

India is Building Bridges: Cross-Border Collaboration on Construction Disputes

India is cautiously opening its doors to global expertise. The Bar Council of India has announced amendments that allow foreign lawyers and law firms to practice in India within the prescribed scope. These changes have significant implications for international arbitration in the construction sector, where disputes often involve complex contracts and parties from different jurisdictions.

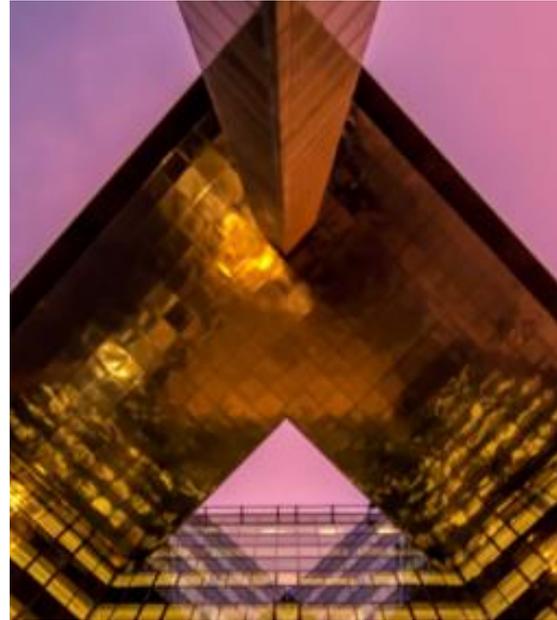
Introduction

In May 2025, the Bar Council of India enforced amendments¹ to its rules that allow foreign lawyers to represent clients in India within areas of foreign law, international law, and international arbitration matters; a development welcomed by the Law Society of England and Wales as a significant step toward global collaboration². In October 2025, the Bar Council of India published a further clarification³ which reinforces that these opportunities come with certain boundaries intended to ensure that collaborations remain transparent and fully compliant.

Importantly, the framework is built on a reciprocal ability to practice as between Indian and foreign lawyers, always depending on the relevant jurisdiction. Opening the legal profession in India is expected to be beneficial for Indian lawyers⁴ and entities as well – making this a genuine two-way bridge. For parties in the construction sector, this potentially means access to broader legal expertise on complex cross-border construction disputes.

Impact on construction arbitration

Previously, foreign lawyers could only represent foreign parties (as opposed to parties resident in India) in international arbitrations conducted in India.⁵ Under



International Construction Team
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the amended rules, they can now in certain circumstances advise or appear on behalf of parties resident in India in international arbitrations seated in India, to the extent that the dispute involves questions of foreign or international law⁶. This applies to both institutional and ad hoc arbitrations. Where the governing law is Indian law, or where evidence is recorded on oath, they may still not appear or participate in advocacy functions.⁷

This is a notable development, especially for high value and complex construction arbitrations. India has a strong bench of highly skilled construction and arbitration practitioners. The amended rules will permit Indian practitioners and their clients to create collaborative, cross-border legal teams. This will be especially beneficial in arbitrations involving multiple jurisdictions, foreign law and international commercial norms.

While discussing construction arbitration in India, the former Chair of the Bar Council of London, Samuel

¹ [Press Release Dated 14.05.2025 | Bar Council of India. Amended Rules | Bar Council of India](#) (In English from page 34 onwards).

² [Decision to publish regulations on foreign lawyers in India welcomed | The Law Society.](#)

³ [Press Release Dated 21.10.2025 | Bar Council of India.](#)

⁴ As per the former President of the Law Society, Richard Atkinson, [Decision to publish regulations on foreign lawyers in India welcomed | The Law Society.](#)

⁵ [The Gazette of India: Foreign Law Firms in India BCI Rules 2023](#), Rule 8(2)(ii).

⁶ [Amended Rules | Bar Council of India](#), Rule 2(xv).

⁷ [Amended Rules | Bar Council of India](#), Rules 8(2)(e)(ii) and 8(2)(e)(iv)(b).



Townend KC has said⁸ that he has liaised with the Bar Council of India and other stakeholders in the past. He emphasised that enabling co-counselling between Indian and international lawyers on construction disputes will "grow the pie" and attract more high-value arbitrations to be seated in India. Drawing parallels with London, Hong Kong and Singapore, he noted that jurisdictions that have opened their arbitration markets in the past have consistently succeeded, and that some others like Dubai and Saudi Arabia are heading the same way.

Strategic opportunities for contractors

The new framework creates significant benefits for contractors working on large-scale infrastructure projects within India. Contractors can tap into both Indian and foreign legal expertise within India, strengthening their position in cross-border infrastructure bids and disputes.

Foreign lawyers can bring experience in multi-jurisdictional dispute strategy and international arbitral best practices, along with specialisation in complex issues such as termination rights, concurrent delays and extensions of time, and other problems arising under standard form construction contracts like FIDIC. An integrated team that combines both local and foreign expertise may strengthen the quality of arguments, and also reduce exposure to procedural and enforcement risks.

Uncertainties for arbitrators and dispute board members, and Fly-in, Fly-out restrictions

It is unclear if arbitrators and dispute board members fall within the ambit of the amended rules. The Bar Council of India seeks to regulate foreign lawyers and law firms in India. It defines a foreign lawyer as any individual who is authorised to practice law⁹:

"Foreign Lawyer means any individual, law firm, limited liability partnership (LLP), company, corporation, or any other legal entity, by whatever name called or described, that is authorized to practice law under the regulatory framework of a foreign country. This includes

engaging in non-litigious practice of law in India, such as legal consultancy, legal documentation, representation in arbitration proceedings, and other non-litigious legal activities related to foreign law and international law."

A non-lawyer construction professional acting as an arbitrator or a dispute board member does not appear to fit within the above description.

As certain elements of advocacy remain reserved for Indian advocates, further clarification might be required for arbitrations conducted in India by arbitral tribunals comprising of foreign lawyers, and disputes with foreign lawyers acting as dispute board members.

The amended rules permit foreign lawyers to work in India on a fly-in, fly-out basis for up to 60 consecutive days in any 12-month period, which is a welcome flexibility for short-term engagements, such as advisory meetings. Perhaps more clarity is required for roles that require extended involvement, such as foreign lawyers representing clients in an international construction arbitration, or foreign lawyers acting as arbitrators and dispute board members.

As construction projects and disputes can span several years, the abovementioned time period would be practically inadequate for site visits and/or hearings. It is unlikely that the full registration process meant for establishing offices in India is a viable alternative for individuals whose involvement is intermittent and whose mandates do not justify the administrative burden of formal registration.

Compliance and other considerations

Foreign lawyers must comply with strict ethical standards and meet financial obligations under the amended rules. This includes paying registration fees, declaration charges and submitting security deposits to the Bar Council of India. Additionally, tax implications may arise depending on the nature and duration of engagement in India. The amended rules do not mention virtual consultations and a reasoned interpretation would be that these requirements apply only to foreign lawyers and law firms with physical presence in India.

⁸ The discussion was with an Indian expert at Dhirubhai Ambani University – School of Law. The university is heavily involved in construction law education and development in India. The full video is available here: [The Arbitration Blueprint - What's Changing in Construction Disputes - Youtube](#).

⁹ [Amended Rules | Bar Council of India](#), Rule 2(iii).



The framework is still evolving, and the Bar Council of India continues to issue clarifications, most recently (as mentioned above) in October 2025, to define permissible scope of work for foreign lawyers, particularly in arbitration and advisory roles. Additionally, a writ petition has been filed at the Delhi High Court by CMS IndusLaw¹⁰, challenging the extent that the Bar Council of India can regulate foreign lawyers and law firms.

Conclusion

India is positioning itself as a hub for international arbitration, and the construction sector stands to benefit significantly. However, while the amended rules create new opportunities, they also introduce compliance challenges and ambiguities that require careful navigation. Until uncertainties settle, foreign lawyers and other professionals will most likely adopt a cautious wait-and-watch approach.

We would be interested to hear what you think.

Please get in touch at

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thoughts or to discuss any concerns.**

¹⁰ *Avimukt Dar & Ors. v. Bar Council of India & Anr.*, [CMS IndusLaw Challenges Foreign Law Firm Rules](#).

