



PRESS RELEASE

BANGLADESH ACCORD ARBITRATIONS

ARBITRATIONS UNDER THE ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH BETWEEN INDUSTRIALL GLOBAL UNION AND UNI GLOBAL UNION (AS CLAIMANTS) AND TWO GLOBAL FASHION BRANDS (AS RESPONDENTS)

THE HAGUE, 17 JULY 2018

The Tribunal Issues Termination Orders Following Settlement by the Parties

The Permanent Court of Arbitration (“PCA”) has been administering two arbitration proceedings under the Accord on Fire and Building Safety in Bangladesh (“[Accord](#)”).

On 17 July 2018, the Tribunal constituted in the two arbitrations issued termination orders following the settlement by the Parties of both sets of claims.

Background

The Accord is an agreement between global brands and retailers and trade unions created in the aftermath of the Rana Plaza building collapse, to establish a fire and building safety programme for workers in the textile industry in Bangladesh. Article 5 of the Accord provides for arbitration of disputes.

The Claimants in the arbitrations are IndustriALL Global Union and UNI Global Union, two non-governmental labor union federations based in Switzerland that signed the Accord on 15 May 2013. They were represented in these arbitrations by Covington & Burling LLP. The two Respondents are global fashion brands that have signed the Accord. The Claimants commenced arbitration against the first Respondent on 8 July 2016, and the second Respondent on 11 October 2016.

The Parties agreed that the 2010 UNCITRAL Arbitration Rules shall apply to the two arbitrations, that the legal seat of the arbitrations shall be The Hague, that the Secretary-General of the PCA shall serve as appointing authority, and that the PCA shall serve as Registry.

The Tribunal, composed of Professor Hans Petter Graver, Mr Graham Dunning QC, and Mr Donald Francis Donovan (presiding), was formally constituted on 3 February 2017.

The Tribunal and Registry held a preliminary procedural meeting with the Parties in London in March 2017, during which they signed Terms of Appointment and discussed preliminary procedural issues. The Tribunal issued its first Procedural Order on 19 April 2017.

On 4 September 2017, the Tribunal issued Procedural Order No. 2, deciding preliminary issues. First, the Tribunal decided that the pre-conditions to arbitration under Article 5 of the Accord had been met and that the claims were admissible and within the Tribunal’s jurisdiction. Second, the Tribunal issued directions on confidentiality and transparency. Taking into account provisions of the UNCITRAL Rules and the Accord itself, and with a view to striking a balance between the public and private interests involved, the Tribunal ordered that certain basic information about the case may be made public and that the identity of the Respondents be kept confidential. The Tribunal also directed the Parties to develop a Protocol for dealing with confidentiality and transparency issues.

On 19 September 2017, the Tribunal issued Procedural Order No. 3, setting the scope of the “Liability-Plus Phase” of the proceedings, to deal with the liability of the Respondents for alleged breach of the Accord and available heads of remedies.

The Parties to both arbitrations submitted one round of substantive written pleadings in anticipation of a hearing on merits to be held in March 2018 at the Peace Palace in The Hague. The Tribunal issued two procedural orders relating to document production.

Pursuant to a Protocol developed in consultation with the Parties and issued as Procedural Order No. 4 on 9 October 2017, certain documents relating to the Bangladesh Accord Arbitrations are published following a redaction process, including awards, decisions, and orders of the Tribunal.

The Settlement of the Claims and Termination of the Arbitrations

On 23 November 2017, the Parties to PCA Case No. 2016-36 informed the Tribunal and the PCA that they had agreed to suspend proceedings “including all deadlines related to document production” for 21 days. The Parties to PCA Case No. 2016-36 clarified that “there is no change in status to the other case Claimants have pending before this Tribunal, PCA Case No. 2016-37.”

On 15 December 2017, the Parties to PCA Case No. 2016-36 informed the Tribunal and the PCA that they had entered into a settlement agreement and had agreed to suspend the arbitration “including all deadlines on the procedural calendar” until 30 April 2018, the date upon which “certain conditions precedent must be met.” The Parties to PCA Case No. 2016-36 requested that as of 15 December 2017, the proceedings in PCA Case No. 2016-36 be suspended until 15 May 2018, after which date, “the stay may be lifted by notice from any party.” They confirmed that “there is no change in status to the other case Claimants have pending before this Tribunal, PCA Case No. 2016-37.”

The Claimants in PCA Case No. 2016-37 submitted a second round of substantive written pleadings. The Tribunal issued a further procedural order on document production in PCA Case No. 2016-37.

On 18 January 2018, the Parties to PCA Case No. 2016-37 informed the Tribunal and the PCA that they had entered into a settlement agreement and had agreed to suspend that arbitration “including the March 2018 hearing and all deadlines on the procedural calendar” until 30 April 2018, the date upon which certain conditions precedent must be met.” They requested that the proceedings in PCA Case No. 2016-37 be suspended until 15 May 2018, after which such stay could be “lifted by notice from any party”.

On 26 June 2018, the Parties in each of the cases wrote jointly to the Tribunal to inform them that the Respondent in each case had fulfilled its obligations pursuant to the respective settlement agreements. The Parties in each of the cases jointly requested the Tribunal to issue an order for the termination of these proceedings with immediate effect, pursuant to Article 36(1) of the UNCITRAL Rules.

On 17 July 2018, the Tribunal issued Termination Orders pursuant to Article 36 of the UNCITRAL Rules, formally bringing proceedings to an end. In accordance with the Parties’ agreement, the PCA will refund the remaining funds to the Parties in accordance with their agreement.

Further Information

Basic information about the proceedings is available on the PCA Case Repository at <https://pca-cpa.org/en/cases/152/>. In accordance with Procedural Orders Nos. 2 and 4, redacted versions of the Terms of Appointment and Procedural Orders are available at that site, and the Termination Orders will be posted once redacted in due course. Information about the Accord, including as to factory remediation rates, and the text of the Accord, is available at www.bangladeshaccord.org. According to the text of the [new Bangladesh Accord](#), which took effect from May 2018, disputes referred to arbitration shall be “seated in The Hague and administered by the Permanent Court of Arbitration”.

* * *

Background on the Permanent Court of Arbitration

The Permanent Court of Arbitration is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Contracting Parties. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering 5 interstate disputes, 89 investor-State arbitrations, and 57 cases arising under contracts involving a State or other public entity.

More information about the PCA can be found at www.pca-cpa.org.

Contact: Permanent Court of Arbitration
E-mail: bureau@pca-cpa.org