

Module L6: International Commercial Arbitration

Stage				2			
Semester				2			
Module Title				International Commercial Arbitration			
Module Number/Reference				ICA			
Module Status				Elective			
Module ECTS credit				10			
Module NFQ level (only if applicable)				9			
Pre-requisite Module Titles				International Trade Law			
Co-requisite Module Titles				N/A			
Is this a capstone module? (Yes or No)				No			
List of Module Teaching Personnel				Francis Kieran			
Contact Hours				Non-contact Hours			Total Effort (Hours)
Lecture	Practical	Tutorial	Seminar	Assignment	Placement	Independent work	
36						164	200
Allocation of Marks (Within the Module)							
	Continuous Assessment	Project	Practical	Final Exam	Total is always 100%		
Percentage contribution		50%		50%	100%		

Intended Module Learning Outcomes

On successful completion of this module, the learner will be able to:

1. 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 UNICTRAL Model Law

2. Demonstrate a critical awareness of current legal problems and new insights pertaining to commercial arbitration in Ireland and internationally
3. Critically analyse and evaluate in-depth international arbitration law and the philosophical, political and economic structures underpinning it
4. Develop advanced reasoned arguments, challenging assumptions and reaching sound informed judgements
5. Visualise creative solutions to current and complex issues in commercial arbitration.
6. Demonstrate autonomy, responsibility and team-working skills through cooperation on case studies
7. Exercise sophisticated skill and judgement in evaluating complex legal problems in international commercial arbitration
8. Manage and participate constructively in complex team environments
9. Communicate ideas effectively and argue, advocate, present and persuade with clarity and accuracy

Module Objectives

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

This course shall focus primarily on both the substance and application of the UNCITRAL Model Law, and also its integration into Irish law. Candidates will be required to achieve a high level understanding of the UNCITRAL Model Law so as to discuss in a competent manner the practice and procedure involved in international commercial arbitration, and the applicable legal principles.

Module Aims (To provide learners with):

- the theoretical background to international commercial arbitration
- a detailed knowledge of the principles applicable to international commercial arbitration
- a practical understanding of the procedure applicable to international commercial arbitration
- the outcome/result of an international commercial arbitration

Module Curriculum

- Week 1: Introduction to Arbitration
- Week 2: Overview of the Arbitration Act 2010 and the UNCITRAL Model Law
- Week 3: Jurisdiction
- Week 4: Arbitrability

- Week 5: The Agreement to Arbitrate
- Week 6: Interim Measures and Preliminary Orders
- Week 7: Discovery and Security for Costs
- Week 8: The Process of an Arbitration
- Week 9: Setting Aside an Award
- Week 10: Enforcement of an Award
- Week 11: Public Policy
- Week 12: Reinforcement of Key Principles, Revision

Reading lists and other learning materials

Indicative Reading

Born, G, 2012, *International Arbitration: Law and Practice*, Kluwer

Buhler, M.W. & Webster, T.H., 2008. *Handbook of ICC Arbitration: Commentary, Precedents, Materials* 2nd ed., Sweet & Maxwell.

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

Hunter, M. & Redfern, A., 2009, *Redfern and Hunter on International Arbitration*, OUP, Oxford

Mansfield, B, 2012, *Arbitration Act 2010 and Model Law: A Commentary*, Clarus Press, Dublin.

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

Module Learning Environment

A learning environment that promotes collaborative learning will be promoted and learners will be encouraged to actively engage in all class discussions and exercises.

Module Teaching and Learning Strategy

The delivery of this module will be facilitated by structured and participative style lectures. The module will be presented and supported by relevant case studies. Learners will have the opportunity to discuss these cases and how the lessons that can be drawn for application to hypothetical commercial arbitration scenarios.

Learners will be required to construct a hypothetical case study to practically apply the substantive and procedural principles of international commercial arbitration as they apply within Ireland. The lecturer will also organise a field trip to the International Arbitration Centre which is located in the Distillery Building, Church Street, Dublin 7 with candidates to receive a lecture from a leading practitioner in this field.

Total contact hours: 36 Hours

Range of other learning methods

Independent Learning and Research supported with many remote resources available on Moodle.

Total non-contact hours: 164 Hours

Module Assessment Strategy

Assessment Methods			
Element number	Weighting	Type	Description
1	50%	Mock Arbitration	<p>Arbitration based on a case study brief supplied. In groups, learners will be allocated roles and responsibilities. The assessment will entail the following</p> <p>5,000 word Individual Assignment (Case Study)</p> <p>A) <u>Written Component: 20%</u></p> <p><i>With reference to the assignment brief and to relevant journals and texts, critically assess the differing roles of conciliator, mediator and arbitrator by comparing methods of appointment, their obligations, functions and roles.</i></p> <p><i>Learners are required to write up to 2,500 words for this part.</i></p> <p><i>A second part will require the learner to write up a summary of the concluded role play, with conclusions.</i></p> <p><i>Learners are required to write up to 2,500 words for this part.</i></p> <p>B) <u>Arbitration Role Play: 30%</u></p> <p><i>Learners will then participate in an arbitration process. This will count for 30% of the total mark for the modules, and will be assess by two</i></p>

			<i>examiners who monitor the process.</i>
2	50%	Examination	Closed book examination: a 3 hour exam which covers the breadth of the course and requires learners to answer 3 questions out of 6, testing their ability to apply knowledge learned throughout the module.

Diagnostic/ formative assessment

Formative assessment is used regularly as a teaching and learning tool to help learners and lecturer ensure effective learning is taking place. Learners will be given formative feedback on section 1 of their report, on the role play session and on their conclusions section before final submission.

Further information on assessment

Marking criteria will be distributed to learners with each assignment brief. These will be used to provide learner direction on all summative assessments.

Assessment Strategy		
Module Learning Outcome	Element 1	Element 2
1. 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 UNICTRAL Model Law	✓	✓
2. Demonstrate a critical awareness of current legal problems and new insights pertaining to commercial arbitration in Ireland and internationally	✓	✓
3. Critically analyse and evaluate in-depth international arbitration law and the philosophical, political and economic structures underpinning it	✓	✓
4. Develop advanced reasoned arguments, challenging assumptions and reaching sound informed judgements	✓	✓
5. Visualise creative solutions to current and complex issues in commercial arbitration.	✓	✓
6. Demonstrate autonomy, responsibility and team-working skills through cooperation on case studies	✓	
7. Exercise sophisticated skill and judgement in evaluating complex legal problems in international commercial arbitration	✓	✓
8. Manage and participate constructively in	✓	

complex team environments		
9. Communicate ideas effectively and argue, advocate, present and persuade with clarity and accuracy	✓	✓

Please see **Annex 2** for **Copy Legacy Examinations**.

Please see **Annex 9** for **Sample Assignment and Examination Marking Criteria**.