



“The Case for Greener Arbitrations” – a fire-side chat with Lucy Greenwood and Kiran Sanghera from the Campaign for Greener Arbitrations

8 July 2021, Webinar co-organised by the Singapore, Malaysia, East Asia, Thailand and Sri Lanka Branches

The CI Arb Branches of Singapore, Malaysia, East Asia, Thailand and Sri Lanka Branches had the honour of hearing from Lucy Greenwood and Kiran Sanghera on the topic of greener arbitrations. The event was moderated by Crystal Wong Wai Chin.

The issues discussed included:

- The impetus behind the Green Pledge and Campaign for Greener Arbitrations. Lucy explained that making arbitrations greener is probably the most important action we can all take. She always knew that arbitral practices had an environmental impact, but it was about 4 years that she realised that it was her responsibility to bring her personal environmental practices to her professional life. In International arbitration (IA) we don't recognise 'flight Shame' (Flygskam), the movement popularised by Greta Thunberg. How can IA be so out of touch?
- The journey so far differs throughout Asia. Governments and industry are making changes, through policy and green finance exchanges. There is a lot more that institutions, IA practitioners and users can do to make their businesses and arbitrations more environmentally friendly, sustainable and greener. Arbitral institutions and law firms can incorporate and action the Green Pledge in practice at all levels. Virtual events, hearings and meetings can achieve savings. Using e-bundles, rather than paper bundles. It is appreciated we are still getting comfortable with these formats, and the Campaign is looking to roll out training to promote the change.
- The practical steps IA practitioners can take to make their next arbitration more environmentally friendly and greener. First is to realise how damaging current practices are - at the start of the Campaign there was some research into the carbon footprint of a large arbitration. This revealed that it would require about 20,000 trees to off-set the CO2 generated. The major part of this impact was travel, at about 93%. The Campaign's conclusion was to fly and print less. Off-setting is one way to reduce the footprint.
- Guiding Principles can be introduced into arbitrations. First it needs a behavioural change by practitioners as well. Institutions, Rules, Tribunal members and Tribunal Secretaries

Welcome to the October edition of the CI Arb Newsletter.

As we are returning to normal life after Covid, the Branch held the first in-person event in Hong Kong since the outbreak of Coronavirus. Subject to the local Covid restrictions, we hope more in-person seminars and events can resume in the coming months.

This Newsletter features a special “Question and Answers” with the current EAB Chairperson, Mr David Fong.

The Taiwan Chapter has also successfully held a number of events online during the last quarter, you may follow up with the detail of these events in this Newsletter.

This is the last edition of 2021. I hope you will find this Newsletter a good overview of the events happened in the last quarter. See you in January!

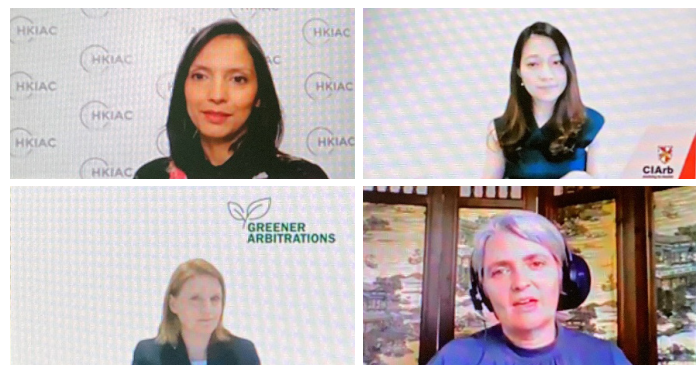
Gina Leung

all have a part to play. The Campaign has 6 protocols, which are very prescriptive and detailed, to assist practitioners. They can be selected from as is appropriate for your next greener arbitration.

- Practitioners can make their internal operations and business development more environmentally friendly. A starting point could be an audit of current working methods, and then implementing greener ways of working. Some steps may be very small. Having someone who is motivated and responsible will be important.

The presentation was well-received and there were many questions. The event was attended by approximately 101 members.

Nicholas Turner



Chairperson Q&A – David Fong



Q: Can you tell us about yourself and your past involvement in CIArb (EAB)?

I am a barrister by profession, and the area of my practice includes arbitration, commercial litigation and the maritime law. I enrolled an Entry Course in 2002 and was awarded the second prize. I was admitted as an Associate in 2002, a Member in 2005 and a Fellow in 2007.

In the early 2000's, I was a founding sub-committee member of the YMG and have successfully served two terms.

I was first elected as a Branch committee member in 2011 under the chairmanship of Mr Joe Gilfeather. During these years, I have served different sub-committees including Mediation, Program, PRC, External Communication, as well as the Public Relation Officer and Vice Chairman.

When I was the chair of the Mediation sub-committee, I represented the Branch as a director of the Joint Mediation Helplines Office Ltd, and today I am still its' Hon. Treasurer.

Q: What changes have you observed at the Branch since you have first joined?

Diversity and the growth of membership in different parts of East Asia. I am very happy to see nowadays there are more female members and members of different ethical background since joining the Branch. I am particularly pleased to see the growth of a dynamic and vibrant young members across different chapters of the Branch. They form the core group of our next generation leaders.

Q: What advice would you give to professionals whom would like to work as an arbitrator?

For those professionals whom would like to work as an arbitrator, I would share the theory of tripod- Be Prepared, Be Presence and Be Patience. I proposed this theory for a seminar in 2014, and I opine it still holds the truth today.

An arbitrator has the great responsibility in resolving the disputes between the parties. One must therefore properly prepare oneself with the necessary knowledge and skills when his/ her first appointment comes.

However, getting the first appointment is harder than when I was first involved in the arbitration two decades ago. It may take a decade for a professional to get involved in arbitration before getting the first appointment for different reasons- the availability of the pool of candidates for a particular sector, the growing sophistication of the arbitral process, and how an arbitrator is being nominated in reality...etc.

Be that as it may, as long as one has the patience, persistence and perseverance, one may eventually get his/ her first appointment. I am cautiously optimistic about this.

Q: What do you hope to achieve in and during your role as the CIArb (EAB) chairperson?

The EAB has a very rich history starting as the Hong Kong Branch in 1972. I would stand on the shoulders of the giants (former branch chairs)

for preserving the honorable tradition of the Branch. While there are different tasks I would work on, the following would be my focuses:

- i. Training and development of membership is always a key priority of the CIArb. The EAB has the largest number of members across the CIArb and shall continue to grow the membership of the Branch particularly outside Hong Kong. However, this task would be futile if the EAB is short of approved faculties. The Branch should therefore take an initiative by expanding the pool of approved faculties, which is also a means to encourage the members to have greater involvement with the branch;
- ii. Cultivating and nurturing the next generation of practitioners through knowledge sharing and participation of Vis East Moot. A series of seminars/ webinars by the past chairs of the Branch to share their particular experiences as seasoned arbitrators. Encourage the newly admitted fellows in assisting in the Vis East Moot as an arbitrator is another task to work on. This would give our fellows a task of arbitration proceeding and also allows them in serving the arbitration community;
- iii. Diversity and inclusion. Our immediate past chair, Mr Nicholas Turner, and past chair, Ms Mary Thomson put a lot of hard work into this area and built up a solid platform. The fruits of their success will be grown by continuing to promote these areas; and
- iv. Organising activities outside Hong Kong: while the majority of EAB members reside in Hong Kong, the EAB covers a large geographic area down from Indonesia and up to Mongolia. The EAB and chapters committees would work on organizing different activities outside Hong Kong.

Q: What do you do in your spare time?

I enjoy reading and watching movies. Hiking during Autumn is my favourite sport. I am studying Latin with the hope that I can be admitted as an advocate of the Tribunal of Rota Romana one day.

“The Reform of the Arbitration Law of the PRC: the Coming of the Golden Age of Arbitration for China?”

Webinar by Dr. Arthur Dong and Mr Wei Sun 31 August 2021, Hong Kong

The Branch has recently organised a webinar on the latest update on arbitration law of the PRC.

The discussion covers the following:

- Legislative history of PRC Arbitration Law
- Milestones in Law and Practice of PRC Arbitration
- Highlights in 2021 Proposed Draft of Arbitration Law, including :
 - i. Interim measures
 - ii. Arbitrator and tribunal
 - iii. Proceedings and hearing
 - iv. Mediation and settlement
 - v. Partial and interim awards
 - vi. Annulment and rejection of enforcement

The presentation was well-received and a total of 6 questions were raised by the audience. The event was attended by approximately 60 members.

David Luk

CIArb Accelerated Route to Membership Course

10 July 2021, Taipei

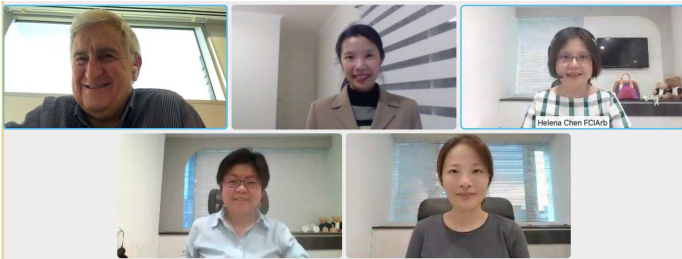
On 10 July 2021, while Taiwan was still under Level 3 COVID-19 alert, the Taiwan Chapter held its Accelerated Route to Membership (ARM) course with all participants joining safely from the ease of their office or home. This was the first time that the Taiwan Chapter held a full online ARM course.

The course was hosted in collaboration with the Chinese Arbitration Association, Taipei (CAA), National Yang Ming Chiao Tung University School of Law (NYCU LAW) and iADR®, this was well attended by 17 enthusiastic candidates from all corners of Taiwan.

Mr Glenn Haley (Branch Committee member and Course Director) gave his full support and assessed the candidates' performance remotely from Hong Kong. He was joined by several assessors from Taiwan including Dr. Helena Chen (Convenor of the Taiwan Chapter), Ms Alison Chang (former Head of the Taiwan Chapter YMG) and Dr. Winnie Ma (former Convenor of the Taiwan Chapter) from Australia.

Ms Monica Wang has also helpfully took part in this online event by shadowing the ARM course, and appreciation also goes to the staff of NYCU LAW for their support.

Monica Wang



Mr Glenn Haley, Dr Winnie Ma, Dr Helena Chen, Ms Alison Chang and Ms Monica Wang

“Hot Legal Topics in Solar Power”

6 September 2021, Taipei

The Taiwan Chapter was very honored to co-host, along with the Taipei Professional Civil Engineers Association, Taiwan Arbitration Association, Chinese Construction Industry Arbitration Association, and iADR® on 6 September 2021, a special evening discussion on “Hot Legal Topics in Solar Power” as a sequel to its previous talk regarding offshore wind power.

Dr. Helena Chen (Convenor of the Taiwan Chapter) first gave a brief introduction of the Taiwan Government's policies on solar energy, and captured the audience's attention with two questions: (1) what is the percentage of solar power installed capacity compared to the installed capacity of all other renewable energy used in Taiwan in 2020 and (2) what installed capacity of solar power is set to be achieved by 2025? Helena further explained the difference between the installed capacity and electricity generation of energy sources.

Thereafter, as a welcome note, Ms Laurie Chou (President of the Chinese Construction Industry Arbitration Association) and Mr Chun-Wei Chuang (Chairman of the Taipei Professional Civil Engineers Association) shared their stories and invited participants to join this emerging industry. Ms Alison Chang (former Head of the Taiwan Chapter YMG) followed with an introduction of the benefits that alternative dispute resolution mechanisms can bring to the solar energy sector.

The discussion was then organised into three parts, with each speaker sharing their experiences and advice on one specific topic. Ms I-Sha Liu presented the issues on the foreign investment aspects of solar power projects. Ms Jean Kuo identified the key challenges frequently encountered by investors in obtaining rights to the land in solar power development cases. Mr Chunhan Chi described the major issues of note in the application procedures and negotiations of investment agreements in the field of fishery and electricity symbiosis, particularly from the perspectives of Japanese investors.

Monica Wang

“Hot Topics in Offshore Wind Power”

12 August 2021, Taipei

On 12 August 2021, the Taiwan Chapter was very honored to co-host with the iADR® a special evening talk on the “Hot Topics in Offshore Wind Power”. The talk was conducted online with participants joining conveniently from home or office.

Dr. Helena Chen (Convenor of the Taiwan Chapter) first gave a brief introduction to the contract structure and the roles played by each stakeholder in a wind power project, and explained the alternative dispute resolution favoured by the foreign developers.

Thereafter, as a welcome note, Mr Wei-Hsien Lu (Secretary-General of the Taiwan Wind Energy Association) and Ms Alison Chang (former Head of the Taiwan Chapter YMG) shared their respective experiences in the wind energy sector and the selection of arbitration as the method of dispute resolution for the energy sector.

The talk was then organised into four sessions. Within each session, each speaker shares their experiences and advice on one specific topic. Ms Janice Lin described the financing aspects of offshore wind power projects. Ms Jennifer Li identified several key challenges in wind power development cases. Mr Simon Yu elaborated on the key factors of power purchase agreements. The talk was a great success and it was well-attended by approximately 300 participants, of which 80 of them are members of the Taipei Bar Association.

Monica Wang



from top left to bottom right: Dr Helena Chen, Ms Alison Chang, Mr Wei-Hsien Lu, Mr Simon Yu, Ms Jennifer Li and Ms Janice Lin

“Arbitration of Intellectual Property Disputes” seminar by Winnie Tam SC, Matthew Laight, Xiaojun Wang, Sebastian Hughes and Ronald Pang

24 June 2021, Hong Kong

To celebrate the fifth anniversary of the HKIAC Panel of Arbitrators for Intellectual Property Disputes, our Young Members Group (“YMG”) held a lunch seminar jointly with the HKIAC on 24 June 2021. The seminar was delivered by Winnie Tam SC, Mr Matthew Laight and Ms Xiaojun Wang, together with moderation by Mr Sebastian Hughes and introduction by Mr Ronald Pang (YMG Chairperson). The seminar received an overwhelming response from audience with participants joining from more than 10 countries either in-person or virtually. This was the first event organised by YMG that had in person attendees since the start of the pandemic.

The speakers shared their experiences in intellectual property arbitration, and compared the pros and cons of an intellectual property arbitration with litigation. The speakers found that intellectual property arbitration disputes are often interwoven with contractual disputes. The speakers observed that parties often start with a contractual dispute, and the intellectual property elements may only emerge as the arbitration proceeds. It will often make a difference to the outcome of the arbitration if the parties appoint an arbitrator with intellectual property background.

The speakers viewed that intellectual property disputes often involve an international element. Therefore, parties are usually required to litigate in multiple jurisdictions. However, with the advance development of technology, virtual hearings become more and more common in arbitration; this greatly reduces the cost of arbitration, and makes arbitration a more attractive alternative to litigation in the context of intellectual property disputes. HKIAC is also experienced in administering virtual hearing and provides leading technology service and conferencing equipment for virtual hearing.



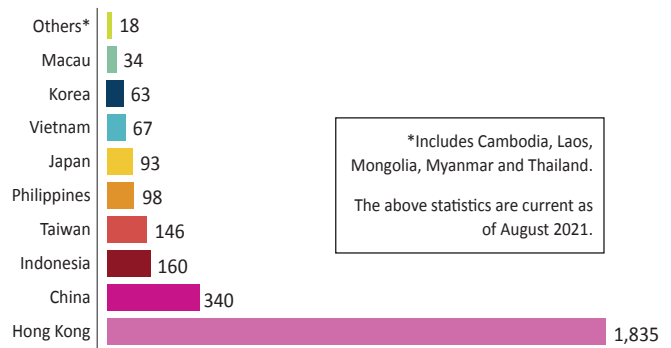
from left to right: Mr Ronald Pang (YMG Chairperson), Mr Sebastian Hughes, Mr Matthew Laight, Winnie Tam SC and Ms Xiaojun Wang

HKIAC shared their latest statistics and analysis of different categories of intellectual property disputes administered by it. The statistics shows that HKIAC remains a popular choice for parties in resolving different kinds of intellectual property disputes. HKIAC is accepting new application for inclusion on the HKIAC Panel or List of Arbitrators for Intellectual Property Disputes, and more information can be found in its website.

The seminar ended with an interactive Q&A session between the speakers and the audience attending in-person and virtually. All in all, the event was well-received and the YMG looks forward to organising more events in the future.

Richard Poon

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 residents 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 2021/22

Chairperson – **David Fong**, Vice Chairperson and Honorary Secretary – **Donovan Ferguson**, Vice Chairperson – **Christopher To**, Honorary Treasurer – **John Cock**, Immediate Past Chair – **Nicholas Turner**, Professional Development and Training – **Christopher To** assisted by **Stephen Chu**, Programme – **David Luk** assisted by **Tim Lui**, Mediation – **Lawrence Lee**, Adjudication – **Albert Yeu**, Membership and Website – **Micky Yip**, ADR Editorial – **Christopher To**, Newsletter – **Gina Leung**, Regional (PRC) – **Mingchao Fan** assisted by **Richard Leung**, Regional (Taiwan, Korea, Japan, Indonesia & Others) – **Glenn Haley**, LinkedIn and YMG Chairperson – **Ronald Pang** (co-optee), Communications within CIArb and Communications with outside bodies / Public Relations Officer – **David Fong**, Diversity – **Saniza Othman** (co-optee) assisted by **Jagmeet Makkar** (co-optee), Vis East Moot – **Karen Mills**, EAB Trustee- **Paul Barrett** (observer)

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