



Happy New Year! Welcome to the first edition of the CI Arb Newsletter for 2018.

When we take stock of our achievements last year, there is much to reflect on and we are proud of what managed to achieve in various Chapters and regions. Every quarter provides a busy schedule of evening talks and events, for the benefits of both the members and other professionals in the industry, thanks to both the EAB and the YMG Committees.

We continued and committed to raise our reputation as the leading organization of arbitrators in the region. It is our hope that the EAB will further expand its membership in the region, especially the new Chapters.

On behalf of the editorial team, we wish you a happy Chinese New Year and a prosperous year in the year of dog.

Calvin Cheuk and Gina Leung



From left to right:
Mr Richard Leung (Course Director / Past Immediate Chairman EAB), Mr Chalee Nai Kin (Business Development Manager CI Arb Asia Pacific), Mr Francis Xavier SC (Course Director / Past Immediate Chairman Singapore), Mr Wesley Wong SC (Solicitor General HKSAR), Ms Mary Thomson (EAB Chair) & Mr Chou Sean Yu (Singapore Chairman)

“CI Arb Asia Pacific Diploma in International Commercial Arbitration 2017”

21-29 October 2017, Hong Kong



This pre-eminent flagship course of CI Arb was first launched in 1995 by the Chartered Institute of Arbitrators in London and is held annually in the UK. In Hong Kong, it was first held in 2005, some 12 years ago. In 2016, the three branches collaborated and conducted the Diploma course in Singapore. Following the success in Singapore in 2016, the East Asia, Australia and Singapore branches were proud to conduct this “CI Arb Asia Pacific Diploma in International Commercial Arbitration” in Hong Kong during 21-29 October 2017. This time, it attracted 36 candidates coming from many jurisdictions including Australia, China, France, Germany, Hong Kong, India, Indonesia, Italy, Singapore, and Switzerland.

The course directors include Mr Richard Leung and Mr Francis Xavier SC, whom are the immediate past chairmen of the East Asia Branch and Singapore Branch respectively. With the assistance of the regional manager Mr Chalee Nai Kin, the two Chairmen jointly managed the successful course. The course was also delivered by many renowned faculty members including Professor Louise Barrington, Mr Chou Sean Yu (the current chair of Singapore Branch), Mr Peter Caldwell, Mr John Cock, Mr Simon Davis, Mr David Fong, Dr Gavan Griffith QC, Mr Malcolm Holmes QC, Mr Anthony Houghton SC (the trustee of CI Arb), Ms Caroline Kenny QC (the current chair of Australia Branch), Mr Neil Kaplan QC (former

International President of CI Arb), Mr David Kreider, Mr Timothy Hill, Ms Amanda Lees, Mr Stephen Mau, Mr Albert Monichino QC, Mr Paul Sandosham, Mr Gordon Smith, Mr Richard Tan, Mrs Mary Thomson (the current chairlady of East Asia Branch), Mr Tan Chuan Thye SC, Dr Christopher To, Professor Philip Yang as well as representatives from various arbitral institutions.

The 9-day course was intensive, it covered all aspects of the arbitration process from the legal framework and drafting of the arbitration agreement, through to constitution on the tribunal and the proceedings and finally the issue of award.

In between, the candidates were invited to attend a Welcome Reception, a mid-week harbour cruise with dinner/laser show and a Gala Dinner at the end. As the host for conducting this Diploma course, the EAB was honoured to have Mr Wesley Wong SC JP, solicitor general, as the guest of honour at the Gala Dinner who gave an interesting and informative talk about the development of the arbitration regime in Hong Kong.

This Diploma course will be held in Perth, Australia in 2018 and a repeat successful performance of a programme run collaboratively by the three Branches, East Asia, Australia and Singapore of CI Arb.

Richard Leung

Accelerated Route to Fellowship

6-7 October 2017, Jakarta

The Indonesia Chapter of the CIArb Accelerated Route to Fellowship (ARF) program on 6-7 October, 2017, at the Dharmawangsa Hotel, Jakarta. The program was attended by 18 enthusiastic participants, comprising mostly of partners from Jakarta well known dispute resolution firms.

A member of the Board of Trustee, Anthony Houghton, S.C., led the team of assessors. Ms Mary Thomson, the EAB Chair lady, and Ms Karen Mills, the Co-Chair of Indonesia Chapter join Mr Houghton as the assessors. They were assisted by Mr Ilman Rakhmat and Mr Windri Marieta, both are fellows of CIArb, and Any Aryani a member of CIArb who has passed the previous ARF course.

This is the second ARF held in Indonesia. The previous ARF was conducted in 2011.

At present, five Indonesians have admitted as fellows of the Institute and with the second ARF conducted, it is hoped that more Indonesians will become fellows in the future.

Reception of the CIArb Indonesia Chapter

To conclude the ARF and in honor of the visit of the Trustee and the Chair of East Asia Branch, the Indonesia Chapter held a reception in the evening of 7 October, 2017 at the Bimasena Club, the Dharmawangsa Hotel.

Participants from the ARF, as well as members of CIArb and the country's prominent alternative dispute resolution practitioners attended the Reception.

At the Reception, Ms Karen Mills and Mr Frans Winarta, announced the appointments of their new co-chairs of Indonesia Chapter. It was shared that Ms Mills and Mr Winarta would step down to become members of the supervisory board. Both Ms Mills and Mr Winarta acted as co-chairs since the inauguration of the Indonesia Chapter in 2007. The new co-chairs are Ilman Rakhmat, partner of Rakhmat Suroso Advocates and Windri Marieta, partner of HMM Attorneys.

Ilman Rakhmat



The participants at the Accelerated Route to Fellowship course



From left to right: Mr. Eri Hertawan, Mr. Frans Winarta, Ms. Karen Mills, Mr. Ilman Rakhmat, Ms. Windri Marieta

Site Visit to Central – Wan Chai Bypass – Tunnel (North Point Section) and Island Eastern Corridor Link

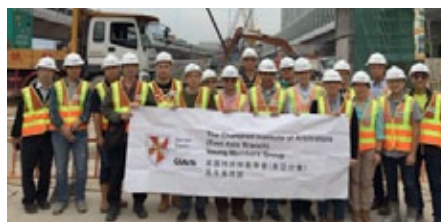
4 November 2017, Hong Kong

On 4 November 2017, CIArb (EAB) YMG and ICES co-hosted a site visit to HyD's Central – Wan Chai Bypass – Tunnel (North Point Section) and Island Eastern Corridor Link. The visit started at the North Point Community Liaison Centre, where the project team of Chun Wo Construction Company Limited introduced the participants with the project scope, demolition and reconstruction sequence of a section of Island Eastern Corridor (IEC) near Victoria Park Road, balanced cantilever method of construction of new viaducts, and construction of cut-and-cover tunnel matching the new IEC westbound and eastbound viaducts. The audience raised a few questions about bridge construction and demolition of the IEC by saw-cutting.

The construction team escorted the participants to see the construction of tunnel approach ramp

connecting the westbound and eastbound viaducts and explained the on-site logistics of bridge pre-cast segments. The heavy bridge segments would be transported by barges from the casting yard and lifted by launching girders into positions. Construction challenges including minimisation of public nuisance, maintenance of traffic flow and environmental impacts were thoroughly discussed during the site walk. Some members and site representatives had a networking lunch after the site visit. The event was very well received.

Ir. Albert Yeu



YMG – Joint Institutes Event – “Mooncake Making Class”

26 September 2017

The CIArb(EAB) YMG, CIBSE, HKIE, HKIS and ICE celebrated the Mid-Autumn Festival together in a mooncake making class on 26 September 2017. Over 20 participants from various institutes enjoyed a fantastic evening in the workshop at Yaumatei. Each participant made a box of 8 delicious handmade custard mooncakes during the 2-hour session and brought the mooncakes to home to share with their loved ones.

George Chong



Evening talk by Mr Peter Caldwell

23 November 2017

Peter Caldwell addressed the members in the third in a series of seminars covering the guidelines and rules for administering arbitrations, specifically on the topic of the appointing and challenging of jurisdiction of an arbitrator under the CIArb's Practice Guidelines. This was an appropriate topic for Peter as he is consulted by the CIArb on an ongoing basis in their review and update of its guidelines. From the outset he stressed that these were guidelines and not definitive rules.

Mr Caldwell commenced his talk by outlining the salient points to address in an arbitrator's terms and conditions giving examples where a formal agreement was necessary. He spoke at length on the remuneration of arbitrator's and distinguished how these varied from ad-hoc to institutional arbitrations, also with how different fee structures within arbitrators on the same panel might give rise to difficulties. He also outlined difficulties with cancellation fees, deposits and parties that were reluctant to pay.



Peter urged caution with being called by a potential party to an interview and reflected on a number of points to watch for. He moved on to the guidelines for challenges to an arbitrator's jurisdiction and how to deal with those which might be raised as a potential delaying tactic in the proceedings. Finally, he addressed difficulties involved with challenges brought in foreign jurisdictions and the degree to which they were or were not binding upon the tribunal.

The topic attracted many questions and proved to be a popular.

Paul Barrett

The HKIAC Administered Arbitration Rules – The present and a look to the future

14 September 2017, Hong Kong

The Branch had the honour of hearing from Ms Chiann Bao and Mr Joe Liu, on the topic of "The HKIAC Administered Arbitration Rules – The present and a look to the future" at the HKIAC.

This is the first in a series of seminars which will look at "the guidelines and rules for administering arbitrations and other dispute resolution processes".

Chiann and Joe provided a helpful overview of a number of the key features of the Rules, as well as HKIAC's approach to the administration of arbitrations under those Rules. They touched upon the approach to HKIAC's decision making, how HKIAC will approach problematic arbitration clauses, some statistics on the average costs and duration of administered arbitrations (including expedited proceedings), the HKIAC's approach to appointment of arbitrators, a brief review of the expedited procedure (of which there have been 33 applications and recent case law) and multi-party and multi-contract arbitrations.



Chiann and Joe rounded off the seminar by looking at some of the proposed major amendments to the Rules, which are currently out for consultation. These included a proposal for an online document depository, alternative means of dispute settlement, multilingual procedures, new grounds for joinder, expanded provisions for single arbitration under multiple contracts, proposals for concurrent proceedings, third party funding, early determination procedure and combined rules for investment treaty arbitration. The proposed amendments were the subject of a number of questions at the end of the seminar.

Overall, the event was well-received and attended by approximately 40 members, including members of the Philippines Chapter who attended via a webinar (kindly facilitated by DTI Global). A copy of the webinar will be uploaded on to the CIArb (EAB) website in due course.

Nicholas Turner

Joint evening talk with Chinese Arbitration Association, Taipei

13 October 2017, Hong Kong

The CIArb (EAB) YMG organised a joint evening talk with the Chinese Arbitration Association, Taipei (CAA) on the new Arbitration Rules of Chinese Arbitration Association, International (CAAI), which came into effect on 1 July 2017. Ms Winnie Jo-Mei Ma (Deputy Secretary-General of CAA) and Ms Helena His-Chia Chen were the speakers. Ms Kathryn Sanger, Ms Mary Thomson (Chair of CIArb EAB) and Mr David Fong (Vice-Chair of CIArb EAB) commented on the presentations and moderated the discussion.

The evening started off with a presentation by Ms Ma on the background to the CAAI Arbitration Rules. She explained that the CAAI is keen to attract more international arbitration cases in light of China's "One Belt, One Road" initiative and the launch of the CAAI Arbitration Rules is an integral part of this strategy. The CAAI Arbitration Rules will apply to arbitrations seated outside of Taiwan. It is a modern set of rules adopted after a comparative study of other international arbitration rules. Ms Ma outlined the distinguishing features of the CAAI Arbitration Rules. These include the designation of Hong Kong as the default seat of arbitration, providing for English or Chinese as the default language of arbitration and imposing short default time limits for the arbitration proceedings and the final award. The designation of Hong Kong as the default seat is particularly important as this enhances the enforceability of CAAI awards in New York Convention jurisdictions.

Ms Chen then discussed how the CAAI Arbitration Rules is attractive to parties and suitable for international disputes, especially disputes in the construction and technology sectors.

The evening talk was well received and around 30 members attended the event. The audience was engaged during the presentations and was particularly interested in the CAAI's expansion plans and features of the CAAI Arbitration Rules aimed at ensuring efficiency of the arbitration proceedings.

Bryan Fok

ARM Course

30 September & 1 October 2017,
Taiwan

The Taiwan Chapter convened an ARM course in Kaohsiung on 30 September and 1 October 2017, again in collaboration with CAA (Chinese Arbitration Association, Taipei). It is remarkable that, within two months after the announcement of this course, 30 candidates from various areas in Taiwan, Hong Kong and Beijing, with a diversity of disciplines and experiences, enrolled and completed this course.

CAA Kaohsiung Office had the pleasure of hosting assessors Mary Thomson, James Thomson, Richard Leung and Helena Chen, as well as shadow assessors Houchih Kuo (Taiwan Chapter Convenor for the past six years), Winnie Jo-Mei Ma (CAA Deputy Secretary-General), Alison Chang and Alice Lu. Winnie and Alison became FCI Arb in July and August 2017 respectively.

The next ARM course in Taiwan is scheduled for 10-11 March 2018, followed by ARF course later in the year.

Winnie Ma



“Some thoughts on Arbitration Rules” by Professor Anselmo Reyes

30 October 2017, Hong Kong

Professor Reyes gave a talk on “Some thoughts on Arbitration Rules” at HKIAC with over 30 participants. He firstly compared the 2013 HKIAC Administered Arbitration Rules and 2014 HKIAC Domestic Arbitration Rules with the differences on a series of details provision on concurrent proceedings and the opt-in options that the domestic rules doesn't have.



Professor Reyes and Ms Mary Thomson (EAB Chair)

Another advantage on the HKIAC Administered Rules is the parties are given the power on multi-parties in arbitration in one tribunal under the opt-in option in Schedule 2 of arbitration rules.

Professor Reyes also stated that the time regime on the period on pleadings in Domestic Arbitration Rules are more strengthen with less flexibility compared with HKIAC Administered Arbitration Rules.

Finally, Professor Reyes compared the UNCITAL model rules, ICC rules etc. on the differences on the enforcement of arbitral award and shared the view on the appointment on the list of arbitrators under difference institutions and their procedures on the list of arbitrators.

Lawrence Lee

Young Members Group-UNICEF Charity Run

26 November 2017

The UNICEF Charity Run has its 12th anniversary this year. On 26 November 2017, the EAB YMG supported this annual charity for the children in need event and the participating members include the YMG Chairperson David Luk and YMG committee member Fred Ho.



Donation raised in this annual flagship event of the UNICEF has been used to provide HIV tests and treatment for pregnant women, newborns and children. We look forward to participate in the fundraising event in 2018 again.

Fred Ho

2018 East Asia Branch Events Programme

Unless stated otherwise, events are free to CI Arb 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.

January 2018

YME Annual Party Venue – TBC.

February 2018

YME Technical Talk Venue – TBC.

1 March 2018

Evening talk on Cross Border Arbitration by Mr Charles T. Kotub, Venue – TBC.

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 2017/2018

Mary Thomson – Chairperson, **David Fong & Nicholas Turner** – Vice Chairpersons, **Donovan Ferguson** – Honorary Secretary, **Paul Barrett** – Honorary Treasurer, **David Fong** – External Communications, **Glenn Haley** – Professional Development and Training, **Louise Barrington** – Diversity; Vis East Moot, **Lawrence Lee** – Mediation and Adjudication, **Calvin Cheuk** – Newsletter, **Cordia Yu** – Membership; **Helen Au** – University Promotion, **John Cock** – Website, **Edward Chow** – Incorporation / New Branch Rules, **Nicholas Turner** – Programme; **Christopher To** – ADR Editorial and Faculty List, **Joseph Leung** (co-op) – Adjudication, **Gina Leung** (co-op) – Newsletter

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