



As we head into the Easter break, the CI Arb has successfully delivered a number of informative seminars and key events in the first quarter of 2017. This Newsletter aims to provide you with an overview of these events.

The highlights of the events include the EAB Annual Dinner and the YMG annual party in Hong Kong. Both events attracted an overwhelmingly high number of members and non-members.

More interesting events and informative seminars are planned for the rest of this year, the details of these forthcoming Branch events programme can be found on the back page of the Newsletter.

This issue features a special article on the YMG participation in the Dubai Conference. The Close Up Q&A with prominent professionals will be resumed in the next issue.

Readers are encouraged to submit articles for the Newsletter or book reviews relating to dispute resolution for the Asian Dispute Review. For submission guidelines please visit [www.asiandr.com](http://www.asiandr.com).

Have a greater Easter!

*Helen Au and Gina Leung*

## “Investment Treaty Arbitration: essential features and how it differs from commercial arbitration” by Paulo Fohlin

16 March 2017, Hong Kong

On 16th March 2017, we had the pleasure of Mr Paulo Fohlin to host an evening talk on the topic of “Investment Treaty Arbitration: essential features and how it differs from commercial arbitration.”

Mr Fohlin is an arbitrator and counsel. He has advised on matters relating to international arbitration and investment treaty disputes. He is a well-known professional in the circles of both commercial arbitration and investment treaty arbitration.

During the talk, Mr Fohlin gave a very thorough overview on the topic, the same of which was invaluable to both new and experienced arbitration practitioners.

His talk highlighted the following areas:

- (1) The Fundamentals of Investment Treaty Arbitration;
- (2) Comparison between Investment Treaty Arbitration and Commercial Arbitration, particularly the differences in substantive and procedural law governing both types of arbitration; and
- (3) Overview of the two main types of



Investment Treaty Arbitration, namely ICSID and non-ICSID arbitration.

Mr Fohlin took the audience through a journey on the historical legal development of public international law, and how it provided the building blocks for investment treaty arbitration. His discussion started from the establishment of the Permanent Court of Arbitration, to the formation of the Permanent Court of International Justice and finally the setting up of the International Court of Justice.

He also shared his experience in dealing with the issue of amount of compensation for expropriation and highlighted several cases that he has personally been involved.

Mr Fohlin further his discussion on the issue of enforcement of awards in respect of investment treaty of arbitration, and how it differs with usual commercial arbitration.

Lastly, he gave the audience an overview of annulment and review procedures available to the parties involved in investment state arbitration. The session was then concluded with a lively Q&A session.

*Richard Leung*

## UNICEF Charity Run

19 March 2017, Hong Kong

The East Asia Branch YMG has been a long time supporter of UNICEF and a regular participant in the UNICEF charity run for children in need.

On 19 March 2017, there were about 13,000 runners gathered at the Hong Kong Disneyland resort for the rescheduled UNICEF Charity Run 2016. Over HK\$11 million was raised, which can provide life-saving HIV treatment for 130,000 children living with HIV for a month.



We look forward to our next run in November 2017. Let's run for the children in need.

*Linda Wong*

# Chartered Institute of Arbitrators Young Members Group Conference 2017

7 March 2017, Dubai

On 7th March 2017, around 60 delegates from all over the world attended the Young Members Group Conference 2017 held at the One & Only – Royal Mirage, Dubai. Mr Jeffrey Sham was given the invaluable opportunity to take part in the event as the representative of CIARB YMG of the East Asia Branch.

The conference began with warm welcoming remarks by Mr Robert Stephen, Chair of CIARB UAE Branch YMG, and Member of CIARB Global YMG, followed by a short keynote address by Professor Dr Nayla Comair-Obeid. There was probably no alternative to Professor Comair-Obeid, Chair of CIARB, who could be in a better position to give a welcoming address on recent developments in arbitration.

What followed were two panel discussions and one practical skills workshop. The first panel discussion was about *"Privilege in International Arbitration and Parties' Expectations"*. Panelists included Mr Ronan O'Reilly (vice-chair of the CIARB Global YMG), Ms Sally Kotb, Melissa Quai Currie and Rhys Monahan. The panelists made arguments for and against recognising such privilege in arbitrations and the discussion ended with a conclusion by Mr O'Reilly.

The following discussion was on the topic of *"Non-compensatory Damages in International Arbitration"*. Mr Jeffrey Sham, the vice-chairperson of the CIARB EAB YMG, was honoured to be invited to join as one of the panelists in this discussion alongside a team of experts in arbitration. The other panelists were Ms Antonia Birt (associate of Messrs Freshfields Bruckhaus Deringer LLP), Mr Beau McLaren (partner of Messrs Holman Fenwick Willan Middle East LLP), and Mr John Gaffney (senior associate of Messrs Al Tamimi & Company).

Following the introduction of various kinds of non-compensatory damages, the panelists had a lengthy discussion on how claims for non-compensatory damages are treated under the common law and civil law. Mr Willan concluded this session with a discussion on how a tribunal should treat non-compensatory damages claim in arbitrations.

A casual sofa session with the topic *"What Do In House Counsel Want from the Arbitral Process"* followed afterwards. Representatives from various corporations gave us insights on this topic by telling the participants about what they would expect from their legal



representatives in an arbitration, and from the arbitral tribunal.

Finally, Mr Ronan O'Reilly gave the closing speech on this annual conference.

The conference was a successful event. Apart from hearing about the latest developments in international arbitration, representatives from different branches of CIARB as well as local practitioners had the opportunity to mingle with each other in a very warm and relaxing environment during the networking sessions.

The EAB Young Members Group looks forward to the many more future YMG conferences.

*Jeffrey Sham*

## CIARB YMG and ICC Young Arbitrators Forum Joint Technical Talk: *"ICC Arbitration: Overview, Recent Trends and Insight into the ICC International Court of Arbitration"* by Vanina Sucharitul and Edern Coent

22 March 2017, Hong Kong

On 22nd March 2017, CIARB YMG and the ICC Young Arbitrators Forum jointly organised a technical talk on recent trends and latest developments in ICC arbitration. Ms Vanina Sucharitul, the youngest Member of the ICC International Court of Arbitration, explained the role of the ICC Court in ICC arbitration and provided an insight into the work of the ICC Court. In particular, she focused on award scrutiny process, which is a hallmark of ICC arbitration, and explained the benefits it brings to the arbitration. Ms Sucharitul gave examples of how the ICC Court has been able to draw on the extensive international and regional expertise of ICC Court members to alert parties and arbitrators to procedural issues, which they may have otherwise overlooked. Mr Edern Coent, who is a Deputy Counsel of the ICC



Secretariat Asia office in Hong Kong, then gave an overview of recent trends in ICC arbitration and the recent changes to the ICC Arbitration Rules. Mr Coent explained how the ICC court has promoted efficiency and transparency in ICC arbitration through various measures such as imposing cost consequences for unjustified delays by arbitrators and providing reasons for decisions of the ICC Court upon parties' request. Mr Coent also gave an overview of the new expedited procedure provisions in the ICC



Arbitration Rules. In the Q&A session, members were particularly interested in the potential impact of the transparency measures and how it could assist parties when considering their choice of arbitrator.

This technical talk was sponsored by Herbert Smith Freehills. CIARB YMG would like to thank Herbert Smith Freehills for its generous support for the event.

*Bryan Fok*

## East Asia Branch Annual Dinner

29 March 2017, Hong Kong



We had a full house of over 180 Branch members and guests at the East Asia Branch Annual Dinner at the Hong Kong Club on 29th March 2017.

This year, the dinner coincided with the Vis East

International Commercial Arbitration Moot, resulting in their taking more than 50 seats and many guests from abroad, including the Director General of CI Arb – Mr Anthony Abrahams, many Trustees and many Chairpersons from other CI Arb Branches around the world.

Mr Paul Barrett was the Master of Ceremony. The Branch Chairperson, Mr Richard Leung, gave his report summarising events and activities over the past year, and thanking Committee Members for their contribution to the Branch. Our guest speaker, Mr Russell Coleman SC, gave an informative and interesting speech on the anecdotal stories of his experiences in dispute resolution, which enlightened the guests very much.

All the guests enjoyed this evening and the event was well received.

*Linda Wong*

## CI Arb YMG Technical Talk: “Arbitration in the time of OBOR: resolving disputes under contracts and treaties with China” by Sarah Grimmer

15 March 2017, Hong Kong



On 15th March 2017, CI Arb YMG organised a technical talk on arbitration as part of the “One Belt, One Road” (OBOR) initiative. Ms

Sarah Grimmer, who is the Secretary-General of the Hong Kong International Arbitration Centre, explained how the OBOR initiative will drive Chinese outbound investments and the need for Hong Kong arbitration practitioners to promote the role of Hong Kong in the dispute resolution regime for disputes arising from the OBOR initiative. In particular, Ms Grimmer discussed the recent developments in China-related investment treaty arbitrations. She shared her views that investment treaty arbitration is a growing area and expected this to present new opportunities for Hong Kong to

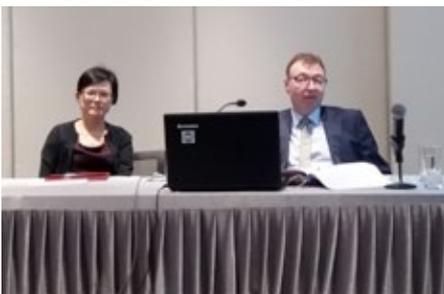
develop into a regional hub for international commercial arbitration and investment treaty arbitration. In the Q&A session, members were particularly interested in the potential increase in investment treaty arbitration claims and how Chinese parties can seek to structure their OBOR investments in order to be protected by bilateral investment treaties.

This technical talk was sponsored by Deacons. CI Arb YMG would like to thank Deacons for its generous support for the event.

*Bryan Fok*

## CI Arb YMG technical talk – “Multi-tiered Dispute Resolution Clauses: the enforceability of condition precedents to arbitration” by Steven Walker QC

2 March 2017, Hong Kong



On 2nd March 2017, the YMG organised a technical talk at the HKIAC on “Multi-tiered Dispute Resolution Clauses: the enforceability of condition precedents to arbitration” by Steven

Walker QC of Atkin Chambers in the United Kingdom.

At the talk, Mr Walker QC discussed the enforceability of dispute resolution clauses providing for ADR in common law jurisdictions with specific reference to clauses that provide for the parties to undertake one of more of the following before commencing arbitration:

- negotiation;
- mediation;
- dispute board decisions; and

- other common condition precedents to arbitration.

During the talk, Mr Walker QC discussed whether the courts in some common law jurisdictions are more willing to enforce ADR provisions than others and the dangers of commencing arbitration prematurely.

The talk was well-attended, and was followed by an enthusiastic Q&A session.

*Helen Au*

## CIArb YMG Annual Party

19 March 2017, Hong Kong



The YMG annual party this year was held on 19th January 2017 (Fri) at Club Azure in Central, Hong Kong.

As with previous years, the annual party proved to be a great success. The party has received enthusiastic and jovial participation of prominent guests from the arbitration profession, representatives from a wide spectrum of young professional organisations, and members of all grades of the CIArb.

The annual party again proved to be a great networking event for young professionals and sponsors as well.

The annual party was well-received with zest. The YMG thanks all guests and sponsors. The YMG also wishes to thank the main committee for its continuous and unfailing support, without which the annual party would not have been a success as it is.

The YMG looks forward to organising its next annual party.

*Helen Au*

## CIArb YMG Joint Institutes Event – “Dialogue in the Dark Tour”

Hong Kong, 18 February 2017



The “Dialogue in the Dark” tour was successfully held on 18th February 2017. This event was jointly organised by CIArb-YMG, CIBSE-YEN, HKIS-YSI, ICE-G&S and HKIE-YMC.

A group of 30 participants were led by visually-impaired guides into simulated everyday environment in complete darkness. In the dark, participants had to rely on different senses, communication, and help from the guides to overcome obstacles. It was an unforgettable experience for everyone to explore the world in a new perspective. Through the event, the participants gained understanding about the real life situation of visually-impaired people. All the participants enjoyed this special tour.

*Annie Po*

## 2017 East Asia Branch Events Programme

Unless stated otherwise, events are free to CIArb members, held at the HKIAC and start at 6.00 pm with drinks and snacks being served prior to the commencement of the presentation at 6.30 pm.

### 27 April 2017

Annual General Meeting. Details to be circulated. Technical Talk following AGM.

### 15th June 2017

CIArb (EAB) Young Members Group annual general meeting. Details to be circulated.

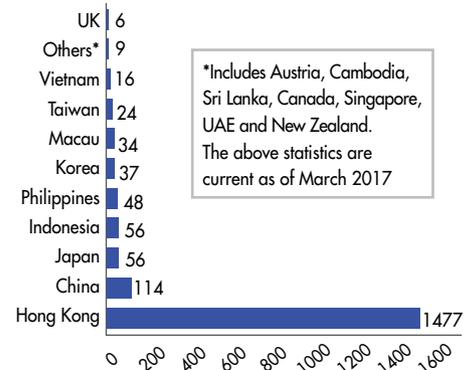
### June 2017

12th Annual Winnie Whittaker Memorial Lecture by Paul Barrett. Details to be circulated.

## Current Branch Membership – Distribution by Membership Grade

Fellow	Associate	Member
415	460	965

## Current Branch Membership – Distribution by Region



## CIArb East Asia Branch

The East Asia Branch provides a regional organisation for members of the Chartered Institute of Arbitrators who are resident in the geographical area of Hong Kong, mainland China, Indonesia, Japan, Korea, Macau, Mongolia, the Philippines, Taiwan and Vietnam. Thailand and Singapore, formerly part of the Branch, were constituted as separate branches in 2003 and February 2010 respectively.

The objectives of the Branch are to promote, encourage and facilitate the practice of settlement of disputes by arbitration, mediation and other means of dispute resolution, and generally to support and promote the status and interests of the Institute.

### CIArb East Asia Branch Committee 2016/2017

**Richard Leung** – Chairperson / Communications with local bodies and CIArb (HO), **David Fong** – Vice Chairperson / Regional (China) / Faculty List, **Mary Thomson** – Vice Chairperson / Regional (Other than China), **Calvin Cheuk** – Honorary Secretary, **Lawrence Lee** – Honorary Treasurer / Mediation, **Fan Yang** – Public Relations Officer, **Paul Barrett** – Professional Development & Training/ ADR Editorial, **Glenn Haley** – Professional Development & Training, **John Cock** – Vis East Moot/ Adjudication / Professional Development & Training, **Nicholas Turner** – Programme, **Cordia Yu** – Membership, **Louise Barrington** – ADR Editorial, **Helen Au** – Newsletter, **Linda Wong** (co-op) – YMG, **Christopher To** – Universities Promotion, **Edward Chow** – Incorporation/ New Branch Rules, **Joseph Leung** (co-op) – Website, **Gina Leung** (co-op) – Newsletter

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