

National Judicial Academy, Bhopal

Workshop on Development of Specific Modules for the SJAs

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Context

- **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;

What is a Commercial Dispute?

- (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