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**THE CHARTERED INSTITUTE OF
ARBITRATORS
AUSTRALIA, SINGAPORE, EAST ASIA**



**ASIA PACIFIC DIPLOMA IN INTERNATIONAL
COMMERCIAL ARBITRATION**

11 to 19 MAY 2024

Supporting



INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

AMERICAN
ARBITRATION
ASSOCIATION®



ACICA

Australian Centre for
International Commercial Arbitration



北京仲裁委员会
Beijing Arbitration Commission
北京国际仲裁中心
Beijing International Arbitration Center



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Barrister and Arbitrator

COURSE PROGRAM

Date/Time	Topic
Day 1: SATURDAY 11 May 2024	VENUE: Allen & Gledhill
8:30-9:00	Course registration and collection of course materials
9:00-9:15	Welcome and Introduction to the Course by Course Directors
9:15-10:45	<p>Topic 1: Introduction to International Commercial Arbitration</p> <ul style="list-style-type: none"> • What is international arbitration? • Concept of arbitration • Arbitration distinguished from other forms of dispute resolution • Arbitration agreement • New York Convention • UNCITRAL Model Law on international commercial arbitration • UNCITRAL Arbitration Rules • UNIDROIT principles of International commercial contracts • Examples of other harmonizing influences ‘soft law’
10:45-11:00	Morning Tea
11:00-13:00	Topic 1: Introduction to International Commercial Arbitration (continued)
13:00-14:00	Lunch
14:00-15:30	<p>Topic 2: The Seat or Place of Arbitration</p> <ul style="list-style-type: none"> • Significance of the seat of arbitration • The seat vs location of hearings • Considerations for selecting an arbitral seat • Seats commonly selected by parties • Determining the seat in the absence of a selection by the parties
15:30-15:45	Afternoon Tea
15:45-17:00	<p>Topic 3. Choice of Law in International Commercial Arbitration</p> <ul style="list-style-type: none"> • What choice of laws may arise • Consideration of <i>Black Clawson v Papierwerke</i> [1981] 2 Lloyds Rep 446 • Consideration of <i>Channel Tunnel Group Ltd v Balfour Beatty Ltd</i> [1993] AC 334 • Example of a possible scenario • Proper law of the contract • Uncitral Model Law • Conflict of Law Rules • Law of the arbitration agreement • Doctrine of Separability • Absence of choice of law governing arbitration agreement • Consideration of <i>Sul America Cia Nacional de Seguros v Enesa</i> [2012] EWCA Civ 638, • Consideration of <i>Klockner Pentaplast GMBH v Advance Technology</i> [2011] HKCU1340 • Consideration of <i>FirstLink Investments Corp v GT Payment</i> [2014] SGHCR12 • Consideration of <i>Kabab-ji (Lebannon) v Kout Food Group (Kuwait)</i> 2021 [UKSC] 48 • Law governing the arbitration procedure • UNCITRAL Model Law • UNCITRAL Arbitration Rules • Other laws governing arbitration
17:00	End of Day 1: Welcome Reception for Candidates and Faculty at TBC

COURSE PROGRAM

Date/Time	Topic
Day 2: SUNDAY 12 May 2024	<u>VENUE:</u> Allen & Gledhill
9:00-10:30	Topic 4. The Arbitration Agreement – Its Formation and Validity <ul style="list-style-type: none"> • What is the nature of an arbitration agreement? • What form is required? • Types of agreement, pre- and post-dispute • Enforceability of the arbitration agreement under Article II of the New York Convention • Arbitrability • Incorporation by reference • What law applies to the arbitration agreement? • Capacity to enter into the arbitration agreement • Which parties are bound? • The effect of multi-tier dispute resolution agreements
10:30-10:45	Morning Tea
10:45-12:00	Topic 5. How to draft an Effective International Arbitration Clause <ul style="list-style-type: none"> • Key requirements for a valid arbitration clause • Making the right choices in an arbitration clause, eg seat, Rules, Institutional or ad hoc, number of arbitrators • Optional provisions, eg confidentiality, joinder and consolidation • Pathological/defective clauses – what can go wrong?
12:00-13:00	Topic 6. Arbitration from a Civil Law Perspective <ul style="list-style-type: none"> • Civil Law/Common Law Differences • Overview of civil law • How is international arbitration influenced by the civil law? • Harmonisation in practice • Development of standards and transnational legal principles and policy • Memorials • Best practice
13:00-14:00	Lunch
14:00-15:30	Topic 7. The Commencement of the Arbitral Process, the activation and scope of the agreement <ul style="list-style-type: none"> • Jurisdictional Requirements • ‘Kompetence-Kompetence’ and the Doctrine of Separability • The Role of the Court in Enforcing the Agreement • The Existence of a ‘Dispute • Anti-Suit Injunctions • Conditions Precedent • Disputes which ‘Have Arisen or which may Arise’ • Scope of the Dispute • Subjective Arbitrability • Objective Arbitrability • ‘A Defined Legal Relationship, whether Contractual or Not’ • ‘Foreign’ or ‘International’ Requirement • Reciprocity
15:30-15:45	Afternoon Tea
15:45-17:00	Workshop Session 1: <ul style="list-style-type: none"> • Introduction to international commercial arbitration; • Significance of seat of Arbitration; • Choice of law
17:00	End of Day 2: No Events

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Date/Time	Topic
Day 3: MONDAY 13 May 2024	VENUE: Maxwell Chambers
09:00-10:30	Topic 8. The Appointment of the Arbitrator <ul style="list-style-type: none"> • Number of arbitrators • Procedure for constituting the arbitral tribunal • Appointment of arbitrators in multiparty arbitrations • Choosing an arbitrator: qualifications of an arbitrator • Choosing an arbitrator: qualities of an arbitrator • Formal appointment of arbitrators • General obligations and potential liability of arbitrators • Disclosure obligations of arbitrators • IBA Guidelines regarding disclosure • Challenges to arbitrators • The court's role in the appointment and removal of an arbitrator • Resignation and replacement of arbitrators • Arbitrators' fees and terms of appointment
10:30-11:00	Morning Tea
11:00-13:00	Topic 9. The Arbitrator's independence, impartiality and any challenges for lack thereof <ul style="list-style-type: none"> • Introduction <ul style="list-style-type: none"> ○ 'Independence' and 'impartiality' ○ Disclosure and waiver ○ Neutrality / Nationality ○ Distinctions between actual and apparent bias • Maintaining impartiality and independence: What must an arbitrator disclose? <ul style="list-style-type: none"> ○ Problems with over- and under- disclosure ○ <i>Guidelines on Conflicts of Interest</i> (IBA, 2014) ○ C.f. <i>Note to the Parties and Arbitral Tribunals on the Conduct of Arbitration</i> ○ Comparison between the IBA Guidelines and ICC Note to Parties • Challenge against arbitrators (I): Applicable rules and challenge procedure <ul style="list-style-type: none"> ○ Overview ○ UNCITRAL challenge procedure ○ ICC challenge procedure ○ SIAC challenge procedure ○ HKIAC challenge procedure • Challenge against arbitrators (II): The test for challenge under various regimes <ul style="list-style-type: none"> ○ Overview ○ Arbitral rules ○ National laws ○ The standard of proof required to show a 'justifiable doubt' • Challenge against arbitrators (III): Principal bases for challenge <ul style="list-style-type: none"> ○ Alleged connection between the arbitrator and one of the parties ○ Alleged connection between the arbitrator and counsel for a party
13:00-14:00	Lunch

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14:00-15:30	Topic 10. Jurisdictional challenges <ul style="list-style-type: none">• Types of jurisdictional challenge• Existence and/or scope of arbitration agreement• Arbitrability of dispute• Kompetenz-Kompetence• Separability• Opportunities for and timing of challenge: “active” and “passive” remedies• Procedures under Model Law: article 16 and 34 (active); article 36 (or Art V NYC) (passive)• Is article 16 an active remedy in <i>Astro v Lippo</i> analysis?
15:30-15:45	Afternoon tea
15:45-17:00	Workshop Session 2: <ul style="list-style-type: none">• Validity of Arbitration Agreement;• Stay of Court proceedings• Appointment of Arbitrators
	End of Day 3: No Events

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Date/Time	Topic
Day 4: TUESDAY 14 May 2024	<u>VENUE</u> : Maxwell Chambers
09:00-10:30	<p>Topic 11. Interim Measures (and emergency arbitrations)</p> <ul style="list-style-type: none"> • What are interim measures and how are they made? • When are interim measures made? • Forms of interim measures • Whom are interim measures made against? • Ex Parte applications • After the Tribunal is constituted • By the arbitral panel/tribunal • By an emergency arbitrator • CIArb Practice Guides No. 1 and 2 • Security for costs • Judicial support for interim measures • Under the Model law, original and 2006 changes • The powers and practice under Procedural Rules, e.g. ICC, SIAC, ACICA, UNCITRAL and CIETAC • Emergency Arbitrator Provisions: ICC, SIAC, ACICA
10:30-11:00	Morning Tea
11:00-12:00	<p>Topic 12. Consolidation and joinder</p> <ul style="list-style-type: none"> • Introduction – The Necessity for Joinder and Consolidation • Mechanisms for Joinder and Consolidation - introduction <ul style="list-style-type: none"> ○ Commercial Agreements ○ Under the Lex Arbitri ○ Under Institutional Rules ○ By non-signatory mechanisms • Joinder and Consolidation Commercial Agreements (brief) <ul style="list-style-type: none"> ○ Under the Lex Arbitri ○ Under Institutional Rules ○ SIAC Joinder and Consolidation Provisions – Specific • How Non-Signatories can avail themselves of an Arbitration Agreement <ul style="list-style-type: none"> ○ Group of companies doctrine ○ Equitable estoppel ○ Third party beneficiary ○ U.S. versus U.K. and Asia approach • Conceptual limitations of the non-signatory theories • Multi-Party Disputes and Problems <ul style="list-style-type: none"> ○ Equal treatment in the constitution of the Tribunal: <i>Siemens v Dutco</i> ○ Enforcement: <ul style="list-style-type: none"> ▪ The tale of two cities: <i>Astro v. Lippo</i> ▪ <i>Dallah v. Pakistan</i>
12:00-13:00	<p>Topic 13. Confidentiality in the arbitration process</p> <ul style="list-style-type: none"> • How important is confidentiality in International Commercial Arbitration? • The concept of confidentiality in arbitration is not well understood • The English common law position • Along came <i>Esso Australia v. Plowman</i> in 1995, a “veritable Australian tsunami”

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	<ul style="list-style-type: none"> • “Private” v. “Confidential” • Related court proceedings / “Open Justice” in Australia and New Zealand • Statutory protection in Asia Pacific / Singapore and Hong Kong • Protection under the major sets of institutional rules [ICC, SIAC, HKIAC] • Trade secrets • The possible downside to confidentiality agreements • The IBA Rules of Evidence (2010) • Confidentiality in arbitration may be overridden by the courts <p>What should have concerned parties do?</p>
13:00-14:00	Lunch
14:00-15:30	Workshop Session 3: <ul style="list-style-type: none"> • The Preliminary Conference; • Terms of Reference • PO1
15:00-15:45	Afternoon tea
15:45-16:30	Workshop Session 4: <ul style="list-style-type: none"> • Consolidation of proceedings; • Use of experts;
	End of day 4: No Events

COURSE PROGRAM

Date/Time	Topic
Day 5: WEDNESDAY 15 May 2024	<u>VENUE:</u> Maxwell Chambers
9:00-10:30	<p>Topic 14: The Hearing</p> <ul style="list-style-type: none"> • Need for a hearing - Art 24 of the UNCITRAL Model Law • Procedural considerations & arrangements - UNCITRAL Notes on Organising Arbitral Proceedings • Tribunal’s control over proceedings – Art 8(2) IBA Evidence Rules • Legal representation/local practice requirements • The use of tribunal secretaries • Failure of a party to attend - CIArb Practice Guide on Party Non-Participation • Order of proceedings/timetables/oral speeches • Chess clock procedures • Use of technology (including artificial intelligence) • Lay witness evidence – IBA Evidence Rules • Expert witness evidence – IBA Evidence Rules • Witness statements/attendance/evidence by video-conference • Witness conferencing [lay and/or expert witnesses] • Role of experts - CIArb Protocol for the Use of Party- Appointed Experts/CIArb International Guidelines on Tribunal-appointed Experts, Legal Advisers and Assessors • Advocacy in international arbitration • Transcripts • Closing submissions, including post-hearing • Separate hearings/submissions on costs • Re-opening the proceedings
10:30-11:00	Morning Tea
11:00-11:30	<p>Topic 15. Arb med/Med arb</p> <ul style="list-style-type: none"> • Chinese med-arb process <ul style="list-style-type: none"> ○ PRC Arbitration Law ○ CIETAC Arbitration Rules (2015) • Med-arb in Asia • Pros and Cons • Making med-arb palatable for western parties
11:30-13:00	<p>Topic 16. Comparison of different arbitral processes under different arbitral rules</p> <ul style="list-style-type: none"> • Appointment of arbitrators • Challenge of arbitrators • Joinder • Consolidation • Emergency arbitrators and interim relief • Expedited procedures • Conduct of the proceedings • Costs • Jurisdictional matters (typical pathological arbitration agreements) • Appointment of arbitrators • Multiple contract disputes v consolidation of cases • oral hearing v document-only • costs v hidden costs in arbitration • language of arbitration arbitration - mediation - arbitration in practice

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13:00-14:00	Lunch
14:00-15:30	Workshop Session 5: Confidentiality; Interim Relief; The hearing; post hearing
15:30-17:00	Workshop Session 6: The Oral hearing; post hearing Release of First Part of the Award Writing Exam
	End of Day 5: Mid-course Dinner at TBC

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Date/Time	Topic
Day 6: Thursday 16 May 2024	<u>VENUE</u> : Maxwell Chambers
09:00-10:30	<p>Topic 17. The Award: remedies; subject matter; interest; currency; and cost</p> <ul style="list-style-type: none"> • What is an ‘award’? • Essentials for validity and enforceability <ul style="list-style-type: none"> ○ Distinction between validity and enforceability ○ The arbitrator’s duty ○ Grounds for challenging validity / resisting enforcement ○ Pitfall prevention: How to draft enforceable awards under the Model Law • Remedies • Tribunal’s power to grant remedies <ul style="list-style-type: none"> ○ Monetary remedies ○ Non-monetary (equitable) remedies ○ Remedies affecting legal rights • Interest <ul style="list-style-type: none"> ○ Purpose and significance ○ Availability and basis for grant ○ Conflict-of-laws issues ○ Currency and rate of interest ○ Period of interest accrual ○ Whether and when compound interest should be awarded • Costs <ul style="list-style-type: none"> ○ Power to award costs ○ Fundamental features of costs ○ Good case management ○ Allocation of costs ○ Determination of recoverable costs
10:30-11:00	Morning Tea
11:00-13:00	<p>Topic 18. Enforcement of Awards in Asia Pacific</p> <ul style="list-style-type: none"> • Enforcement of foreign awards under the New York Convention • Enforcement of international awards under the Model law • Grounds for refusing enforcement • Discretion • Recent examples from Australia, Singapore, Hong Kong and China
13:00-14:00	Lunch
14:00-15:30	<p>Topic 19. Setting aside of Awards in Asia Pacific</p> <ul style="list-style-type: none"> • Article 34 Model Law • Contrast Article 5 NYC • The grounds for setting aside • Discretion • Recent examples from Australia, Singapore, Hong Kong and China
15:30-15:45	Afternoon Tea
15:45-17:00	Workshop Session 7: Setting Aside Awards/Enforcement of Awards
	End of Day 6: Overnight Homework on Draft Award

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Date/Time	Topic
Day 7: Friday 17 May 2024	<u>VENUE</u> : Maxwell Chambers
09:00-10:30	Topic 20. Purpose and Requirements of a Valid Award <ul style="list-style-type: none"> • Purpose and Requirements of a Valid Award • ICC Award Checklist
10:30-10:45	Morning Tea
10:45-11:45	Topic 21. Structure and Form of Award <ul style="list-style-type: none"> • The need for plain language • Dealing with the formal/preliminary section of the award (parties, representation, the arbitration Agreement, seat, rules, governing law)
11:45-13:00	Topic 22. Identifying Issues and Evidence: <ul style="list-style-type: none"> • Dealing with preliminary issues such as jurisdiction • Identifying the dispositive issues • Reasoning, including weighing evidence, types of evidence, burden and standard of proof, fact finding, identifying relevant legal rules, application of law to facts and arriving at a reasoned conclusion
13:00-14:00	Lunch
14:00-15:00	23: Addressing Essential Elements of the Award: <ul style="list-style-type: none"> • Interest • Costs • Dispositive Part of the Award • Publishing the Award
15:00-15:30	Afternoon Tea
15:30-17:00	Workshop Session 8: Discussing First Part of the Award Writing Exam. <ul style="list-style-type: none"> • How to set up the Award Template including headings and topics. • Release of the second part of the Award Writing Exam
	End of Day 7: Overnight Homework on Draft Award

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Date/Time	Topic
Day 8: Saturday 18 May 2024	<u>VENUE</u> : Allen & Gledhill
09:00-10:30	Topic 24: Award Writing plenary session including discussing the Second Part of the Award Writing Exam: <ul style="list-style-type: none"> • What are the issues disclosed in the Second Part of the Exam? • How to weigh the evidence disclosed
10:30-11:00	Morning Tea
11:00 -13:00	Topic 25. Award Writing -plenary session (continued)
13:00-14:00	Lunch
14:00-15:35	Workshop Session 9: Award writing Workshop in 3 Groups of 10
15:35-17:00	Workshop Session 10: Award Writing Workshop in 3 Groups of 10
	End of Day 8: Gala Dinner at TBC

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Date/Time	Topic
Day 9: Sunday 19 May 2024	<u>VENUE:</u> Allen & Gledhill
09:00-10:30	<p>Topic 26. International Maritime Arbitration</p> <ul style="list-style-type: none"> • Unique aspects of maritime arbitration compared with other types of commercial arbitration <ul style="list-style-type: none"> ○ Specialist Maritime Arbitration Centres <ul style="list-style-type: none"> ▪ London Maritime Arbitration Association ▪ Singapore Chamber of Maritime Arbitration ▪ China Maritime Arbitration Centre • Standard Maritime Arbitration Clauses <ul style="list-style-type: none"> ○ BIMCO Form standard clause ○ London Maritime Arbitration Association clause ○ Singapore Chamber of Maritime Arbitration clause • Main differences between the SIAC & SCMA Rules <ul style="list-style-type: none"> ○ New procedural mechanisms under SIAC 2016 Rules <ul style="list-style-type: none"> ▪ Expedited procedure (Rule 5) ▪ Emergency arbitrator procedure for interim conservatory relief (Rule 30) ▪ Consolidation (SIAC Rules 2016, Rules 6 & 8) ▪ Striking out and Summary Judgment (Rule 29) ○ Specialist procedures in the SCMA Rules <ul style="list-style-type: none"> ▪ Appointment from a panel of specialist maritime arbitrators ▪ SCMA Expedited Arbitral Determination of Collision (SCMA Rules, r7) ▪ Small Claim Procedure • Incorporation of maritime arbitration clauses in bills of lading • Interim Measures for Maritime Arbitration <ul style="list-style-type: none"> ○ Arrest for Vessels to Obtain Security for Arbitration Awards ○ Stay of Court proceedings ○ Other Court ordered interim measures in aid of arbitration: Section 12A of the IAA • Enforcement of Maritime Arbitration Awards
10:30-10:45	Morning Tea
10:45-13:30	<p>Topic 27. Construction Arbitration</p> <ul style="list-style-type: none"> • Features of Construction Contracts • Typical construction claims • Rules and Institutions • Dispute resolution procedures for construction claims • Typical Stages of a Construction Arbitration • Some salient features • Choice of Tribunal. • The trend for construction disputes: multi-tiered dispute resolution processes.
13:30-14:30	Lunch
14:30-16:00	<p>Topic 28. Investor State Arbitration</p> <ul style="list-style-type: none"> • The philosophical underpinnings of the international commercial arbitration system • The philosophical underpinnings of investor state arbitration system • Comparison between international commercial arbitration and investor state arbitration
16:00-17:00	<p>Closing Session:</p> <ul style="list-style-type: none"> • Discussion of Practice and Procedure Exam on 11 July 2024 • Discussion of Award Writing Exam on 16 August 2024 • Discussion of Peer Interview Process
	End of Course

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How is the Diploma Course structured?

The Asia Pacific Diploma in International Commercial Arbitration is delivered in 3 parts:

Part 1 – Law Practice and Procedure of International Commercial Arbitration (including Practice and Procedure examination on 11 July 2024).

Part 2 - Module 2 - Law of Obligations Exemption Test (as soon as possible upon confirmed registration in the course).

Part 3 - Award Writing course (including examination on 16 August 2024) This is the award writing component of the course which will be delivered on Day 7 and 8 of the course and will be the subject of an examination on 16 August 2024.

After successfully completing all parts, candidates are eligible to apply for a Peer Interview for Fellowship (FCI Arb).

Part 1: Law Practice and Procedure in International Commercial Arbitration

The Asia Pacific Diploma course is designed to provide a thorough understanding of the practice and procedure of international commercial arbitration. The Asia Pacific Diploma course is part of a joint venture between the Australian, Singapore and East Asia Branches of Ciarb. Part I of the Diploma Course looks at the legal and practical framework of international commercial arbitration. This includes relevant international instruments, types of arbitration, the powers of an arbitrator and the fundamentals of an enforceable award. It also gives candidates an opportunity to look deeper at discrete themes in:

- Construction Disputes
- Maritime Disputes
- Investor-State Disputes

What are the learning outcomes for Part 1?

On successful completion of this course candidates will be able to:

- Define what is meant by the term ‘international arbitration’;
- Identify, explain and apply the legal procedural principles, rules and agreements relevant to the conduct of an international arbitration including:
 - Limitations on matters that may be legally arbitrated;
 - The contractual nature of the appointment of an arbitrator;
 - The range and limitations of an arbitrator’s powers and jurisdiction;
 - The rights, duties and responsibilities of a party to an arbitration;

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- The methods of initiating and progressing an arbitration;
 - The relevance of national courts at all stages in an arbitration; and
 - The requirements of an enforceable award.
- Evaluate issues and apply the principles of the UNCITRAL Model Law appropriately;
 - Demonstrate practical skill in carrying out the tasks required in preparing for and progressing an international arbitration;
 - Demonstrate skill in controlling an international arbitration, communicating effectively with the parties, applying the UNCITRAL Arbitration Rules and adopting appropriate procedures.

What is covered in the syllabus for Part 1?

- Arbitration distinguished from other forms of dispute resolution;
- Nature and limits of arbitration and its treatment by various legal systems;
- Privacy, confidentiality and secrecy as well as data protection and transparency concerns;
- The role of national courts in support of the arbitral process;
- The legal framework: the importance of the seat, the New York Convention, procedural laws procedural rules, conflicts of laws;
- The use and adoption by governments of the UNCITRAL Model Law;
- The UNIDROIT Principles of International Commercial Contracts;
- Types of arbitration: ad hoc, institutional, documents only, time limited;
- Commencement of the arbitration, terms of reference;
- The arbitrators terms and conditions of appointment;
- Obligations of the tribunal, responsibilities and obligations of the parties;
- An arbitrator's jurisdiction, obligations and powers;
- Challenges to jurisdiction, conflicts of interest;
- Managing the arbitration process: communications, preliminary conference, interlocutory matters, dealing with factual and opinion evidence and disclosure of documents;
- Presenting the claim and defence; alternative methods;
- Preparation for and procedure at a typical hearing, contrasting common law and civil law jurisdictions;
- Essentials of an enforceable award;
- Costs, offers and interest; alternative approaches in different jurisdictions;
- Artificial intelligence and technology in arbitrations; and
- Maritime arbitration and construction arbitrations.

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How is Part 1 delivered?

Part 1 is delivered over 9 intensive days by expert tutors, with a combination of lectures, tutorials and discussion workshops dealing with international arbitration law, practice and procedure. Part 1 is delivered in person at Allen & Gledhill starting Saturday 11 May 2024 and concluding on Sunday, 19 May 2024. Lectures will begin at 9:00 am and end at 5:00 pm throughout the 9 days.

Candidates will be provided with 4 volumes of reference materials in hard copy which consist of Legislation & Conventions, Arbitration Rules, Arbitration Guidelines & CI Arb Practice Guidelines, which candidates will be trained to navigate during the tutorial sessions. It is recommended that candidates purchase the latest version of the text book Law & Practice of International Commercial Arbitration by Redfern & Hunter, Student Edition. The material canvassed on Day 9 is not examinable but provides some context to the examinable material canvassed on Days 1 to 7.

How will Part 1 be assessed?

Candidates are required to sit for one written examination. Candidates who fail the examination will be required to re-sit the examination.

This assessment is completed via LearnADR, CI Arb's online learning platform. Candidates will be given 48 consecutive hours within a 5-day window to submit their answers online. Candidates must achieve a minimum overall mark of 65% to pass the assessment.

The assessment will be split into 2 parts:

Part One: Is a compulsory case study exercise with a number of questions that candidates will be required to answer worth 40 marks.

Part Two: Consists of five questions, candidates are required to select and answer three questions worth 60 marks.

Results are dispatched to candidates normally between eight to twelve weeks from the date of the examination. Candidates are eligible to sit the Award Writing examination on 16 August 2024 notwithstanding the results of the Practice and Procedure Examination in Part 1 of the course have not been dispatched. Candidates who fail the Practice and Procedure exam will be required to re-sit the exam.

Part 2: Module 2 - Law of Obligations Exemption Test

Eligibility

If you hold a recognised law degree or can provide a copy of your practicing certificate, you will be eligible to take the exemption test for Module 2.

You will also be eligible if you can demonstrate you meet the following criteria:

- A minimum of five years of practical experience in the form of ADR learning;
- Substantial knowledge of some form of ADR;
- The ability to recognise and evaluate evidence;
- The ability to significantly evaluate and apply the principles and requirements in the same form of ADR; and
- Noticeable practical skill in the carrying out of tasks required in preparing for and progressing of some form of ADR.

When will I know if I have obtained the exemption?

You will receive your result immediately after submitting your test for marking. If you obtain the minimum score, you will be informed online and you will be presented with the ability to download a CIARB exemption certificate confirming that you have successfully completed and passed the Module 2 Exemption Test.

How many attempts am I allowed?

You only have one attempt to take the exemption test. Once you have started an attempt, you will have 1 hour 30 minutes to submit your selected answers. If you do not submit your test before the end of the time limit, it will class as a submission automatically and therefore will count as a fail.

How much does the exemption test cost?

The exemption test is £78 inclusive of VAT for candidates who can demonstrate they are eligible per above.

Candidates who are not able to provide proof of their eligibility will be required to complete the full Module 2 course and assessment.

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What does the exemption cover?

The test evaluates your current knowledge of CIArb's Module 2 course - Law of Obligations; therefore, the content of the test is on Contract and Tort.

Module 2 is the same module across all three Pathways (Arbitration, Adjudication and Mediation), therefore you will be required to demonstrate the required knowledge if you are to be exempt.

What is the structure of the test?

The test is an online multiple-choice test of 30 questions based on Contract and Tort. Candidates will be presented with a random pool of questions and will be required to select the right answer from a choice of four possible answers provided. The questions are selected randomly from a pool therefore no question structure is the same. On achieving the pass mark, you will be able to download your certificate of exemption to Module 2.

What is the pass mark?

You must score a minimum of 70% of the test to be eligible for exemption. Candidates are offered only one opportunity to pass the test.

You will have one attempt for the actual test.

Where a candidate scores under 70% they will be required to complete the full Module 2 course and assessment.

Will I see a timer?

Once you start the test, a countdown timer will appear in the top left-hand corner of the online application.

Do you provide mock tests before I take the actual exemption test?

Once you have registered for the Module 2 Exemption test you will have access to additional reading material which will assist you with any gaps in knowledge and a mock test on our learning platform.

Do I need to travel for this test?

No, the online exemption test will be made available for eligible candidates based on proof of pre-qualifying experience or practice via the CIArb online learning platform.

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Will there be set dates for the exemption test?

No, we will not be offering set dates for this test. The test should be taken as soon as possible upon confirmed registration on the course. Eligibility for exemption is based on experience and pre-qualifying knowledge. The test has been designed to evaluate candidates' knowledge on the subject of Contract and Tort. Candidates will be provided access to the test on providing proof of eligibility.

What if I don't pass the Module 2 exemption test?

If you don't pass the exemption test, you must complete the full Module 2 course and assessment.

Booking your Module 2 Exemption Test

In order to book a place on the Module 2 exemption test, please contact Rebecca Sydenham at rsydenham@ciarb.org

Part 3: Award Writing Course

The aim of Part 3 of the course is to provide candidates with the knowledge required to analyse submissions, arrive at a conclusion and write a final, reasoned and enforceable arbitration award in compliance with the UNCITRAL Model Law and Arbitration Rules.

Part 3 focuses on the processes followed by an arbitrator in defining the issues that have to be decided by an award, dealing with the submissions made by the parties, analysing the appropriate law, evaluating the evidence, applying the law to that evidence, arriving at a conclusion and then writing a final, reasoned and enforceable award. It is therefore valuable for anyone wishing to understand the processes involved in award writing. It is also an essential requirement for qualification as a Fellow and for those who aim to practice as an international arbitrator.

What are the learning outcomes of Part 3

- Recognising and evaluating evidence;
- Identify issues from the parties' submissions;
- Being able to create structure and deal with all the issues;
- Decide matters in dispute logically and in accordance with the law;
- The skill required to write awards correctly;
- Write the discursive and operative parts of the award;
- Being able to deal with the parties' costs and interest of an award;
- Allocate arbitrator's fees and expenses; and
- Demonstrate compliance with the legal and other requirements for an enforceable award.

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What is covered in the Syllabus for Part 3?

- The burden and standard of proof;
- Types of evidence: documentary vs non-documentary evidence, witnesses, experts, site inspection;
- Privilege;
- Disclosure of documents;
- Introduction: the purpose of the award
- Drafting awards;
- Legal and substantive requirements;
- Identifying the issues for determination;
- Reasoning, deliberations and decision making;
- Structure of an award;
- The form of the award; and
- Publishing an award

How is Part 3 Delivered?

On Days 7 and 8 during the training program by expert tutors with a combination of lectures, tutorials and discussion workshops dealing with all aspects of international arbitration award writing. This aims to mimic the Award Writing Examination which as described in this program is delivered in two parts. The first part of the exam is released 10 days before the assessment date (16 August 2024) and the second part of the exam is released on the assessment date. During the course the first part of a previous award writing examination will be released to candidates on Day 5 who will be required to set up a template for the award. The first part will be discussed in tutorials and workshops on Day 6. The second part of a previous award writing examination will be released on Day 7 and will be the subject of tutorials and workshops on Day 8.

How will Part 3 be assessed?

The award writing exam will assess your ability, in the context of an **ad hoc arbitration**, to write an award as a sole arbitrator that withstands scrutiny under the **NYC Model Law and UNCITRAL procedural rules**.

The award will be assessed on:

Technical merit: The drafting of the formalities and the operative award is technically accurate, comprehensive, and comprehensible.

- *Comprehensive:* includes a Header; names the Award, identifies the Parties, the Arbitrator and Counsel, an Introduction; the Facts of the Case; the Arbitration Agreement; the Applicable Laws and Rules to the Procedure and Substance; the Procedure for appointing the arbitrator; the Procedural History; the Jurisdiction; the Reasoning and Issues in Dispute; Pre and Post Award Interest; Costs; Dispositive, Place, Date and Signature.

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- *Accurate*: The above details are complete and accurate including the Tribunal's Jurisdiction and Governing Parameters, and that the Procedural History demonstrates due process and that all parties had full opportunity to present their case.
- *Comprehensible*: Language, formatting and numbering do not fundamentally obscure the meaning through incoherence, or ambiguity.

Judicial Merit: All the discrete issues in the dispute are identified, analysed with an appropriate level of factual and legal rigour, and effectively addressed. The findings are logically and unambiguously summarised as an enforceable award.

- **The Factual and Legal Analysis:** For each issue the facts and law are identified; the application of the law to the facts is explained; a conclusion on the resulting liability and quantum is clearly articulated. Each issue is effectively addressed, whether interlocutory/preliminary, substantive, or evidential.
- **Due Process:** The procedural history is comprehensive from the Notice of Arbitration to the award. It includes representation and witnesses; demonstrates due process and that all parties had a full opportunity to present their case; it leaves nothing unfinished.
- **Costs and Interest:** The award includes the arbitrator's findings on costs and interest comprehensively and coherently, taking account of compliance and sequencing. It includes the arbitrator's fee, the hearing costs, procedural costs and the parties' costs, and other costs.
- **Scrutiny:** The award is drafted to the standards required by the NYC and UNCITRAL Law, contains the necessary facts to counter grounds for vacation/nullity and addresses scrutiny points including defective arbitration agreements, denial of procedural fairness, improper tribunal composition and/or procedure, excess of jurisdiction.

Assessment of this component of the course will be by way of an open book examination available from 16 August 2024. Candidates must achieve a minimum overall mark of 70% to pass this Part. This assessment is completed via LearnADR, CIArb's online learning platform. Candidates will be given 48 consecutive hours within a 5-day window to submit their award online. Candidates must achieve 70% in Part A, Part B and overall to pass the assessment.

Part A: Focuses on technical merit and counts as 40% towards the overall mark.

Part B: Focuses on judicial merit and counts as 60% towards the overall mark.

The assessment is split into two stages:

Stage One: This consists of the papers in the case. They are sufficient to enable you to grasp the nature of the case and the likely legal problems. Most of the documents are extracts only. You should consider the recitals you intend to include and the relevant law. Stage One of the assessment is released via LearnADR 10 days before assessment start date on **16 August 2024**.

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Stage Two: This is the equivalent of the hearing stage. It includes an extract from your (i.e. the arbitrator's) notebook. This records the oral evidence and arguments the arbitrator has heard, as well as any other relevant documents. From the evidence you must make your findings of fact. Different candidates will no doubt make different findings. This is of no consequence, except that it means there are a great many possible answers to the question. When you have made your findings of fact, write the award. It must be a final award as regards the issues you decide. Stage Two is released at 12pm noon London on the assessment start date. Stage two will be available for 5 days from the assessment start date and within those 5 days, you will have 48 consecutive hours to submit your award back onto LearnADR.

Results are dispatched to candidates normally twelve weeks from the date of the submission of the examination. Candidates will be informed of any delays.

Candidates who fail the award writing examination will be required to re-sit the examination.

What are the entry requirements for the Diploma?

- Practising lawyers or other professionals who are familiar with legal reasoning and concepts **and** are involved in arbitration (domestic or international) who wish to increase their knowledge and understanding of international commercial arbitration; and
- Successful completion of Module 2 Law of Obligations or the exemption test. The exemption test is explained in this course brochure on page 32 to 34.

English Language Competence – As Ciarb training and assessment is carried out in English it is essential that candidates are proficient in both written and spoken English. Where English is not a candidate's first language it is recommended that they have achieved a standard that is, as a minimum, equivalent to the International English Language Testing System (IELTS) level 7 or a score of 94-101 in the Test of English as a Foreign Language (TOEFL) system. Ciarb issues this advice as a guideline and, while it will not require any evidence of this standard prior to enrolment on a course, candidates who do not have this standard of English may be disadvantaged.

What is the course fee for the Diploma Course and what does it include?

The fee for Parts 1 and 3 of the Diploma Course is **SGD 12,420.00** (inclusive of GST and assessment fees for Part 1 and Part 3). It does not include the assessment fee for The Law of Obligations Exemption Test. Arrangements to sit the exemption test must be made directly with Ciarb London.

The registration fee includes:

- Registration for the Diploma Course
- Full tuition and access to study materials

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- A first attempt at the Part 1 & 3 assessments
- Lunch and refreshments throughout the duration of the 9 day course
- Welcome Reception for Faculty and Candidates at Venue TBC
- Mid-course Dinner at Venue TBC
- End of Course Gala Dinner at Venue TBC

Overseas candidates must make all necessary arrangements for any visa requirements when travelling to Singapore. Visa arrangements should be made as early as possible as refunds cannot be made due to inadequate visa arrangements. Please note that the Ciarb is not able to assist with obtaining entry visas

What is my next step when I complete the course?

On successful completion of the Diploma course, candidates:

- will be awarded a Diploma in International Commercial Arbitration.
- will be able to progress onto the Peer Interview
- will be eligible to apply for Fellow grade of Ciarb and take advantage of a range of educational and professional benefits once they have been successful in the Peer Interview.

How to apply for the course?

The course is limited to 30 candidates.

Please register via the link below and attach your CV during the registration:

<https://forms.gle/gD8kT6LjwyQAXryd7>

Once you have been approved by the Course Directors, send proof of satisfactory completion of Module 2 or the Exemption Test together with your course payment to: secretariat@ciarb.org.sg

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57.5 Public CPD Points
Practice Area: Alternative Dispute Resolution
Training Level: Advanced

Day 1 (11 May 2024): 6.5 Public CPD Points
Day 2 (12 May 2024): 6.5 Public CPD Points
Day 3 (13 May 2024): 6.5 Public CPD Points
Day 4 (14 May 2024): 6 Public CPD Points
Day 5 (15 May 2024): 6.5 Public CPD Points
Day 6 (16 May 2024): 6.5 Public CPD Points
Day 7 (17 May 2024): 6.5 Public CPD Points
Day 8 (18 May 2024): 6.5 Public CPD Points
Day 9 (19 May 2024): 6 Public CPD Points

SILE Attendance Policy

Participants who wish to obtain CPD Points must comply strictly with the Attendance Policy set out in the CPD Guidelines. For this activity, participants are reminded to sign in on arrival and sign out at the conclusion of each day of the event in the manner required by the organiser. Participants must not be absent from each day of the event for more than 15 minutes. Participants who do not comply with the Attendance Policy on any particular day of the event will not be able to obtain CPD Points for that day. Please refer to <http://www.sileCPDcentre.sg> for more information.