As per list attached.

Sub: Modus Operandi for switching over to the Arbitration and Conciliation (Amendment) Act 2015, based on recommendation of NITI Aayog.

Ref: RB's letter no. 2016/CE-I/CT/ARB/3(NITI Aayog)/Pt. dated 08.11.16.

Vide Board's letter referred above, on the recommendation of NITI Aayog, Railways were advised to shift existing ongoing Arbitration cases duly examining the feasibility with a vision to expedite finalization of arbitration cases under Arbitration and Conciliation (Amendment) Act 2015.

2. Board (ME & FC) has approved the procedure order to switch over existing ongoing Arbitration cases to the Arbitration and Conciliation (Amendment) Act 2015 as under:

"In cases where the Arbitration proceedings are still under process (unless the same are at final stages) under the provisions of the pre-amended Arbitration Act, Railway would send a communication (under acknowledgement) to the Contractor/Concessionaire to give their consent within the period of thirty (30) days (If office of the concerned Railway Authority remains off on 30th day, then upto next working day after 30th day) of receipt of such communication letter to switch over to the provisions of the Arbitration and Conciliation (Amendment) Act 2015. Such consent should be obtained in the enclosed standard format."

Where the Contractor/Concessionaire gives their consent to such a communication within specified period, Railways shall arrange to take up the matter with the existing Arbitration Tribunal for switching over to the conduct of proceedings under the Arbitration and Conciliation (Amendment) Act 2015.

Such communication will be termed as valid communication for shifting of Arbitration cases, only if it is received in the enclosed format in the office of letter issuing authority within the specified period. Any other communication for whatsoever reasons will be termed as invalid and be not taken into cognizance.

The ongoing arbitration procedure shall be continued as per their terms & conditions till final decision on switching over Arbitration case to Arbitration and Conciliation (Amendment) Act 2015 is communicated to Tribunal and Parties.

All cases where the Contractor/Concessionaire does not respond or respond after specified period to such communication letter to switch over to the amended provisions of the Arbitration Act or decline to give their consent shall be summarized by Railway. A list of all such parties shall be maintained for reporting to Railway Board under the Action taken report (ATR)."
3. This issue with the concurrence of Finance Dte. of Ministry of Railways.
4. Please acknowledge receipt.

Encl.- Annexure-I.

No. 2016/CE-I/CT/ARB/3 (NITI Aayog)/Pt.2 31.01.2017

Copy forwarded for information to:
(i) FA&CAOs, All Indian Railways.
(ii) The Dy. Comptroller and Auditor General of India (Railways), Room no. 224, Rail Bhawan, New Delhi

For Financial Commissioner / Railways
Undertaking

Ref- Railway's letter No. __________________ dated _____

Sub- Shifting of Arbitration case no. ___________________ to provisions of Arbitration Act (Amendment)’ 2015 under CA No. ____________ in connection with the work of ____________________________

______________________________________________________________

1. I/We __________________________ am/are willing to shift my arbitration case no. ___________________________ with GM/Railway for a claim of Rs. ________________________ under agreement no ___________________________ for the work named ____________________________

______________________________________________________________

2. I/We do hereby waive off the applicability of section 12(5) of Arbitration act (Amendment)’ 2015 in order to continue Arbitration case under Existing Arbitration Tribunal.

3. I/We hereby confirm that I will abide by the proceedings / decisions /awards of ongoing Arbitration procedure in entirety till communication to switch over existing arbitration case is communicated to me/us by the Tribunal

4. I/We hereby undertake to abide by the Railway’s decision in regard to switch over the proceedings of Arbitration case to the provisions of the Arbitration Act (Amendment)’ 2015.

Signature of Contractor

Countersigned by Competent Authority of Railways