

**LL.M. DEGREE IN ARBITRATION &
DISPUTE RESOLUTION**

COURSE OFFERINGS: COMPULSORY & OPTIONAL

ACADEMIC YEAR 2009 – 2010

I 1st SEMESTER 2009-2010

ALTERNATIVE DISPUTE RESOLUTION

LLAW 6135 (Compulsory Module for all LLM in Arb & DR students)

Teachers: Ms. Katherine Lynch

Teaching Schedule: Mondays @ 6:30 – 9:30 pm @ HKIAC, 1st Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 students maximum)

*No cross listing of this course

Course Description:

In traditional legal studies, the judicial process (courtroom litigation) is often assumed to be the best means of resolving disputes. This adversarial approach shapes the views of future lawyers about the nature and pattern of disputes, as well as the preferred method of dispute resolution. This module seeks to counter that approach by analyzing the form and nature of disputes and examining the various methods of "alternative" (or "additional") dispute resolution ("ADR"), particularly in the context of Hong Kong and the Asia Pacific region. Students will consider the range of alternative methods of dispute resolution encountered in legal practice, and their use and application in Hong Kong and in the Asia Pacific region. They will critically analyze and evaluate the various alternative methods of dispute resolution by considering such issues as the legitimate expectations of disputants, quality of and access to justice, public and private costs of ADR and the politics of informal justice. Students will evaluate the application of ADR methods in various areas of law to assist them in advising future clients about the suitability of various dispute resolution processes. The module will also provide students with some basic experience in negotiation, mediation and arbitration through role-playing exercises and videotape analysis. The critical, theoretical and evaluative material will be combined with role-playing exercises for a better understanding of the characteristics of various dispute resolution methods.

ARBITRATION LAW

LLAW 6138 (Compulsory Module for all LLM in Arb & DR students)

Teacher: Mr. Philip Yang (plus practitioner tutors)

Teaching Schedule: Wednesdays @ 6:30 – 9:30 pm @ HKIAC, 1st Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 maximum)

*No cross listing

Course Description:

The Arbitration Law module seeks to provide students with sufficient knowledge and understanding of the law of arbitration. Issues discussed in the module will cover the fundamental principles of arbitration law; the importance of the Hong Kong Arbitration Ordinance when deciding disputes; the essential elements of a binding arbitration agreement and an enforceable arbitration award; the ambit of the power of an arbitrator and the important division of powers between the courts and the arbitrator; arbitration procedure (including preliminary meetings, interlocutory proceedings, arbitration hearings, presentation of evidence), application of substantive law, arbitrator's decision making and rendering of an arbitration award. Students will read and analyze the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

LEGAL SYSTEM & METHODS

LLAW 6160 (Compulsory Module for all Non-Law Students in LLM Arb&DR)

Teachers: Dr. Robert Morris

Teaching Schedule: Thursdays @ 6:30 – 9:30 pm @ HKU, 1st Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 students maximum)

Course Description:

The aim of the Legal System & Methods module is to provide students who do not have a first degree in law with sufficient knowledge and understanding of the HKSAR legal system and legal research, legal analysis and legal reasoning. The module will also introduce students to law of tort and teach them how to apply their knowledge of the principles of the law of negligence in the context of hypothetical fact patterns. The module will provide an introduction to the HKSAR legal system and introduce students to sources of law, categories of law, the courts, the civil process in HKSAR and the personnel of the legal system. Students will be trained in the use of legal materials and introduced to the case law process, the precedent system, the legislative process and approaches to statutory interpretation. Students will acquire and develop basic legal skills such as legal research, legal analysis and legal reasoning. Students will develop an understanding of the principles of the tort of negligence, occupier's liability and nuisance and their application and operation. They will also discuss the potential overlap between tort and contract claims and their remedies.

MEDIATION

LLAW 6161 (Compulsory Module for all LLM in Arb & DR students)

Teachers: Mr. David Newton, Dr. Shahla Ali and Ms. Katherine Lynch (plus 4 mediation trainers for each course)

Enrolment Limited: LL.M. in Arb & DR students only (30 students maximum for each course) *No cross listing of this course

Teaching Schedule: (Thursday, Friday evenings and full days Sat and Sun for 2 weeks)
HKU Council Chamber – 8th Floor Meng Wah Complex

Mediation Course 1: For Law students

Thursday and Friday, Sept. 10, 11 and Sept. 24 & 25 from 6:30 pm – 9:30 pm
Saturday & Sunday, Sept 12 & 13 and Sept. 26 & 27 from 9:00 am – 5:00 pm

Mediation Course 2: For Non-Law students

Thursday and Friday, Oct 15 and 16 and Oct 29 & 30 from 6:30 pm – 9:30 pm
Saturday & Sunday, Oct 17 & 18 and Oct 31 & Nov 1 from 9:00 am – 5:00 pm

Course Description:

The mediation module is a comprehensive 40 hour module approved by the Hong Kong International Arbitration Centre's Mediator Accreditation Committee to satisfy Stage 1 of the mediator accreditation process. Participants are educated and trained in the process of mediation and the necessary skills required for effective mediation of disputes and are also assessed for HKIAC mediator accreditation. While the participants will be introduced to a broad range of dispute resolution processes, the course focuses specifically on the process of mediation, including the structure and phases of mediation, the essential communication skills, management of the mediation process and effective mediation skills.

The teaching of the Mediation Skills Training Course relies on an interactive and role playing method of learning and participants must have sufficient command of English language to comprehend and express themselves in an articulate manner. The course involves education and training in the mediation process, management and communication skills and the core skills necessary to conduct an effective mediation. Case studies, large and small group discussions, role playing (of different parts - the mediator, mediating party and advisor), Faculty coaching, individual feed back and peer review are all utilized. The participants mediate simulated cases with Faculty observation and assessment of mediation performance. Participants must complete the practical spoken part of the mediation assessment and may also be required to submit written assignments as part of the course assessment e.g. dealing with mediated settlement agreements and other mediation issues.

LLM DISSERTATION

LLAW 6014 (Elective Module - 2 units) LLAW 6054 (Elective Module - 1 unit)

Teacher: See LL.M. in Arbitration & Dispute Resolution Programme Director

Enrolment Limited: LL.M. Degree students

Course Description:

Students, whether full-time or part-time, may choose to submit a dissertation equivalent to either one module or two modules and must submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.

A **two-module dissertation** shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee.

A **one-module dissertation** shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

INTERNATIONAL TRADE LAW I

LLAW 6128 (Elective Module)

Teacher: Mr. Don Lewis

Teaching Schedule: Tuesday evenings 6:00 – 9:00 pm @ HKU, 1st Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

International trade terms and the use of documents in export sales; contract issues in the international trade context; China trade comparisons; attempts at standardisation, codification and unification; Hong Kong regulation of international sales transactions; bills of exchange; collections; documentary credits; bank guarantees and performance bonds; export credit insurance.

PUBLIC INTERNATIONAL LAW

LLAW6109 (Elective Module)

Teacher: Ms. Suzannah Linton

Teaching Schedule: Wednesday evenings 6:00 – 9:00 pm @ HKU, 1st Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

This is an introductory course in the theory and practice of public international law. Topics will include the historical development of international law; sources of international law; the concepts of sovereignty and statehood; jurisdiction and territory; state responsibility; law-making through treaties and other means; the use of force; human rights; and international institutions.

CHINA TRADE LAW
LLAW** (Elective Module)**

Teacher: Mr. Don Lewis

Teaching Schedule: Thursday evenings 6:00 – 9:00 pm @ HKU, 1st Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

This course provides a comprehensive treatment of the major legal aspects of international trade, investment, finance and dispute resolution in the People's Republic of China. After a brief introduction to the Chinese legal system, the course concentrates on foreign-related legislation governing trade and investment in China. Particular attention is given to standard-form and model contracts as well as prevailing Chinese practices in the fields of trade and investment.

**REGULATION OF CYBERSPACE I: TECHNOLOGY AND
INTERNET GOVERNANCE**
LLAW6141 (Elective Module)

Teacher: Mr. Marcelo Thompson

Teaching Schedule: Wednesday evenings 6:00 – 9:00 pm @ HKU, 1st Semester

Enrolment Limited: LL.M. Degree and LL.B. students

*** PLEASE NOTE ***

**STUDENTS SHOULD ALSO CHECK THE LAW FACULTY
COURSE CALENDAR AND TIMETABLE FOR OTHER POSSIBLE
ELECTIVE COURSES IN THE 1ST TERM**

II 2nd SEMESTER 2009 - 2010

ARBITRATION PRACTICE, PROCEDURE & DRAFTING (INCLUDING AWARDS)

LLAW 6157 (Compulsory Module for all LLM in Arb & DR students)

Teacher: Mr. Philip Yang (plus practitioner tutors)

Teaching Schedule: Wednesdays @ 6:30 – 9:30 pm @ HKIAC, 2nd Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 students maximum)

Course Description:

The aim of the Arbitration Practice, Procedure & Drafting course is to provide students with sufficient knowledge of and practice in the key procedural features in an arbitration (including preliminary meetings and the hearings, discovery and inspection of documents, interlocutory proceedings, pleadings and submissions, evidentiary issues, decision making and arbitration awards). There is particular focus on developing the students' ability to dispense independent advice about the arbitration process with confidence. The course also considers the knowledge and practical skills necessary to write a final, reasoned and enforceable arbitration award. Students will consider the specific drafting requirements of an arbitration agreement and then consider the important procedural features of the arbitration process, including preliminary meetings, discovery and inspection of documents, arbitration hearings, making submissions before an arbitrator or tribunal, making interlocutory applications, the presentation and reception of evidence, decision making and arbitration awards. Students will also consider the essential elements of drafting a final, reasoned and enforceable arbitration award that is clear, cogent, comprehensive and concise.

CONTRACT LAW

LLAW 6158 (Compulsory Module for Non-law LLM in Arb & DR Students)

Teacher: Mr. Lee Aitken and Dr. Shahla Ali

Teaching Schedule: Thursdays from 6:30 – 9:30 pm @ HKU, 2nd Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 students maximum)

Course Description:

The aim of the Contract Law module is to provide students who do not have a first degree in law with sufficient knowledge and understanding of the law of contract. Students will be introduced to the concept of incurring obligations by agreement and will study the formation of a contract and the basic elements of an enforceable contract, including agreement, consideration, and the intention to create legal relations. The important contents of a contract, including the express and implied terms, will be considered along with exemption clauses. Students will read and analyze the sources of contract law, including both judicial decisions (case law) and statutes.

The following topics will be covered in the Contract Law module:

Contract Formation:

Offer and acceptance; consideration and estoppel; privity of contract; intention to create legal relations; and formalities and certainty.

The Contents of a Contract:

Statements, representations and terms; implied terms; classification of terms; and incorporation, construction and statutory control of exclusion clauses.

Vitiating Factors:

Misrepresentation: Mistake; Duress and undue influence; and illegality (briefly)

Discharge and Remedies:

Discharge by agreement, performance, breach and frustration; the aim of contract damages; the measure and calculation of damages; rules of remoteness and the mitigation principle; equitable remedies of specific performance and injunctions.

Outline of Agency Principles:

The creation of agency and the concept of authority; the rights and duties of an agent; the effects of agency as between the agent and third party, principal and agent, principal and third party; termination of agency; and the Commercial Agents (Council Directive) Regulations.

EVIDENCE

LLAW 6159 (Compulsory Module for Non-Law LLM in Arb & DR Students)

Teacher: Mr. Lee Aitken

Teaching Schedule: Tuesday evenings 6:30 – 9:30 pm @ HKU, 2nd Semester

Enrolment Limited: LL.M. in Arb & DR students only (40 students maximum)

Course Description:

The aim of the Evidence course is to provide students who do not have a first degree in law with sufficient knowledge and understanding of the law of evidence. The specific educational objectives of this module are to introduce and apply evidential rules and principles and to introduce students to the important role of reading and analyzing the sources of law of evidence and its admissibility, including both judicial decisions (case law) and statutes. Topics discussed in the module include:

- The Fact-Finding Process: Facts in Issue/ Facts Relevant to Facts in Issue (circumstantial evidence)/ Collateral Facts: Types of Evidence (oral testimony, documentary evidence, real evidence): Admissibility/ weight: Arbitration distinguished from a trial court
- Burdens and Standards of Proof: Relevance
- Oral Testimony: Competence & compellability/ oaths and affirmations/ live links/ which witnesses must or may be called/ witness statements/evidence in chief/ cross examination/ re-examination/ questions from the arbitrator/ credibility
- Documentary Testimony: affirmations/ witness statements/ depositions/ court documents/ methods of obtaining the same/ interrogatories

- Real evidence: uses/ chain of custody/ means of adducing
- Documentary Evidence: nature of/ proof and admissibility/ interpretation and parole evidence rule
 - Hearsay explained, recognized, weighed.
 - Opinion Evidence with specific emphasis upon expert evidence
 - Disclosure and Discovery Obligations and Options with special emphasis upon obligations pursuant to the Arbitration Ordinance, Evidence Ordinance, and Rules of the High Court
 - Legal Professional Privilege I (communication between client and legal adviser)
 - Legal Professional Privilege II (litigation privilege)/ Without Prejudice Privilege/ Matrimonial Reconciliation privilege
 - Public Interest Immunity

NEGOTIATION: SETTLEMENT & ADVOCACY

LLAW 6163 (Elective Module)

Teacher: Dr. Shahla Ali

Teaching Schedule: Intensive Teaching mode: 2 week period in January 2010
HKU Council Chamber, 8th Floor Meng Wah Complex

Thursday and Friday, January 7 & 8 and January 14 & 15 from 6:30 pm – 9:30 pm
Saturday & Sunday, January 9 & 10 and January 16 & 17 from 9:00 am – 5:00 pm

Enrolment Limited: LL.M. students only (Priority will be given to all LL.M. in Arb & DR students - maximum enrolment of 40 students). * No cross listing

Course Description:

This Negotiation module will introduce students to a conceptual framework for analyzing, preparing and conducting negotiations and offer students some practical experience in using this framework. This module is offered in an intensive format with only a small part devoted to lectures; the major focus of the module will be in negotiation and analyzing a series of negotiating exercises designed to highlight a range of important issues about the negotiation process. As this Negotiation module combines both theory and practice, fluency in English is a must for students who will actively participate in negotiation exercises, case simulations and small group debriefs. A range of issues will be discussed in the course including: elements of the negotiation process; planning for an effective negotiation (considering negotiation models, strategies, and tactics); how to conduct an effective negotiation and achieve good substantive outcomes the acquisition of effective negotiation skills and how to deal with difficult negotiators.

INTERNATIONAL COMMERCIAL ARBITRATION

LLAW 6099 (Elective Module)

Teacher: TBC

Teaching Schedule: Monday evenings 6:30 – 9:30 pm @ HKIAC, 2nd Semester

Enrolment Limited: LL.M. and LL.B. Degree students – maximum 30 students

Course Description:

The main focus of the course will be on the use of arbitration to resolve disputes arising out of such international commercial transactions. The course will consider the following topics: the sources of international arbitration law (national and international), ad hoc and institutional arbitration, model arbitration laws and arbitration rules, arbitration laws of the HKSAR, the PRC and other Asia-Pacific states, and issues relating to the international arbitral process and procedure, such as the arbitrability of disputes, enforceability of arbitration and submission agreements, appointment and powers of arbitrators, jurisdictional challenges, applicable law (both procedural and substantive), the form of the arbitration hearing, interim and final remedies, evidentiary matters (hearings and discovery), rendering of arbitral awards (including challenges and appeal), and recognition and enforcement of arbitral awards.

DISPUTE RESOLUTION IN THE PRC

LLAW 6029 (Elective Module)

Teacher: Dr. Gu Weixia

Teaching Schedule: Thursday evenings 6:00 – 9:00 pm @ HKU, 2nd Semester

Enrolment Limited: LL.M. and LL.B. Degree students – maximum 30 students

Course Description:

This course examines the major features of commercial dispute resolution in the People's Republic of China. Chinese approaches to disputes and dispute settlement, including cultural and political influences, will be considered at the outset. The four principal Chinese institutions for commercial dispute resolution - amicable negotiations, conciliation, arbitration and litigation - will be the focus of the course, with an emphasis on commercial arbitration. Administrative channels for resolving disputes will also be discussed. Both PRC foreign-related and domestic commercial arbitration will be treated at length. Arbitration before the China International Economic and Trade Arbitration Commission (CIETAC) will be a prominent feature of this part of the course, including an examination of the jurisdiction, procedures and practices of CIETAC. The emergence of reorganized domestic arbitration commissions will be discussed, including arbitral procedures and practices. Issues of enforcement of both Chinese and foreign arbitral awards in the PRC will also be covered. Other topics include: institutional conciliation before the Beijing Conciliation Centre and in the People's Courts; joint conciliation; enforceability of conciliation agreements; foreign-related litigation in the People's Courts, including court organization, jurisdiction and

venue, service of process, preservation measures, pre-trial and trial procedures, appellate procedures and enforcement of judgements; and bilateral judicial assistance agreements. A reading knowledge of simplified Chinese characters would be desirable.

ONLINE DISPUTE RESOLUTION

LLAW 6176 (Elective Module)

Teacher: Dr. Zhao Yun

Teaching Schedule: Monday evenings 6:30 – 9:30 pm @ HKU, 2ND Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

This course will introduce to the students how to use information technology to facilitate the resolution of disputes between parties. Despite the prevalent impression that online dispute resolution (ODR) is simply the online equivalent of alternative dispute resolution (ADR), the course will demonstrate to the students that ODR can augment the traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Although the course will focus on the technological application in those out-of-court alternative dispute resolutions, it by no means ignores the potential that all these technologies may be applied directly in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical values to academics and practitioners.

INTERNATIONAL TRADE LAW II

LLAW 6129 (Elective Module)

Teacher: Mr. Don Lewis

Teaching Schedule: Tuesday evenings 6:00 – 9:00 pm @ HKU, 2ND Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

Carriage by sea; carriage by air; multi-modal transport and containerisation; marine insurance; commercial arbitration regimes in Hong Kong and abroad; public regulation of international trade including aspects of the General Agreement on Tariffs and Trade and Multi-fibre Agreement.

INTERNATIONAL DISPUTE SETTLEMENT

LLAW 6007 (Elective Module)

Teacher: Mr. James Fry

Teaching Schedule: Friday evenings 6:30 – 9:30 pm @ HKU, 2nd Semester

Enrolment Limited: LL.M. Degree students only

CHINA INVESTMENT LAW
LLAW6* (Elective Module)**

Teacher: Mr. Don Lewis

Teaching Schedule: Thursday evenings 6:00 – 9:00 pm @ HKU, 2ND Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

Areas treated in detail include: customs; import and export licensing; foreign economic contract law; technology transfer; trade finance; compensation trade; investment protection; foreign investment vehicles — equity joint ventures, co-operative ventures and wholly foreign-owned subsidiaries; special investment regimes — Special Economic Zones, Economic and Technological Development Zones and the Open Coastal Cities; foreign exchange problems; taxation and investment finance. Dispute resolution is also considered at length, with discussion of Chinese and third-country arbitration and enforcement of foreign arbitral awards as well as litigation in the People's Courts. A reading knowledge of simplified Chinese characters would be desirable.

**INTERNATIONAL & COMPARATIVE INTELLECTUAL
PROPERTY LAW**
LLAW6132 (Elective Module)

Teacher: Dr Li Yahong

Teaching Schedule: Thursday evenings 6:00 – 9:00 pm @ HKU, 2ND Semester

Enrolment Limited: LL.M. Degree and LL.B. students

Course Description:

This course examines the international framework within which intellectual property law operates, including copyright, patents, trade marks, designs and other forms of intellectual property. The course examines how multilateral Conventions and other agreements such as TRIPS shape national intellectual property laws, the effect of international bodies such as WIPO and WTO, the role of bilateral agreements, and other international influences on the development of intellectual property laws. The course also discusses the enforcement provisions (i.e. civil and criminal process); dispute resolution (including the new WTO decisions on intellectual property); and the overall implications for global competition between developed and developing countries in an integrated world market. Previous or concurrent study of any other intellectual property law is strongly recommended.

REGULATION OF CYBERSPACE II:
LLAW6* (Elective Module)**

Teacher: Mr. Marcelo Thompson

Teaching Schedule: Wednesday evenings 6:00 – 9:00 pm @ HKU, 2ND Semester

Enrolment Limited: LL.M. Degree and LL.B. students

***** PLEASE NOTE ***:**

STUDENTS SHOULD ALSO CHECK THE LAW FACULTY COURSE CALENDAR AND TIMETABLE FOR OTHER POSSIBLE ELECTIVE COURSES IN THE 2ND TERM

III COURSES NOT BEING OFFERED IN 2009 - 2010:

FAMILY MEDIATION

LLAW 6174 (Elective Module)

PRINCIPLES OF FAMILY LAW

LLAW 6164

COLLABORATIVE PRACTICE & MEDIATION

LLAW 6162 (Elective Module)

DISPUTE RESOLUTION SYSTEM DESIGN

LLAW ***** (Elective Module)

DISPUTE SETTLEMENT IN THE WTO

LLAW 6136 (Elective Module)

WORLD TRADE ORGANIZATION : LAW AND POLICY

LLAW 6039 (Elective Module)

CURRENT ISSUES IN INTERNATIONAL ARBITRATION AND DISPUTE SETTLEMENT

LLAW 6137 (Elective Module)

CIVIL AND COMMERCIAL LAW IN THE PRC

LLAW6003 (Elective Module)

INTERNATIONAL COMMERCIAL TRANSACTIONS

LLAW6006 (Elective Module)

CURRENT ISSUES IN PRC COMMERCIAL LAW

LLAW 6028 (Elective Module)

SELECTED ISSUES ON WTO AND CHINA

LLAW6134 (Elective Module)