

## 6.9 Module 9: International Commercial Arbitration

### 6.9.1 Headline Information about the Module

<b>Module title</b>	International Commercial Arbitration
<b>Module NFQ level (only if an NFQ level can be demonstrated)</b>	Level 9
<b>Module number/reference</b>	MIBL - ICA
<b>Parent programme(s) the plural arises if there are embedded programmes to be validated.</b>	LLM in International Commercial Law
<b>Stage of parent programme</b>	1
<b>Semester (semester1/semester2 if applicable)</b>	2 (elective)
<b>Module credit units (FET/HET/ECTS)</b>	ECTS
<b>Module credit number of units</b>	10
<b>List the teaching and learning modes</b>	Full-time, part-time
<b>Entry requirements (statement of knowledge, skill and competence)</b>	Learners should normally hold an approved honours degree in business, law or related discipline or equivalent qualification from an approved tertiary/or professional institution.
<b>Pre-requisite module titles</b>	Not Applicable
<b>Co-requisite module titles</b>	Not Applicable
<b>Is this a capstone module? (Yes or No)</b>	No
<b>Specification of the qualifications (academic, pedagogical and professional/occupational) and experience required of staff (staff includes workplace personnel who are responsible for learners such as apprentices, trainees and learners in clinical placements)</b>	Lecturers qualified to at least a level 9 legal qualification (LLM), preferably with a third level teaching qualification (e.g. Certificate in Training and Education).
<b>Maximum number of learners per centre (or instance of the module)</b>	60
<b>Duration of the module</b>	12 weeks
<b>Average (over the duration of the module) of the contact hours per week (see * below)</b>	2.5
<b>Module-specific physical resources and support required per centre (or instance of the module)</b>	Normal lecture room with internet access and good-quality audio-visual equipment.

Analysis of required learning effort		
Effort while in contact with staff	Minimum ratio teacher / learner	Hours
Classroom and demonstrations	1:60	30
Monitoring and small-group teaching		
Other		
Independent Learning		
Directed e-learning (hours)		
Independent Learning (hours)		220
Other hours (group project)		
Work-based learning hours of learning effort		
<b>Total Effort (hours)</b>		<b>250</b>

Allocation of marks (within the module)					
	Continuous assessment	Supervised project	Proctored practical examination	Proctored written examination	Total
Percentage contribution	50			50	100%

### 6.9.2 Module aims and objectives

This module provides a broad overview of the legal and practical aspects underpinning International Commercial Arbitration. The objective of any arbitration is to resolve a dispute. To facilitate resolution, all unnecessary obstacles need to be removed. In the context of international disputes there can be many obstacles, such as language barriers, different jurisdictions, different legal principles etc. To alleviate these difficulties a number of international instruments have been enacted throughout the years culminating in the United Nations Commission on International Trade Law (UNCITRAL) Model Law in 1985.

This module focuses primarily on both the substance and application of the UNCITRAL Model Law, and its integration into Irish law. Learners are required to achieve a high-level understanding of the UNCITRAL Model Law to discuss in a competent manner the practice and procedure involved in International Commercial Arbitration, and the applicable legal principles.

The module will also provide learners with a detailed knowledge of the theoretical background to international commercial arbitration and of the principles applicable to international commercial arbitration. Learners will also develop a practical understanding of the procedure applicable to international commercial arbitration and the outcome/result of an international commercial arbitration.

### 6.9.3 Minimum intended module learning outcomes

On successful completion of this module, learners are able to:

- (i) apply advanced theoretical knowledge and in-depth critical thinking to suggest credible and creative solutions to current legal issues within the field of international commercial arbitration with specific reference to the UNCITRAL Model Law
- (ii) demonstrate a critical awareness of current legal problems and new insights pertaining to commercial arbitration in Ireland and internationally
- (iii) critically analyse and evaluate in-depth international arbitration law and the philosophical, political and economic structures underpinning it
- (iv) develop advanced reasoned arguments, challenging assumptions and reaching sound informed judgments

- (v) present creative solutions to current and complex issues in commercial arbitration
- (vi) demonstrate autonomy, responsibility and team-working skills through cooperation on case studies
- (vii) exercise sophisticated skill and judgment in evaluating complex legal problems in international commercial arbitration
- (viii) communicate ideas orally in an effective manner and argue, advocate, present and persuade with clarity and accuracy.

#### **6.9.4 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs**

International commercial arbitration is a very important area of international law. It is a form of dispute resolution that is adaptable to many different disputes. Arbitration overcomes some of the traditional difficulties associated with litigation, such as complex rules around jurisdiction and choice of law. Furthermore, arbitration is a highly practical subject and learners are taught the arbitration process from beginning to end, thereby equipping learners with tangible and practical skills for their future careers. Finally, arbitration is a modern topic that is evolving constantly, consequently, learners are engaging with a contemporary area of law.

#### **6.9.5 Information provided to learners about the module**

Learners receive the following resources and materials in advance of commencement:

- module descriptor
- module learning outcomes
- assignment briefs
- assessment strategy
- reading materials
- class notes (on a weekly basis).

Additionally, this material is made available through Moodle, the college VLE, along with other relevant resources and activities.

#### **6.9.6 Module content, organisation and structure**

International commercial arbitration is taught and assessed over one academic semester. The module is delivered over 12 lecture sessions of 2.5 hours' duration.

The topics covered in the module are:

- introduction to arbitration
- overview of the Arbitration Act 2010 and the UNCITRAL Model Law
- jurisdiction
- arbitrability
- the Agreement to Arbitrate
- interim measures and preliminary orders
- discovery and security for costs
- the process of an arbitration
- setting aside an award
- enforcement of an award
- public policy
- reinforcement of key principles, revision

### **6.9.7 Module teaching and learning (including formative assessment) strategy**

The module is delivered by means of structured and participative style lectures. The learners are assigned reading the week previous to each class, and some learners are asked to lead the discussion of the material.

The lecturer regularly encourages small group formation to discuss nascent research questions and appropriate methodology strategies.

Formative assessment will be provided in the form of interactive exercises such as directed class discussions, debate and group exercises with reference to the module curricular and current affairs in the field at the time of instruction.

### **6.9.8 Work-based learning and practice-placement**

There is no practice-placement element within this module.

### **6.9.9 E-learning**

Moodle, the college VLE, is used to disseminate notes, advice, and online resources to support the learners.

### **6.9.10 Module physical resource requirements**

Normal lecture room with internet access and good-quality audio-visual equipment. All learners have access to an extensive range of 'actual' and 'remote access' library resources. The library monitors and updates its resources on an ongoing basis, in line with the college's Library Acquisition Policy.

### **6.9.11 Reading lists and other information resources**

#### **Primary Reading**

*Born, G. (2015) International Arbitration: Law and Practice. 2nd ed. Kluwer, The Hague.*

#### **Secondary Reading**

*Buhler, M.W. & Webster T.H. (2018) Handbook of ICC Arbitration: Commentary, Precedents, Materials. 4th ed. Sweet & Maxwell, London*

*Holtzmann, H.M. & Neuhaus, J.E. (1995) A Guide to the Uncitral Model Law on International Commercial Arbitration: Legislative History and Commentary. 1st ed. Kluwer Law International, The Hague*

*Hunter, M. & Redfern, A. (2015) Redfern and Hunter on International Arbitration. 6th ed. Oxford University Press, Oxford*

*Mansfield, B. (2018) Arbitration Act 2010 and Model Law: A Commentary. 2nd ed. Clarus Press, Dublin*

*Stewart, E. (2003) Arbitration: Commentary and Sources. First Law, Kilmainham.*

### **6.9.12 Specifications for module staffing requirements**

Lecturers qualified to at least a level 9 legal qualification and preferably a third level teaching qualification (e.g. Certificate in Training and Education).

### 6.9.13 Module summative assessment strategy

Individual learners are presented with an essay choice and asked to compose a 5,000-word essay. Learners also present their essay material to the class by means of an oral presentation. Learners present a ten-minute presentation followed by a question and answer session, which may also involve the attendance of an outside expert on arbitration.

Closed book examination: A three-hour examination which covers the breadth of the module and requires learners to answer three questions out of six, testing their ability to apply knowledge learnt throughout.

The assessed work breakdown can be seen in the table below.

No.	Description	MIMLOs	Weighting
1	Individual essay	(iv), (v), (vii)	40%
2	Oral presentation	(vi), (viii)	10%
3	Closed book examination	(i), (ii), (iii),	50%

### 6.9.14 Sample assessment materials

Please see Sample Assessment Handbook.