation and ingenuity. Its strategic location at the crossroads of global trade, coupled with a large pool of skilled professionals and a progressive legal framework, makes it an ideal venue for hosting an IADRC. The FY23 Budget accordingly proposed establishing an international arbitration centre in GIFT City.

To compete with established IADRCs in Singapore, London, Hong Kong, and

Dubai, the proposed centre at GIFT City must provide services that meet or exceed these venues in quality, cost, and efficiency. Further, it should offer distinctive value propositions to attract global users and set it apart. At a minimum, the centre's design should incorporate the following key elements.

Comprehensive services: A successful centre offers an array of dispute resolution options, including arbitration, mediation, and hybrid methods like med-arb, through online, offline, or assisted online modes. It caters to all types of disputes — commercial, financial, and beyond — whether they arise on-shore, off-shore, or cross-border, regardless of parties (private-private, government-private, and government-government). This all-in-one approach ensures the centre meets the varied needs of users.

Party autonomy: ADR enables parties to collaborate for mutually beneficial outcomes, emphasising the importance of party autonomy. This flexibility allows disputants complete freedom to select the governing law, the ADR seat, and the professionals overseeing the process. Both Indian and foreign parties should have the ability to designate GIFT City as the ADR seat, with the option to choose either foreign or Indian governing law, thereby enhancing their confidence in the dispute resolution.

Case management: Effective case management and streamlined processes are critical for resolving disputes quickly and in a cost-effective manner, making the centre attractive to businesses. The

integration of advanced technology, including online dispute resolution platforms, virtual hearings, document-only arbitration, expedited procedures, secure document management systems, and incentives for faster disposal enhances efficiency and accessibility.

Dispute resolution professionals: A diverse and experienced panel of internationally recognised dispute resolution professionals, across disciplines, ensures high-quality ADR services. They are attuned to cultural nuances which enhance communication, reduce misunderstandings, and foster trust among international parties. An ongoing training and accreditation programme helps maintain high standards of practice and ethics.

Legislative support: A robust legislative framework that promotes ADR and sets clear operational guidelines is vital. Such laws should grant the centre the autonomy to modify its rules and procedures swiftly in response to evolving user needs and trends in dispute resolution. This enhances the centre's competitiveness and responsiveness, instilling confidence among users.

Judicial system: The availability of a dedicated and efficient court system to support ADR services, particularly in enforcing awards, is essential. Initially, a specialised bench within the high court could oversee ADR matters. As the centre develops, an international court with international judges could oversee all ADRs seated in GIFT City. Appeals may initially be directed to the Supreme Court, with plans for a transnational court of appeal to enhance the centre's credibility in resolving cross-border disputes.

GIFT City has the potential to redefine India's role in the global ADR landscape by establishing a competitive IADRC. With a commitment to innovation and quality, it could become the preferred choice for businesses seeking efficient and effective dispute resolution solutions. Today, what is costing India heavily in outbound ADR expenses could evolve into a thriving global industry.