



This third quarter of 2013 was, as usual, very busy for the East Asia Branch. This issue of the Newsletter covers inter alia several events since the previous issue, which includes the Winnie Whittaker Memorial Lecture, evening talk given by Mr Rajiv Dutta and Nuts and Bolts lecture No. 9 held in Hong Kong, as well as mock arbitration held in Cebu and mediation introduction course held in Taipei. As always, the Branch Young Members Group was active in organizing events attracting considerable interest, which covers evening talk given by Professor A Reyes and several joint social events.

As always, news items for the Newsletter and letters from the readership are most welcome. Readers are also encouraged to submit articles, book reviews or letters relating to dispute resolution to Asian Dispute Review. For submission guidelines please visit www.asiandr.com.

The forthcoming Branch events programme can be found on the back page of the Newsletter, and an up to date programme can be found on www.ciarbasia.org.

Cheryl Je

Mock Arbitration by EAB Philippine Chapter

Cebu Philippines 21 – 22 June 2013



The arbitral tribunal of the mock arbitration, Robin Peard (middle)

CI Arb EAB supported this year's Regional Arbitral Institutes Forum ("RAIF") held in Cebu, Philippines from 21-22 June 2013 by co-producing the event's day-long mock arbitration based on the rules of arbitration of the International Chamber of Commerce ("ICC") with the Philippine Institute of Arbitrators. Conducted on 21 June 2013 at the auditorium of the University of San Jose Recoletos, the affair provided a unique opportunity for RAIF participants to witness how proceedings in international commercial arbitrations are conducted. Course Co-Directors for the event were Robin Peard of Mayer Brown JSM and Teodoro Kalaw IV of Kalaw Sy Vida Selva & Campos, who prepared the case study using material previously adopted by Louise Barrington and based on a fact situation created by Ben J. Sheppard Jr. of the University of Houston Law Centre. Mary Thomson served as EAB Regional Committee liaison for the event.

Khong Cheng-Yee, ICC's Director and Counsel in charge of the ICC International Court of Arbitration Secretariat – Asia Office, explained the proceedings together with Course Co-Director Kalaw, who served as the mock arbitration's narrator, while Donemark J. L. Calimon of Quisumbing Torres (a member firm of Baker & McKenzie International) explained the proceedings from the Philippine law perspective. The arbitral tribunal was chaired by Course Co-Director Robin Peard, with Celeste Ang of Baker & McKenzie, Wong & Leow (Singapore) and Mario E. Valderrama as members. Ruth Stackpool-Moore, Managing Counsel of the Hong Kong International Arbitration Centre, together with Mr. Abraham M. Acosta of Quisumbing Torres and the University of San Jose Recoletos, acted as counsel for the claimant. Messrs. Ricardo Ma. P. G. Ongkiko and Romeo D. Lumagui, Jr., both from SyCip Salazar Hernandez & Gatmaitan, acted as counsels for the respondent. Eduardo R. Ceniza of ERCeniza & Associates served as interim measures judge.

The event marks the first time an international mock arbitration was conducted in the country, and has directly resulted in a request by the Office of Alternative Dispute Resolution of the Department of Justice of the Republic of the Philippines for a repeat performance when the country celebrates its ADR Week on 16 to 19 December 2013.

Donemark Calimon/ Teodoro Kalaw IV

CIArb 2013 International Arbitration Conference Arbitration: Tapping Asia's Growth

Penang Malaysia 22-24 August 2013

The CIArb 2013 International Arbitration Conference was successfully held in Penang Malaysia from 22 to 24 August 2013 with approximately 300 delegates coming from different countries of the world.

The conference was opened on 22 August 2013 by The Right Honourable Tun Arifin Zakaria (Chief Justice of Malaysia), and then followed by keynote address by The Right Honourable Mr. Sundaresh Menon (Chief Justice of Singapore) and Mr Vinayak Pradhan (President of the CIArb). Full-day conference was held on both 23 and 24 August 2013 with distinguished speakers from various countries of Asia as well as United Kingdom, Australia and Switzerland, which included Mr Anthony Abraham (CIArb Director General), Mr John Wright and Mr Dong Jones. The EAB Chair, Mr Man Sing Yeung, was the moderator for the session entitled tapping into growth in specialized sectors in Asia. The trustee of East Asia, Mr Colin Wall, participated in the interactive session entitled current & hot topics in international arbitration practice. Other speakers from the EAB included Mr Timothy Hill, Ms Teresa Cheng SC and Mr Philip Yang.

The conference was very well organized and all the participants enjoyed their time in Penang.

Cheryl Je



EAB Chair Man Sing Yeung (left), Philip Yang (middle)



Trustee for East Asia Colin Wall (left)

Evening Talk by Mr. Rajiv Dutta, Senior Advocate, on "Growing Importance of India as a World Economic Power and Myths Surrounding Arbitration Practice in India"

Hong Kong 2 August 2013

In the evening of 2 August 2013, Mr. Rajiv Dutta, who is a well-known figure in the India legal community, gave us a talk entitled "Growing Importance of India as a World Economic Power and Myths Surrounding Arbitration Practice in India".

Following the initiation of economic reforms in 1991, there had been a growing of foreign investment in India which thus led to issues of disputes. Mr. Dutta gave us an overview of the problems arising from the old Arbitration Act 1940 particularly judicial intervention. He also discussed the provisions under the new Arbitration and Conciliation Act 1996, which was an adoption of the UNCITRAL Model Law, as well as the several hurdles in its implementation and the subsequent recommendations of the Law Commission in India. He considered that arbitration in India is still evolving and in this regard he made several suggestions, which focused on the mindset of the members of the Bar, development of full time arbitrators, practice in drafting the arbitration agreements adopted by the government departments, etc. and the emphasis given to institutional arbitration. He concluded that India has been moving in the right direction albeit it remains behind the rest of the world.

The talk was very interesting and though provoking. Discussion ensued among the speaker and the audience during the question and answer session. Mr. Dutta was very kind to allow us to upload his paper to the website.



Rajiv Dutta at the HKIAC

Cheryl Je

Winnie Whittaker Memorial Lecture – Talk on “Revitalization of Salt-pans at the Island of Yim Tin Tsai Sai Kung” by Anna Kwong

Hong Kong 21 June 2013

The 8th Annual Winnie Whittaker Memorial Lecture was held on 21 June 2013 at the HKIAC. The speaker was Ms Anna Kwong, the immediate past president of the Hong Kong Institute of Architect.

Before the beginning of the talk, Ms Kwong and our members played a moment of silence as tribute to Winnie. Ms Kwong then started the talk by giving an account of her encounter with Winnie when they both worked at the Housing Department of the then Hong Kong Government and the development of their friendship. Ms Kwong then introduced our members to the St Joseph Chapel Conversation Project at Yim Yin Tsai, Sai Kung. St Joseph Chapel was awarded the UNESCO Asia-Pacific Heritage Awards in 2005. She first looked at the history of the Chapel, clan history of the Yim Yin Tsai village, and how the Roman Catholic Diocese of Hong Kong conserved the Chapel under the theme of “Add nothing and taking nothing.”

Ms Kwong then turned to the second part of her talk, the saltpan revitalization project. She gave an account of the history of saltpan in Yim Tin Tsai village in the 19th century, its decline, and how the salt pan revitalization project begins in 2013. Method of productions in saltpan at Tainan was discussed. The contract type with dispute resolution procedure had also been highlighted.

The talk was well attended and member found the talk both informative and interesting.



EAB Chair Man Sing Yeung (left) and Ms Anna Kwong

David Fong

Asia-Pacific Regional Arbitration Group (“APRAG”) Conference

Beijing PRC 27-29 June 2013



Group photo

On 27 to 29 June 2013, the Asia-Pacific Regional Arbitration Group Conference was held in the vibrant city of Beijing, China. Those who attended the event, were impressed by the informative programme as well as the organisation, a truly spectacular and memorable occasion. Our sincere thanks go to The China International Economic and Trade Arbitration Commission for organising the event. The theme of the conference “International Arbitration in Asia-Pacific Region in the Next Ten Years – Opportunities and Challenges” was fitting and reflects the progressive attitude of Arbitration practitioners of wanting to think ahead. Prominent arbitration and ADR experts from around the world provided insights and experiences for the

audience to exchange best practices. The CIArb (EAB)’s presence was visible throughout the event, with the Chairman, office bearers and members actively engaging speakers and attendees while at the same time promulgating the attributes of the Branch. The Department of Justice under the leadership of Mr Rimsky Yuen SC JP gave a compelling account of the true benefits of arbitrating in Hong Kong and the audience were impressed by his speech. Mr Renaud Sorieul, Secretary-General, United Nations Commission on International Trade Law (UNCITRAL) gave his views on UNCITRAL’s experiences within global arbitration context. Whereas Mr Yu Jianlong and Mr Sundra Rajoo were instrumental in making everyone’s experience of the event enjoyable and informative. For this we are grateful to them.

Last but not least H.E. Mr Zhou Qiang, Chief Justice, President of the Supreme People’s Court of the People’s Republic of China’s speech was fruit for thought and showed a progressive and forward thinking judiciary that has the desire to make a difference. Well done APRAG and we look forward to your next event.

Christopher To

The 5th Bi-Annual General Meeting of APRAG

Beijing PRC 27 June 2013

The 5th Bi-annual General Meeting of APRAG was held on 27 June 2013 in Beijing.

It was chaired by Professor Sundra Rajoo of the Kuala Lumpur Regional Centre for Arbitration, the President of APRAG and attended by the delegations from Arbitration Association of Brunei Darussalam, Australian Centre for International Commercial Arbitration, BANI Arbitration Centre, Beijing Arbitration Commission, Chinese Arbitration Association Taipei, CIETAC, HKIAC, ICC International Court of Arbitration Asia Office, Japan Commercial Arbitration Association, Korean Commercial Arbitration Board, Thai Arbitration Institute, CI Arb (EAB) and other arbitration bodies in the Asia Pacific regions.

Mr. Yu Jian Long, the Vice Chair and Secretary General of CIETAC was elected as the new President of APRAG. The new President is looking forward to the future practice of international arbitration continuing to be enhanced and strengthened by the ongoing co-operation of the members under the umbrella of APRAG in which CI Arb(EAB) is one of its members.

The number of membership of APRAG is now 40 arbitral bodies in Asia. Members can look to celebrate the 10th year anniversary of the formation of APRAG. This will be held in Melbourne and organized by ACICA on 26-28 March 2014.

Man Sing Yeung

“Nuts and Bolts” of Arbitration Lecture No 9: “Costs, Offers to Settle and Payments-in” by Glenn Haley

Hong Kong 18 June 2013

On 18 June 2013, Mr. Glenn Haley gave Lecture No. 9 of the “Nuts and Bolts” series on “Costs, Offers to Settle and Payments-in” at the Hong Kong International Arbitration Centre. The lecture was real time transmitted to Philippine chapter and Taiwan chapter via Webex, and such service was sponsored by Merrill Corporation.

The lecture covered various important areas including what costs are, the power and jurisdiction, types of costs orders, who assesses the costs, the assessment process, assessment of the Arbitrator’s fees and expenses, offers to settle and payments into court. Mr. Haley explained these areas by reference to the new Arbitration Ordinance as well as compared with the relevant provisions in the old Arbitration Ordinance.

As with the previous lectures, this lecture would be uploaded to the website. This is the last lecture in the “Nuts & Bolts” series 2013. We are now working on another “Nuts & Bolts” series on construction contracts disputes, which would be launched soon.



Glenn Haley at the HKIAC

Cheryl Je

YMG Joint Institutes Event – Cocktail Workshop

Hong Kong 4 May 2013



Group photo

The YMG joined a joint institutes cocktail workshop on 4 May 2013.

The event, jointly organised by the young members groups of Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong Institute of Surveyors, the Law Society of Hong Kong, the Hong Kong Institution of Engineers, the Institution of Civil Engineers and the Chartered Institution of Building Services Engineers, was to provide a platform for the members to have networking amongst young professionals and about 30 participants from the six institutions took part. The participants were given a lecture on basic techniques of cocktail making and then had made their own signature cocktails in the workshop. All the participants enjoyed this cocktail workshop.

The event was a great success with much enthusiasm from the participants. The help from co-operative institutes for this enjoyable event was deeply appreciated.

Lawrence Lee

Mediation Introduction Course

Taipei Taiwan 28 June 2013

Taiwan Chapter organized a mediation course on 28 June 2013 in Taipei, Taiwan at Center for Public and Business Administration Education, National Chengchi University. In all, more than 30 people, including university law professors, lawyers, and business people attended the course. Colin Wall and Mary Thomson were the assessors of the course.

The course was supported by several organizations including National Chengchi University, National Taipei University, Formosan Brothers Attorneys-at-Law, K&L Gates, Formosa Transnational Attorneys-at-Law, Swedish Chamber of Commerce and the Taiwan Business Leader Forum.

The course focused on four topics, which included: Basic Mediation Principles, Negotiation Theory, The Mediation Process, and Communication Skills Essential for Mediations. Feedback from the participants is positive and many participants had asked the Taipei chapter to hold more courses in the future.

Houchih Kuo

YMG Evening Talk on “What assistance will a Tribunal be seeking from counsel, experts and factual witnesses in an arbitration?” by Professor A Reyes

Hong Kong 7 June 2013

On 7 June 2013, following the CIArb (EAB) YMG Annual General Meeting, YMG members had the honour to attend an evening talk by Professor Aselmo Reyes on “What assistance will a Tribunal be seeking from counsel, experts and factual witnesses in an arbitration?”. An ex-judge of the Court of First Instance, Professor Reyes is a commercial arbitrator, advocate in arbitrations, mediator, professor of legal practice and author.

Professor Reyes commenced the talk by briefly exploring what one might expect of the tribunal. Drawing from his own experience, Professor Reyes compared the roles of a judge and that of an arbitrator. Moving onto the main subject of the talk, Professor Reyes emphasised the importance for all parties to an arbitration to be issue-focused and realistic. The two can be considered one – let issues drive arbitrations realistically. With this running theme in mind, Professor Reyes went on to discuss with the audience how best advocates, experts, factual witnesses and lay-clients may conduct in arbitrations. For example, advocates can assist the tribunal by being well prepared and breaking down the case into a few key issues, which then frame discovery and witness and expert statements required. Parties are encouraged to suggest a fair timetable and an orderly protocol early on. Witnesses, both factual and expert, should only be involved if necessary. The talk, which attracted a full house, was followed by a lively Q&A session.



Professor A Reyes at HKIAC

Lulu Xu

YMG Annual General Meeting

Hong Kong 7 June 2013



(From left) Helen Au, Andrew Chin, Kanice Chan and Lawrence Lee

Following the YMG Annual General Meeting held on 7 June 2013, the YMG committee chairperson for 2013-14 session is Lawrence Lee. With thanks to the effort of the past Chairpersons and YMG Committee Members, the YMG has developed into a widely recognised part of CIArb (EAB), providing a platform for members to develop their experience in the arbitration and dispute resolution industry. Currently the YMG has about 500 members who are at or under the age of 45 from various professional backgrounds, including legal practitioners, engineers, surveyors, contract managers, mediators and arbitrators.

In this session, the YMG will continue to organise a range of activities led by the YMG Committee Members, including seminars, visits, non-technical programmes, joint-institutional professional functions and university promotion.

Lawrence Lee

2013-2014 East Asia Branch Events Programme

Unless stated otherwise, events are free to members, are 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.

Saturday 2 March 2013

YMG Joint Institutes Event – Guided Tour of Hong Kong Global Geopark of China – Sai Kung Volcanic Rock Region. Details circulated.

Thursday 7 March 2013

YMG Evening Talk: “15 Questions Not to Ask in Cross-Examination” by Mr Michael Hwang S.C. Details circulated.

Friday 15 March 2013

Cocktail Reception for Mr Vinayak Pradhan, President of the Chartered Institute of Arbitrators and book launch of The Danubia Files. Details circulated.

Tuesday 19 March 2013

Nuts and Bolts Lecture No. 6 by Mr John Cock on “Witness Evidence and Expert Evidence in Arbitration”. Details circulated.

Thursday 21 March 2013

Joint CI Arb YMG / Aedas Evening Talk: “ADR 101 for Architects” by Ms Helen Au, Mr Justin Wong and Mr Allen Lai. Details circulated.

Saturday 23 March 2013

CI Arb YMG and ICES jointly organising a visit to ZCB. Details circulated.

Saturday 6 April 2013

YMG Joint Institutes Event – “Dialogue in the Dark”. Details circulated.

Tuesday 9 April 2013

Nuts and Bolts Lecture No. 7 by Mr Russell Coleman SC on “Advocacy in Arbitration: Tips for Winning and the Key to Losing”. Details circulated.

Friday 12 April 2013

Branch Annual Dinner: Guest speaker – Mr Rimsky Yuen the Secretary for Justice. Details circulated.

Saturday 20 April 2013

YMG – One day seminar talk on NEC contract management. Details circulated.

Friday and Saturday 26 April – 27 April 2013

Accelerated Route to Fellowship (International Arbitration) Course. Details circulated.

Tuesday 30 April 2013

EAB Annual General Meeting and evening talk by Ms. Sou Chiam on Financial Dispute Resolution Centre (FDRC). Details circulated.

Saturday 4 May 2013

YMG Joint Institutes Event Cocktail Workshop. Details circulated.

Tuesday 7 May 2013

Nuts & Bolts Lecture No. 8 by Ms Catherine Mun on “Award and Challenges to Award”. Details circulated.

Saturday 11 May 2013

YMG Site Visit to MTR Ap Lei Chau Tunnel Site. Details circulated.

Monday 20 May 2013

YMG Non-technical talk by Sean Lin (Toastmasters International, HKUST Convocation, Chief Inspector of the Hong Kong Police Force) on “You can negotiate – a sharing session with a professional negotiator”. Details circulated.

Friday 7 June 2013

YMG Annual General Meeting and evening talk by Professor A Reyes on “What assistance will a Tribunal be seeking from counsel, experts and factual witnesses in an arbitration?” Details circulated.

Tuesday 18 June 2013

Nuts & Bolts Lecture No. 9 by Mr Glenn Haley on “Costs, Offers to Settle and Payments in”. Details circulated.

Friday 21 June 2013

Winnie Whittaker Memorial Lecture – Talk on “Revitalization of Salt-pans at the Island of Yim Tin Tsai, SaiKung” (dispute avoidance procedure and/or how to handle complaints) by Ms Anna Kwong. Details circulated.

Friday 21 June 2013

Mock arbitration by EAB Philippines Chapter. Details circulated.

Thursday 27 June 2013

Trustee’s Visit to Taiwan Chapter. Details circulated.

Friday 28 June 2013

Mediation Introduction Course – EAB Taiwan Chapter. Details circulated.

Tuesday 23 July 2013

Fellows’ Cocktail. Details circulated.

Friday 2 August 2013

Growing importance of India as a world economic power and the ‘myths’ surrounding arbitration practice in India by Mr Rajiv Dutta. Details circulated.

Tuesday 10 September 2013

Interim measures – court v arbitrator? The decision of the UK Supreme Court in Ust-Kamenogorsk Hydropower Plant JSC (Appellant) v AES Ust-Kamenogorsk Hydropower Plant LLP (Respondent) by Ms Sara Masters QC. Details circulated.

Saturday 14 September 2013

YMG Charitable mooncake distribution to elderly. Details circulated.

Friday – Saturday 27-28 September 2013

Accelerated route to fellowship. Details circulated.

Tuesday 29 October 2013

Pathways to arbitration under the Model Law in Hong Kong and Australia: Convergence, Divergence and Limitation. Detail circulated.

Upcoming events:

Container Terminals – Development and Disputes by Mr Horace Lo.

Talk on CIETAC arbitration rules by Dr Wang Wenying

Sub-contracting in the construction industry and disputes by Mr Daniel Lam

Talk on ADR in family matters by Her Honour Judge Sharon Melloy

Nuts & Bolts of Construction Arbitration Series

CI Arb (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.

CI Arb (East Asia Branch) Committee

Paul Barrett – Professional Development & Training/ Editorial/ Vis East Moot, **Louise Barrington, Jessica Chan** – Universities Promotion, **Kanice Chan, Martin Doris, David Fong, Joe Gilfeather** – Regional (Mongolia, Vietnam & Cambodia), **Menachem Hasofer** – Programming / IT, **Cheryl Je** – Honorary Secretary/ Newsletter/ Website, **Houchi Kuo, James Lau, Johnson Lee** – Public Relation Officer/ Mediation & Adjudication / Memebership, **Lawrence Lee** – YMG, **Richard Leung** – Vice Chairman/ Regional (China), **William Leung, Mary Thomson** – Regional (Korea, Taiwan, Indonesia, Philippines & Japan), **Christopher To** – Vice Chairman/ Professional Development & Training, **Man Sing Yeung** – Chairman, **Cordia Yu** – Honorary Treasurer

Contact Details

c/o The Hong Kong International Arbitration Centre, 38/F Two Exchange Square, Central, Hong Kong

Telephone: (852) 2525 2381

Fax: (852) 2524 2171

Website: <http://www.ciarbasia.org>

E-mail: ciarb@hkiac.org