National Judicial Academy, Bhopal

Workshop on Development of Specific Modules for the SJAs

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Unclogging the existing courts by setting up new courts that will settle only commercial disputes.
What is a Commercial Dispute?

- (c) “commercial dispute” means a dispute arising out of—
  (i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
  (ii) export or import of merchandise or services;
  (iii) issues relating to admiralty and maritime law;
  (iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
  (v) carriage of goods;
  (vi) construction and infrastructure contracts, including tenders;
  (vii) agreements relating to immovable property used exclusively in trade or commerce;
  (viii) franchising agreements;
  (ix) distribution and licensing agreements;
  (x) management and consultancy agreements;
(c) “commercial dispute” means a dispute arising out of—

(xi) joint venture agreements;
(xii) shareholders agreements;
(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
(xiv) mercantile agency and mercantile usage;
(xv) partnership agreements;
(xvi) technology development agreements;
(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
(xviii) agreements for sale of goods or provision of services;
(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
(xx) insurance and re-insurance;
(xxi) contracts of agency relating to any of the above; and
(xxii) such other commercial disputes as may be notified by the Central Government.
Interaction of Commercial Courts Act and other Laws

- Competition Act 2002
  - Agreements covered from competition point of view
  - Detailed provisions in Sec (3) and Sec 19

- IP Laws
  - Similar provision
Module Development Process

- Articulation of capacity building needs
- Translating capacity building needs in module objectives
- Converting module objectives in detailed structure
- Consulting experts on detailed structure of a module
- Finalizing the structure
- Draft module
- Peer review of a module
- Finalization of a module
- Periodic review of modules
Presentation of a Modules

- Modules objectives, contents
- Core text – theory and landmark cases
- Side text – important cases from India and abroad
- Usage of flow charts/diagrams and other pictorial expressions as suitable
- Usage of associated disciplines: Economics, Business Strategy, Statistics
Thanks