

## **REGULATIONS FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION (LLM[ARB&DR])**

*(See also General Regulations)*

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### **Admission Requirements**

LL86. To be eligible for admission to the courses leading to the degree of Master of Laws in Arbitration and Dispute Resolution, a candidate shall

- (a) comply with the General Regulations; and
- (b)
  - (i) hold the degree of Bachelor of Laws with at least second class honours of this University; or
  - (ii) hold a degree in law with at least second class honours from another university or comparable institution accepted for this purpose; or
  - (iii) hold a degree in a discipline other than law with at least second class honours or qualification of equivalent standard from this University or from another university or comparable institution accepted for this purpose and provided that the Faculty Higher Degrees Committee is satisfied that by reason of candidate's background, experience and professional qualifications, if any, the candidate is fit to follow the programme; or
  - (iv) have been admitted to the professional practice of law in Hong Kong or in a territory or country other than Hong Kong; or
  - (v) have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained at least a second class honours degree of this University or from another university or comparable institution accepted for this purpose.

LL87. A candidate for admission under Regulation (b)(ii), (b)(iii), (b)(iv) or (b)(v) above shall produce evidence of sufficient academic attainment and shall satisfy the examiners in a qualifying examination if such an examination is required. A candidate who fails to meet the requirements of (b)(i), (b)(ii), (b)(iii), (b)(iv) or (b)(v) above by reason only of the fact that his or her degree is not of at least second class honours standard may, nevertheless, be admitted provided that the Faculty Higher Degrees Committee is satisfied that by reason of his or her background, experience and professional qualifications, if any, the candidate is fit to follow the courses.

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### **Qualifying Examination**

LL88.

- (a) A qualifying examination may be set to test the candidate's formal academic ability or his or her ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
- (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.

### **Award of Degree**

LL89. To be eligible for the award of the degree of Master of Laws in Arbitration and Dispute Resolution, a candidate shall

- (a) comply with the General Regulations; and
  - (b) complete the curriculum and satisfy the examiners in accordance with the regulations set out below.
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### **Length of Curriculum**

LL 90. The curriculum shall comprise approximately 300 hours of prescribed work. It shall extend over one academic year of full-time study or two academic years of part-time study. To complete the curriculum, a candidate shall

- (a) in the case of a full-time candidate satisfactorily complete courses equivalent to 8 modules;
  - (b) in the case of a part-time candidate satisfactorily complete courses equivalent to 4 modules in each of the two years of study;
  - (c) satisfactorily complete all prescribed written and other work and comply with attendance requirements;
  - (d) satisfy the examiners in each course of instruction by either assessed written work carried out during the course or a written examination at the end of the teaching programme or both; and
  - (e) satisfy the examiners in an oral examination if such an examination is required.
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### **Dissertation**

LL91. A candidate, whether full-time or part-time, who elects to submit a dissertation equivalent to either one module or two shall 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.

LL91(a). In exceptional circumstances a candidate may apply to the Faculty Board for an extension of the period within which the dissertation must be presented.

LL91(b). The candidate shall submit a statement that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.

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### **Failure to Satisfy the Examiners**

LL92. A candidate who has failed to satisfy the examiners in not more than two modules in any academic year may be permitted

- (a) to attend a supplementary examination; or
- (b) to repeat the module(s) at the next available opportunity and to re-take the prescribed examination or examinations; or

- (c) to re-take the prescribed examination or examinations at the next available opportunity without repeating the module(s); or
- (d) to undertake the study of an alternative module(s) at the next available opportunity and to take the prescribed examination or examinations.

LL93. A candidate who has failed to present a satisfactory dissertation may be permitted, subject to his or her performance in other examinations, to revise the dissertation and to re-present it within a specified period as determined by the Board of Examiners after receiving a notice that it is unsatisfactory.

LL94. A candidate who is not permitted to present himself or herself for re-examination in any module(s) in which he or she has failed to satisfy the examiners or to revise and re-present the dissertation shall be recommended for discontinuation of studies under General Regulation G 12.

### **Absence From Examination**

LL95. A candidate who is unable because of illness or other acceptable reason to attend for examination may apply for permission to attend for examination at some other time.

### **Examination Results**

LL96. At the conclusion of the examination a pass list shall be published. A candidate who has shown exceptional merit at the whole examination may be awarded a mark of distinction and this mark shall be recorded in the candidate's degree diploma.

### **Advanced Standing and Exemption**

LL97.

- (a) The Board of the Faculty of Law may grant advanced standing to any candidate up to the maximum of 2 modules, on the ground that equivalent subjects have been passed at another university or comparable institution accepted by the Senate for this purpose: provided that no candidate shall be eligible for the award of the degree of the Master of Laws in Arbitration and Dispute Resolution without having earned at least 6 modules by satisfactorily completing courses in this programme.
- (b) A candidate may be exempted from any of the compulsory modules up to the maximum of 2 modules, on the ground that equivalent subjects have been passed at another university or comparable institution accepted by the Senate for this purpose: provided that he or she shall be required to take an approved alternative module under the syllabus of this programme.
- (c) Application for advanced standing and/ or exemption shall normally be made at the same time of application for admissions to the programme, and should be accompanied by copies of academic transcripts to support the application.

Candidates will not be given any credits from course(s) being exempted or for advanced standing being granted. The total number of course exemption is 2 and advanced standing is 2.

**Publication**

LL98. Any publication based on work approved for this degree should contain a reference to the effect that the work was submitted to the University of Hong Kong for the award of the degree.

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**SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION**

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**COURSEWORK**

The Board of Examiners shall decide what proportion of the final assessment for each module shall be determined by written work carried out during the course. Candidates will be informed at the beginning of the course of the relative proportions of the final assessment to be derived from coursework and from written examinations which will be held at the end of the teaching programme.

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**OBJECTIVES**

Hong Kong is an ideal venue for the arbitration and mediation of disputes arising out of international commercial and financial investment in Hong Kong, mainland China and the rest of the Asian region. As the Hong Kong Special Administrative Region Government has stated its goal of developing Hong Kong as an international centre for dispute resolution, the Faculty of Law is offering the degree of Master of Laws in Arbitration and Dispute Resolution to train professionals with the necessary knowledge, skills and expertise in dispute resolution methods, including negotiation, mediation and arbitration. This new specialized postgraduate degree programme is part of a comprehensive Arbitration and Dispute Resolution Teaching and Research Initiative being launched by the Faculty of Law. This initiative seeks to (a) better serve the dispute resolution needs of Hong Kong's business, commercial and broader community; and (b) advance the Faculty as a regional and international centre of excellence in the teaching and research of negotiation, mediation, arbitration and dispute resolution generally.

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**STRUCTURE**

Each candidate is required to complete a total of 8 modules.

A candidate who holds a degree in law will be required to take four compulsory modules. He or she may apply to choose the remaining four modules from among the modules developed by the Faculty of Law for this programme or, with the approval of the Chairman of the Faculty Higher Degrees Committee and the Director of this programme, up to 2 modules from modules/courses offered under the other specialist programmes or by any other Department in the University or by any other approved Universities offering LLM programmes. Such application shall be approved by the Chairman of the Higher Degrees Committee and the Director of this programme who have to be satisfied that such course(s)/module(s) from any other Department or Departments are of equivalent standard to that or

those listed in this syllabus. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s)/module(s).

A candidate who holds a degree in a discipline other than law will be required to take seven compulsory modules. He or she may apply to choose the remaining one module from among the modules developed by the Faculty of Law for this programme.

A candidate, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee and the Director of this Programme of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of the Faculty Higher Degrees Committee and the Director of this Programme in the light of the availability of resources. In any academic year only some of the modules listed will be available.

## **DISSERTATION**

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.

## **PROGRAMME STRUCTURE**

Candidates with a degree in law will follow the following syllabus:

### ***Compulsory Modules (One module)***

LLAW6135 Alternative Dispute Resolution  
 LLAW6138 Arbitration Law  
 LLAW6157 Arbitration Practice, Procedure and Drafting  
 LLAW6161 Mediation

### ***Elective Modules***

(Candidates must choose four modules from the list below)

#### *One module*

LLAW6185 China Investment Law  
 LLAW6186 China Trade Law  
 LLAW6162 Collaborative Law and Practice  
 LLAW6217 Culture, Diversity and Power in Dispute Resolution  
 LLAW6137 Current Issues in International Arbitration and Dispute Settlement  
 LLAW6214 Current Issues in Chinese Law  
 LLAW6029 Commercial Dispute Resolution in China  
 LLAW6173 Dispute Resolution Systems Design  
 LLAW6136 Dispute Settlement in the WTO: Practice and Procedure  
 LLAW6174 Family Mediation  
 LLAW6222 Financial Dispute Resolution: Hong Kong & International Perspectives

LLAW6099 International Commercial Arbitration  
 LLAW6006 International Commercial Transactions  
 LLAW6007 International Dispute Settlement  
 LLAW6182 International Organizations  
 LLAW6128 International Trade Law I  
 LLAW6132 International and Comparative Intellectual Property Law  
 LLAW6227 Introduction to Private International law (Conflict of Laws)  
 LLAW6163 Negotiation: Settlement and Advocacy  
 LLAW6176 Online Dispute Resolution  
 LLAW6196 Preventative Law: Approach to Conflict Prevention and Resolution  
 LLAW6164 Principles of Family Law  
 LLAW6109 Public International Law  
 LLAW6141 Regulation of Cyberspace  
 LLAW6134 Selected issues: WTO and China  
 LLAW6211 World Trade Law, Policy and Business

*One/ Two modules*

LLAW6054/ LLAW6014 Dissertation\*

Candidates with a degree in a discipline other than law will follow the following syllabus:

***Compulsory Modules (One module)***

LLAW6135 Alternative Dispute Resolution  
 LLAW6138 Arbitration Law  
 LLAW6157 Arbitration Practice, Procedure and Drafting  
 LLAW6158 Contract Law  
 LLAW6159 Evidence  
 LLAW6160 Legal System and Methods  
 LLAW6161 Mediation

***Elective Modules (One module)***

(Candidates must choose one module from the list below)

LLAW6185 China Investment Law  
 LLAW6186 China Trade Law  
 LLAW6162 Collaborative Law and Practice  
 LLAW6217 Culture, Diversity and Power in Dispute Resolution  
 LLAW6137 Current Issues in International Arbitration and Dispute Settlement  
 LLAW6214 Current Issues in Chinese Law  
 LLAW6029 Commercial Dispute Resolution in China  
 LLAW6173 Dispute Resolution Systems Design  
 LLAW6136 Dispute Settlement in the WTO: Practice and Procedure  
 LLAW6054 Dissertation\*  
 LLAW6174 Family Mediation  
 LLAW6222 Financial Dispute Resolution: Hong Kong & International Perspectives  
 LLAW6099 International Commercial Arbitration  
 LLAW6006 International Commercial Transactions  
 LLAW6007 International Dispute Settlement  
 LLAW6182 International Organizations  
 LLAW6128 International Trade Law I  
 LLAW6132 International and Comparative Intellectual Property Law

LLAW6227 Introduction to Private International law (Conflict of Laws)  
 LLAW6163 Negotiation: Settlement and Advocacy  
 LLAW6176 Online Dispute Resolution  
 LLAW6196 Preventative Law: Approach to Conflict Prevention and Resolution  
 LLAW6164 Principles of Family Law  
 LLAW6109 Public International Law  
 LLAW6141 Regulation of Cyberspace  
 LLAW6134 Selected issues: WTO and China  
 LLAW6211 World Trade Law, Policy and Business

\* subject to the approval of the Director of the Programme

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## COURSE DESCRIPTIONS

### **LLAW6006 International Commercial Transactions**

The topic of International Commercial Transactions touches on a number of legal frameworks that govern international business. The various frameworks consist of a patchwork of national and international, governmental and private-sector laws, agreements and mandatory or voluntary codes of conduct. This course will be presented in four parts, and in each part, relevant laws and decisions of tribunals in various jurisdictions in Asia are comparatively considered to present a range of issues arising in contemporary practice. It will begin with an introduction and examination of commercial and legal implications of terms-of-art frequently used in international sales agreements, shipping contracts, insurance and financing arrangements, and customs documentation. International efforts to unify or harmonize definitions and their legal implications, as well as rules that govern the interpretation of contractual terms, such as the 2000 Inco-terms, ICC Uniform Customs and Practice for Documentary Credits, 1980 Vienna Convention on the International Sale of Goods, and UNIDROIT principles, will be discussed. Agency, distribution, technology and intellectual property transfers, and e-commerce, as widespread and emerging modes of conducting international business, the legal issues inherent in each form, and associated regulation will be considered. Issues related to international investment agreements involving governments will be examined. Special problems related to corruption and money-laundering will be discussed. Significant attention will be paid to the settlement of international commercial and investment disputes, which will include an examination of special problems associated with the recognition and enforcement of awards and judgments.

Assessment: 100% continuous assessment

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### **LLAW6007 International Dispute Settlement**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. Inasmuch as these peaceful means of dispute settlement are governed by a body of rules and principles, lawyers play an important role in making sure that such means are used in a fair and effective manner. After explaining

the history and development of international dispute settlement, as well as the general obligation on states to resolve their disputes peacefully, this course will explore each method in light of the relevant law and cases, with particular emphasis being placed on legal resolution through international courts and tribunals, including international arbitration and resolution through the International Court of Justice, the International Tribunal for the Law of the Sea, and the WTO Dispute Settlement Mechanism. The course concludes by looking at the future of international dispute settlement, including the need for conflict prevention and dialogue, the increasing juridification of dispute settlement, and the problems associated with the proliferation of dispute settlement mechanisms.

Assessment: 80% research paper, 20% class participation

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### **LLAW6029 Commercial Dispute Resolution in China**

This course takes students to the areas of significance in the field of dispute resolution in Mainland China, particularly with respect to resolving business and commercial disputes. All major methods of dispute resolution will be examined, including civil litigation, commercial arbitration, and mediation in Mainland China. Some topical issues such as corporate disputes, securities enforcement, private international law, civil justice reform, and cross-border judicial assistance on commercial matters with Hong Kong, Macau and Taiwan will be looked into as well.

Assessment: 70% research paper, 20% in-class presentation, 10% class participation

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### **LLAW6099 International Commercial Arbitration**

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations, revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

Assessment: 100% take-home exam



## **LLAW6109 Public International Law**

The course is intended as a general introduction, also for non-law students. Great stress is placed on the nature of international law technique and method. For this purpose the course explains at length the concepts of sovereignty and statehood. It considers how states create international law through treaty and customary law. These techniques are explained with reference to cases. The course also introduces certain concrete difficulties facing the international community, such as the “War against Terrorism”, the South China Sea Disputes, the Middle East Conflict, Nuclear Proliferation etc. These are outlined in an introductory way.

Other standard topics of international law are covered. These will include the relationship between international and municipal law; the subjects of international law; state recognition; state jurisdiction; the acquisition and loss of territory; state responsibility; state succession; treaties and other international legal agreements; the pacific settlement of disputes; the use of force; international institutions; human rights.

Special reference will be made throughout to considerations which are particularly relevant in the Hong Kong and Southeast Asian contexts.

Assessment: 100% written assignment

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## **LLAW6128 International Trade Law I**

This course will provide students with a practical insight into a number of areas of international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

The course is taught in a practical way and requires students to think of commercial solutions to problems. Students will have the opportunity to undertake research and use case law, ordinances and international conventions in realistic situations.

The course covers the following areas:

- International Sale of Goods – the contracts and terms found in sale contracts involving an international element
- Marine Insurance – what is covered by insurance and the duties on an insured
- Letters of Credit – the method of financing the sale contract and the obligations on the banks and parties
- Carriage of Goods by Sea – who has a right to sue the sea carrier of the goods, the obligations on the sea carrier of the goods and whether the sea carrier can sue anyone for their losses
- Jurisdiction and Choice of Law – in which country a claim can be brought and which law will be applied to the claim
- Litigation – the most useful procedures used in commercial litigation such as security for costs, freezing injunctions, orders for inspection, arrest of ships
- Arbitration – the procedures that apply to an arbitration of a claim

The assessment will comprise:

- a report (written within 48 hours) on the container port visit identifying and illustrating potential issues that arise in private international trade disputes (worth 20% of the total marks); and
- a take home assessment based on a realistic set of facts and documents (worth 80% of the total marks). The purpose of the take home assessment will be to examine students' ability to identify the issues raised in a realistic scenario, to research on that area and to advise upon the issues correctly and practically.

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### **LLAW6132 International and Comparative Intellectual Property Law**

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, designs and other forms of intellectual property (IP). The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP protection for global competition between developed and developing countries in an integrated world market.

Prerequisites / Co-requisites: Have taken (or concurrently taking) other IP laws

Assessment: 85% final take-home exam, 15% Class participation

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### **LLAW6134 Selected Issues: WTO and China**

This course is an advanced seminar on the interactions between WTO law and national measures in selected areas such as customs administration; public health and safety, consumer protection, industrial and competition policies; agricultural, textiles and clothing markets, financial services markets, telecommunications, and intellectual property rights. Each topic will include a discussion of the interactions between WTO law and national measures with respect to China. This will include examination of issues related to State trading, economies in transition and differential treatment to accommodate the special needs of developing economies. The course will begin with a review of the general principles of the WTO agreements, and a discussion of the sources of WTO law concerning China's commitments and obligations. Topics of study will include valuation for customs purposes, pre-shipment inspection, rules of origin and import licensing procedures. The WTO agreements on sanitary and phytosanitary measures and technical barriers to trade will also be considered, as will the treatment of anti-dumping measures, subsidies and countervailing duties, and government procurement. Policies related to trade in agricultural products, textiles and clothing will be addressed in the light of relevant WTO agreements. The GATS and its annexes on Financial Services with respect to banking, insurance and securities, and, Telecommunications will be

examined. Finally, the course will conclude with a detailed analysis of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and a review of the requirements necessary for a national regime to implement the TRIPs agreement.

Assessment: 100% continuous assessment

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### **LLAW6135 Alternative Dispute Resolution**

In traditional legal studies, the judicial process (courtroom litigation) is often assumed to be the best means of resolving disputes. This adversarial approach often shapes the views of future lawyers about the nature and pattern of disputes, as well as the preferred method of dispute resolution. This course seeks to counter that approach by analyzing the form and nature of disputes and examining the pros and cons of the traditional methods of dispute resolution (such as judicial adjudication in court). The broad range of “alternative” or “appropriate” methods and processes of dispute resolution (“ADR”) will then be analyzed from both a Hong Kong and international perspective.

This course is composed of two main parts:

- (a) an introduction to traditional methods of dispute resolution and a critique of their relative advantages and disadvantages; and
- (b) an examination of a broad range of ADR methods, which will cover the following:
  - the origin and development of the alternative dispute resolution movement, and
  - an in-depth study of confidential private listening; negotiation, mediation and conciliation; arbitration; good offices/ombudsman; mini-trials/summary jury trials; private courts, dispute resolution centres and online web-based dispute resolution schemes.

These methods of dispute resolution will be examined by considering their present and potential application in Hong Kong, other parts of Asia and internationally, as well as in such areas as civil, commercial and construction disputes (both domestic and international), labour relations, landlord and tenant disputes, matrimonial disputes and public and administrative disputes. Students will also engage in simulated role playing negotiation and mediation exercises with video taped assessment.

Assessment: 80% research assignment, 20% class participation

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### **LLAW6136 Dispute Settlement in the WTO: Practice and Procedure**

This course is a specialized seminar on issues that arise in the context of WTO law and its dispute settlement processes. It will unfold along three themes: the foundations of WTO law; the law and policy of dispute settlement in the WTO; and, practice and procedure before WTO dispute settlement and arbitral Panels and Appellate Body (AB). The first theme will review the sources of WTO law, its relationship with, and status within, the legal systems of WTO members. This includes an analysis of the standards of WTO review applicable to national measures applied by its Members within their own domestic legal systems, and the effects of WTO dispute settlement mechanisms on certain fundamental dimensions of national sovereignty.

The second theme will consider the provisions that establish and govern the processes and institutions for the settlement of disputes in the WTO. The principles that govern WTO dispute settlement will be explored, and the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) will be examined in some detail. Equally, particular attention will be given to specialized rules that are applicable to the settlement of disputes arising from the operation of a number of WTO Multilateral Agreements on Trade in Goods (MTAs), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and the Plurilateral Trade Agreements.

The third theme will address issues concerning the scope of the jurisdiction of the WTO Panels and AB, practice and procedure related to claims and defenses, stages of pleadings involved before the Panels and AB, evidentiary requirements, adoption and implementation of the decisions (“reports”) of the Panels and AB, as well as available remedies for breach of WTO obligations, and in particular, for failure to implement a Panel or AB decision.

Assessment: 100% continuous assessment

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### **LLAW6137 Current Issues in International Arbitration and Dispute Settlement**

This course will focus on selected issues of current interest in international arbitration and dispute settlement. The topics offered will vary from year to year. The course is likely to be offered by permanent staff of the Faculty, Visiting Professors and Practitioners.

Assessment: 100% continuous assessment

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### **LLAW6138 Arbitration Law**

In the world's globalizing economy there has been a dramatic increase in the size and complexity of international business and commercial transactions. The main focus of this cross-listed course will be on the use of arbitration to resolve disputes arising out of such business and commercial transactions. The course will provide a comprehensive introduction to the arbitration law and practice in Hong Kong and students will consider a range of theoretical issues and substantive topics in this course, including:

- overview of the wide range of dispute resolution methods, including arbitration
- fundamental concepts of arbitration law
- legal framework of arbitration law in Hong Kong
- overview of Hong Kong's Arbitration Ordinance and its objectives and principles
- issues relating to the arbitral process and procedure, such as the:
  - arbitrability of disputes
  - enforceability of arbitration and submission agreements
  - appointment and powers of arbitrators
  - jurisdictional challenges
  - preliminary proceedings
  - form of the arbitration hearing

- interim and final remedies
- evidentiary matters (hearings and discovery)
- rendering of arbitral awards (including challenges and appeal)
- recognition and enforcement of arbitral awards
- interests and costs
- role of the courts in the arbitral process

Assessment: 70% in-hall exam, 30% assignment

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### **LLAW6141 Regulation of Cyberspace**

This course will investigate the question, “What principles should inform the governance of the Internet’s architectural and regulatory infrastructure?” In order to fully answer this question an examination will be required into the entities and structural components of cyberspace: end users (individuals, corporations, organizations), regulators (governments, international organizations, businesses), communication networks, distinctive technologies (public key cryptography, Internet Protocols). Themes include the role and regulation of new types of entities such as Internet Service Providers (ISPs) and Certification Authorities (CAs); the extent to which control of technology and standards acts as regulation; the relationship between government regulation and self-regulation; ICANN; and the capacity of both public international law (treaties etc) and private international law to cope with the ‘borderless world’ of cyberspace. This course is intended to be studied before or in conjunction with other information technology law subjects.

Assessment: 80% final research paper, 20% assignment

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### **LLAW6157 Arbitration Practice, Procedure and Drafting**

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.

*The Arbitration Practice course is based upon a sound understanding of the law of arbitration. Therefore, students are required to complete the Arbitration Law course in the first semester prior to enrolling in the Arbitration Practice course in the second semester.*

Prerequisites / Co-requisites: LLAW6138 Arbitration Law

Assessment: 70% in-hall exam, 30% written assignment

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### **LLAW6158 Contract Law**

This course is designed to provide students enrolled in the LLM in Arbitration and Dispute Resolution (ADR) who do not have a first degree in law to acquire sufficient knowledge and understanding of the Hong Kong contract law. 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 unconscionability

**Discharge and Remedies:**

Discharge by agreement, performance, breach, frustration and remedies

Assessment: 50% final exam, 30% mid-term in-class test, 20% class attendance, preparation & participation

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### **LLAW6159 Evidence**

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

Assessment: 60% in-hall exam, 30% small group in-class presentations, 10% class participation

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### **LLAW6160 Legal System and Methods**

The aim of the Legal System and Methods module is to provide students who do not have a first degree in law with sufficient knowledge and understanding of the HK legal system and legal research, legal analysis and legal reasoning. The module will provide an introduction to the HK legal system and introduce students to sources of law, categories of law, the courts, the civil process in HK, the personnel of the legal system and other relevant aspects. 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.

Assessment:

- Attendance with adequate pre-class preparation and in-class participation (15% of final grade); and
  - Final examination (85% of final grade)
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### **LLAW6161 Mediation**

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.

Assessment: 50% participation in mediation role play simulations, 50% research assignment

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### **LLAW6162 Collaborative Law and Practice**

This interactive skills-based course will explore two dispute resolution models, the new and innovative collaborative practice model and the mediation model, as they are being developed and utilized within the family law context. The student will learn the basics of interest-based negotiation as it is used in both these dispute resolution models, as well as the conceptual and procedural framework for both collaborative practice and family mediation. The course will explore the use of advocacy (both oral and written advocacy) in both collaborative practice and as counsel in the mediation process. Students will also analyze the future development of both collaborative practice and mediation in the broader context of the Hong Kong community.

Assessment: 40% class participation/ role play, 30% in-class presentation, 30% short research paper

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### **LLAW6163 Negotiation: Settlement and Advocacy**

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.

Assessment: 50% research paper, 25% skills journal, 25% participation/ negotiation role plays

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### **LLAW6164 Principles of Family Law**

This course covers basic principles of Hong Kong family law and its historical development. It examines marriage formation, nullity and legal consequences of marriage. It covers protection of spouse and children from domestic violence. This course also covers judicial separation,



divorce and ancillary relief. The law relating to children is also examined with emphasis on parental responsibility, child adoption and child protection from abuse and neglect. Also studied is the impact on family law of the UN Convention on the Rights of the Child and other international treaties binding on Hong Kong.

Assessment: 45% in-class exam, 35% written essays, 10% oral presentation, 10% attendance and class participation

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### **LLAW6173 Dispute Resolution Systems Design**

This module will explore the growing trend toward the design and development of dispute resolution systems within the organizations: in the workplace, at the enterprise level, in business-to-business and e-commerce marketplaces, and in other organizational settings. Starting with the historical and legal context, the module will examine the burgeoning field of dispute systems design on the new economy with focus on the potential advantages and disadvantages of this approach to what is arguably the privatization of justice. Students will also be provided with a practical framework to apply dispute systems design concepts in specific situations. The specific objectives of the module are as follows:

- To learn the language and conceptual framework of dispute systems design;
- To examine the latest developments in dispute system design and the goals and policies behind them, with particular emphasis on the implications of complexity studies;
- To identify emerging “best practices” and make future predictions for the field;
- To explore specific, practical examples of existing dispute systems in a variety of settings; and
- To get acquainted with strategies in designing dispute systems and consider how to apply them in particular contexts, drawing upon the experiences and interests of students in the course.

Assessment: 100% continuous assessment

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### **LLAW6174 Family Mediation**

Using a combination of lecture, discussion, demonstration, and simulation, Family Mediation will present students with the theory and practice of family mediation, including: a basic grounding in the practice and theories of mediation, an understanding of the many variations of how mediation is actually conducted in family law cases, critical judgment as to when family law mediation might or might not be appropriate in individual cases, a familiarity with legislation involving family law mediation and critical inquiry as to the efficacy of different legislative initiatives, special issues facing mediators in family law mediation, and ethical consideration both as a family law mediator and as an attorney in family law mediation.

Assessment: 100% continuous assessment

## **LLAW6176 Online Dispute Resolution**

This course will introduce students to the use of information technology as a means of facilitating 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 out-of-court alternative dispute resolutions, it by no means ignores the potential that these technologies have for direct application in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical value to practitioners and academics.

Assessment: 60% research paper, 40% in-class moot court practice

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## **LLAW6182 International Organizations**

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as affecting, our daily lives. The body of rules that govern the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

This course has two aims. First, it will provide an in-depth look at this area of law from a traditional perspective. Starting with a general history of international organizations and overview of current international organizations, the course will develop a definition of international organizations, which focuses on international legal personality, and then will develop a framework for classifying international organizations. This course next will explore the sources of power for international organizations, which involves the law of treaties and the doctrines of attributed powers, implied powers, and inherent powers, among other important principles. This course then will compare their structures, decision-making processes (including the settlement of disputes), membership and financing, privileges and immunities, sanctioning abilities, treaty-making powers, and relations with other international organizations, among other aspects. The United Nations, its subsidiary organs and its specialized agencies will be a major focus of the course, though many other international organizations also will be studied. Relevant ICJ, PCIJ and other case law will be given particular emphasis in understanding these powers and functions of international organizations.

Second, with this basic understanding of the law of international organizations, students will be expected to explore contemporary legal debates surrounding international organizations. The course will discuss the problem of responsibility for international organizations and creating limitations on their powers. Indeed, while international organizations first were seen as helping to bring “salvation to mankind,” today they are seen in a less than ideal light, largely due to concerns over their misdeeds and accountability for those misdeeds. The course will explore the problems associated with functionalism – the predominant theory associated with the expansion of

international organizations' powers. The discussion will move on to exploring the possibility of creating limitations and accountability for international organizations through such alternative tools as constitutionalism, judicial review, an emphasis on the rule of law, and global administrative law, to name a few. Other debates to be discussed include the legal status of decisions and resolutions of international organizations in light of the sources doctrine of international law, and whether the differences between international organizations that stem from the differences in their constituent instruments make it impossible to talk of a unified body of law that governs these different entities. Students will be expected to develop their own thoughts on these debates, which they will demonstrate through their participation in class, as well as through the writing of at least four short case comments and either a longer paper on a topic to be chosen by the student in consultation with the professor.

Assessment: 40% research paper, 40% 3 case comments, 20% class participation

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### **LLAW6185 China Investment Law**

This course provides a comprehensive, informed treatment and analysis of the legal, policy and business aspects of foreign direct investment in China. Areas covered include: current PRC foreign investment policies and priorities, including “encouraged industries”; investment incentives and investment protection; PRC regulatory authorities and government approval process; offshore structures; PRC foreign-related business and investment organizations: representative offices, branches offices, holding companies, foreign investment enterprises (FIEs): Sino-foreign cooperative and equity joint ventures, wholly foreign-owned enterprises (WFOEs), listed and unlisted Sino-foreign joint stock limited companies (JSLCs); practical joint venture contract drafting and operational issues; trading and distribution; technology transfer; conversions; mergers and acquisitions; selected regulatory issues: corporate income taxation, foreign exchange control; FIE debt and equity financing; out-bound China investment.

Assessment: 100% research paper

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### **LLAW6186 China Trade Law**

This course provides a focused, legal and policy treatment of China's conduct and regulation of international trade at both the macro- and micro-economic levels. Areas covered include: China's participation in the WTO, and in other multilateral, regional and bilateral trade-related arrangements, including ASEAN+ and China-ASEAN FTAs; Regulation of China's foreign trade: PRC regulatory authorities, PRC Foreign Trade Law, foreign trade operators (FTOs), foreign trade agency: commissioning and entrustment arrangements; PRC Customs, licensing and inspection/standards systems, and trade remedies: particularly, China's anti-dumping regime; WTO, US and EU anti-dumping and subsidies/countervailing codes and related non-market economy (NME) treatment of China's export enterprises and industries; Trade transactions: standard-form contracts, import-export sales contract issues arising under the PRC Contract Law and CISG.

Assessment: 100% research paper

### **LLAW6196 Preventative Law: Approach to Conflict Prevention and Resolution**

This course seeks to examine those mechanisms, principles and processes oriented toward the prevention of conflict through appropriate dispute systems design. The course will cover: creative problem solving, organizational dispute resolution, group consultation, sustainability and conflict management, conflict prevention in diverse regions, and prospects and challenges associated with the evaluation of preventative efforts. The approach of the course will be both theoretical and participatory in nature. Students will participate in a group action-research project involving one area of preventative law.

Assessment: 75% research paper, 25% class participation

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### **LLAW6211 World Trade Law, Policy and Business**

This course may only be taken by graduate students. While there are no pre-requisites and no prior knowledge is required, the course is designed to be especially attractive to students who have taken Global Business Law I, or International Economic Law. It is not, however, open to graduate students who have previously taken Global Business Law II.

The course is tailor-made for graduate students who, in past years, would likely have taken Global Business Law II instead. Unlike Global Business Law II, the current course provides students with the opportunities to write a paper of no more than 6,000 words comprising 50% of the examination, and incorporates materials on the policy and business aspects of trade in East Asia (China, Korea and Japan). The course will also address specific policy and business challenges in other Asian countries and sub-regions (e.g. Vietnam, Southeast Asia more generally, and India).

Assessment: 50% take home exam, 50% research paper

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### **LLAW6214 Current Issues in Chinese Law**

This course will highlight one or more areas of contemporary Chinese commercial law and practice of importance to foreign trade, investment or finance in the People's Republic of China. The subject matter to be covered in the course is not fixed and will vary from year to year. Students will be apprised in advance of the subject of the course to be offered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 85% research paper, 15% class participation

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### **LLAW6217 Culture, Diversity & Power in Dispute Resolution**

This course will examine the dimensions of culture relevant to dispute resolution, including diverse identities, perceptions and world views. Using short lectures, experiential exercises, dialogues and discussions, students will explore the various processes, capacities and tools that can be used to bridge intercultural disputes. Drawing on current interdisciplinary literature and

case examples from scholarly and personal sources, participants will:

- explore interpersonal and intergroup dynamics of intercultural disputes;
- learn about the processes to address deep rooted intercultural conflict;
- examine and critique cultural dimensions of conventional dispute resolution processes, including in person and online mediation;
- analyze implicit meanings and cultural values of a continuum of dispute resolution processes as applied in a variety of sectors and settings, including private and public sector organizations and communities;
- identify ways that chaos and complexity theories inform conflict analysis and implications for dispute resolution process design;
- experience imaginative and creative tools for transforming cultural disputes;
- experiment with somatic, arts-based methodologies including applications and limitations in inter-cultural dispute intervention; and
- apply cultural fluency in a range of case types and practice settings through small group discussions and practice outside the classroom.

Assessment: 80% research paper, 20% written assignment

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### **LLAW6222 Financial Dispute Resolution: Hong Kong & International Perspectives**

The course will focus on the new financial dispute resolution regime in Hong Kong and the establishment of the Financial Dispute Resolution Centre (FDRC) and what these developments may signify for the future of resolving financial disputes in Hong Kong. In addition, the course will provide a comparative overview of financial dispute resolution from some selected markets globally. In response to increasing investor participation in financial markets, regulators and governments have sought different ways of responding to investor-broker disputes. This course will analyze these different approaches and discuss the impact of legal systems, markets and cultural preferences. The course will consider what choices have been made by Hong Kong in order to adapt to local circumstances and will challenge students to assess these choices in the light of global experience. The design of dispute resolution systems can be key to their success. Students will be expected to understand who the stakeholders are in financial disputes, what their specific needs are and how the Hong Kong FDRC may address these concerns. The class will be assigned reading in advance of class. Students will be expected to participate in discussions and role-plays during class.

Assessment: 80% final research paper, 20% class participation

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### **LLAW6227 Introduction to Private International Law (Conflict of Laws)**

The field of private international law, otherwise known as “the conflict of laws”, is a body of principles by which Hong Kong courts deal with cases involving a mainland or overseas element. It is particularly important in this jurisdiction. Hong Kong’s economy is an intersection of many different people and places, including the mainland and elsewhere in Asia, as well as Europe and the Americas. Therefore, a significant proportion of disputes here have a connection outside of Hong Kong. An understanding of the conflict of laws will be useful to

you as members of Hong Kong's legal profession and if you are involved in international business.

In private international law, there are three questions that a judge must ask himself or herself. The answers to those questions form the backbone of this course:

- Is it appropriate for me to exercise jurisdiction in this dispute, even though it is connected in some way with a place outside Hong Kong?
- If I decide that I will exercise jurisdiction, is it right for me to apply only the law of Hong Kong to the dispute? Or does its "foreign element" mean I should, to some extent, apply the law of some other jurisdiction?
- Has the dispute already been the subject of a decision by a court outside Hong Kong? Should I somehow give effect to that decision within Hong Kong?

The aim of this course is to giving you a working knowledge of Private International Law so that you can competently advise your clients on such issues.

Assessment: There will be two modes of assessment:

- a tutorial paper, being written preparation for one of the tutorials assigned to you, worth 30% of your final mark; and
- a take-home examination, to be completed over a 72 hour period, worth 70% of your final mark.