



Happy New Year! Welcome to the first edition of the CI Arb Newsletter for 2020.

Last year, the Branch had organised a busy schedule of evening talks and events, these were organised either exclusively by the CI Arb or jointly with other relevant professional bodies.

This year, the Branch is committed to deliver an even more fruitful programme of evening talks and training courses.

In our Close Up Q&A for this edition, we are delighted to feature Mr Paul Barratt who is CI Arb trustee for the East Asia region, a Supervisory Board member of "Asian Dispute Review" and a past Chairman of the EAB.

I hope you will find this issue of Newsletter a good overview of the events happened in the last quarter.

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

Gina Leung

Talk on "Competitions and Challenges of Arbitration in Asia" by Dr Gu Weixia 20 December 2019, Taipei

The Taiwan Chapter was honored to co-host with the Chinese Arbitration Association, Taipei (CAA), a special presentation given by Dr Gu Weixia on "Competitions and Challenges of Arbitration in Asia".

Talk on Diversity by the Right Honourable Beverley McLachlin 5 December 2019, Hong Kong

The CI Arb (EAB) and CI Arb (EAB) YMG were honoured to have the Right Honourable Beverley McLachlin, a Non-Permanent Justice of the Hong Kong Court of Final Appeal and the former Chief Justice of Canada ("SCC"), to engage in a Q&A session on the topic of diversity in arbitration.

Justice McLachlin is the first female, and the also the longest serving, Chief Justice on the SCC. Among her numerous honours and distinctions, she is also the recipient of the Order of Canada, one of the highest honours that can be bestowed on a Canadian. She has been viewed as a champion of diversity through her clearly articulated SCC judgements, both in writing for the majority and in dissent.

The night started with a welcome speech given by Ms Giovanna Kwong, the Diversity Chair of the CI Arb (EAB). This was followed by a Q&A session, moderated by Helen Au, a committee member of the Branch, and Mr Ronald Pang, Co-Vice-Chair of the CI Arb (EAB) YMG.

Her rise from humble beginnings to becoming the top jurist in Canada intrigued the audience. Drawing from her experience of being a judge, Justice McLachlin impressed upon the audience the importance of diversity and inclusivity because they bring a "different perspective to the discussion". This is especially important in the discussion of diversifying the field of arbitration.

Dr. Helena Chen, the Convenor of the Taiwan Chapter, shared in her welcome note the key findings of a survey report on "International Arbitration Survey-Driving Efficiency in International Construction Disputes", compiled by Queen Mary University of London and Pinsent Masons LLP.

Dr Gu discussed the research conducted jointly with Prof. Anselmo Reyes on the development of arbitration in the Asia region. In her discussion, Dr



From left to right: Ms Giovanna Kwong, Ms Helen Au, Justice McLachlin, and Mr Ronald Pang

The session ended with Justice McLachlin giving an inspiring anecdote, explaining how she met a man – seemingly homeless and uncared for by society – on a bus after her retirement from the SCC. The man thanked Justice McLachlin for a decision she made that helped him get medical treatment. Humbly, Justice McLachlin said she had a pre-conception of the man. After their talk, she was surprised that he knew who she was and her decision on the SCC. "We should not judge anyone" before we get the opportunity to know them, Justice McLachlin pointed out to the audience, emphasising that diversity comes in all shapes and forms.

The session was well attended by barristers, solicitors, surveyors, engineers and even a Hong Kong judge of the Court of First Instance.

The CI Arb (EAB) and CI Arb (EAB) YMG would like to thank Justice McLachlin for her talk in this event. On that note, we would also like to congratulate Justice McLachlin for being the first woman appointed to the Hong Kong Court of Final Appeal, another milestone in diversity.

Alvin Cheng

Gu also addressed the dispute resolution matters in relation to the Belt and Road Initiative.

Monica Wang



From left to right: Chieh Lo, Alison Chang (FCI Arb, Head of Taiwan Chapter YMG), Dr. Gu Weixia (MCI Arb), Dr. Fuldien Li (Chairman of CAA), Dr. Helena Chen (FCI Arb, Convenor of Taiwan Chapter), Marvin Ming-Hai Lee (MCI Arb), Jeffrey Shih-Jey Chen (Deputy Secretary-General of CAA)

Close Up Q and A with Paul Barrett

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



A: I became an Associate of the CIArb in 1985 which coincided with my first arbitration conducted at the CIArb HQ when it was located in Cannon Street in London, UK. I re-qualified as a barrister gaining Fellowship and Chartered status on the way. I arrived in Hong Kong in 1990 to work on an arbitration. I started teaching on CIArb courses soon after and have been doing it ever since. Incredibly, many of the voluntary tutors of those days are still teaching today both in Hong Kong and around the region. The EAB is one of the largest trainers of arbitrators in Asia and indeed the world having trained many thousands of members. I am lucky to have had a career in arbitration and dispute resolution spanning 30-plus years.

I have been involved with the EAB committee for around 20 years and, apart from two stints as Hon Treasurer and one as Branch Chairman, I have always been actively running courses on the Professional Development & Training sub-committee. It absorbs a lot of time but it is something I enjoy and it is rewarding to meet so many people with a thirst for ADR knowledge. In addition I have been involved with the *Asian Dispute Review* for around 15 years which is the premier ADR publication in the region.

Q: Can you tell us about your current role with CIArb?

A: I became a Regional Pathways Leader ("RPL") in 2018 which is a role overseeing and maintaining standards of the CIArb training courses. This year I became a trustee for the East Asia region (one of 12 globally) which meant stepping down from the EAB committee. East Asia is one of the largest regions with over 3,000 members. It was a wrench leaving the EAB committee but the new role is demanding in a different way and it is exciting to have a new direction and to be involved with the Institute at a macro level.

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

A: The changes have been immense. The Branch committee is larger and busier which is due to the expansion of its operations and its regional influence. We now have a regional office in Asia with a resident Director. The Branch helped start the Vis East Moot and we now have a diversity sub-committee together with an increasingly active YMG. The Branch now encompasses many countries around the region and it is a branch like no other in terms of activity. To this day the EAB, with 2,300 members, remains the largest CIArb Branch which has doubled in size since I first joined. It also has one of the largest teaching faculties ("AFL") in the world covering all courses including the new Diploma courses. It has set up a number of Chapters within the region some of which have gone on to become Branches in their own right. The EAB is now much more involved with the other CIArb branches around the region in running courses and conferences.

The range of courses has changed significantly these past 30 years and we have moved into mediation and adjudication. During the 1990's there was a significant demand for the Associate member courses whereas now the interest appears to come equally from the Member and Fellowship levels. Accordingly, the proportion of Members and Fellows has increased.

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

A: It takes time but it is important to be known in the arbitral community as a person who is actively involved in the process and is also independent. It helps to participate in committee work, to teach, to provide talks, write articles, even attending events as you never know whom you might meet. Parties look for experience including strong case management skills, which CIArb training courses do not provide, so aligning yourself with an experienced arbitrator could assist. The CIArb is currently rolling out a mentoring scheme where experienced arbitrators are paired with less experienced members to help them gain necessary skills and I look forward to seeing how this pans out.

Q: What changes have you observed in ADR in this region through the years?

A: There has been a noticeable expansion of interest in ADR around the region. Beyond Hong Kong the Branch has over 1,500 members in the APAC region. Closer to home there has been a surge in the use of mediation and the development of statutory adjudication. The number and types of dispute referred to arbitration have increased significantly indicating its interest to the wider business community.

Q: Will Hong Kong continue to grow as an arbitration centre or will the potential clients move to elsewhere?

A: Hong Kong is a globally recognised arbitration centre and has many factors in its favour such as the extent and quality of the law firms located here, independence of the judiciary, geographical location and the facilities afforded to the parties. The quality of tutors in Hong Kong is second to none. However, improved facilities would invariably lead to even more training being conducted so it will be interesting to see if the new hub at West Wing in Central will have an effect. Even so, Hong Kong needs to keep abreast of the constant changes around the region, an example being the prestigious facility at Maxwell Chambers in Singapore which demonstrates its commitment to arbitration. Other than this, Hong Kong's proximity to China and the Belt and Road initiative place it in an ideal position to expand in the near to long term.

Q: What do you think Hong Kong should do to enhance its position as the Asia's premier arbitration centre?

A: Apart from the above, Hong Kong could enhance its position by promoting the wider use of arbitration in particular encouraging the more extensive use of arbitration clauses in commercial contracts with Hong Kong being the seat. Also, a judiciary with specialist skills is crucial particularly with the expertise to deal with the various areas of dispute that arise where the support of the Court is required.

Tokyo Accelerated Route to Membership Course

1 November 2019, Tokyo

On 1 November 2019, CIARB Japan Chapter held an ARM Course in Tokyo, Japan, taught by Course Instructor, Mr Anthony Houghton S.C., and Conveners Mr Douglas Kenji Freeman FCARB and Mr Haig Oghigian FCARB. Mr Ayako Tsuru MCARB assisted as shadow instructor. The course was held at the Tokyo Office of Mori Hamada & Matsumoto.



Participants included law firm partners, associates and in-house counsel from Tokyo and Osaka, who joined in lively interaction during the one-day workshop. The course concluded with an examination conducted on 12 December 2019.

With the new Japan International Dispute Resolution Center (JIDRC) opening in March 2020, interest in arbitration courses in Japan continues to increase, and the Chapter hopes to continue to conduct additional course offerings in the future.

Douglas Freeman

Hong Kong Maritime Week

17-23 September 2019, Hong Kong

The Hong Kong Maritime and Port Board, together with its co-organisers had organised the fourth Hong Kong Maritime Week from 17 to 23 November 2019 to "Propel Hong Kong" as a renowned international maritime centre.

On 21 November 2019, a 90 minutes seminar on "Embracing the Changing Dynamics" was attended by about 40 local and overseas participants. The subject matter covered brief introduction to the drivers of freight equilibrium; IFRS 16 – Changing landscape and its significant business implications; The Poseidon Principles; Environmental Regulations – identifying the weakest yet critical links; Short, Medium and Long term impact of Belt Road Initiative; Change in the make-up of GDP and corresponding impact on international trade, Think-Economic & Think-Risk Concepts.

On 22 November 2019, a 75 minutes Panel Discussion on the topic "Shipping in Challenging Times" was attended by about 70 local and overseas participants. The Panellists were experienced and well-respected personalities from the industry.

The CIARB (EAB) was one of the 21 supporting organisations/associations for Institute of Chartered Shipbrokers' programs during the Hong Kong Maritime Week. We look forward to a repeated success next year.

Jagmeet Makkar



Talk on "Dispute Resolution in the Greater Bay Area: Recent Trends and Developments"

6 December 2019, Macau



The Branch collaborated with CIETAC Hong Kong and Macau Lawyers association (AAM) to present a 3 hours seminar on "Dispute Resolution in the Greater Bay Area: Recent Trends and Developments" at Legal and Judiciary Training Centre in Macau on 6 December 2019.

Representing CIARB EAB were committee members Mary Thomson (also the past EAB chairperson) as moderator and Lawrence Lee and Helen Au as speakers. The seminar was conducted in English, Mandarin and Portuguese with simultaneous translation. The welcome remarks was provided by the president of AAM, Mr Jorge Valente.

The Guangdong-Hong Kong-Macau Greater Bay Area continues to gain impetus as a collaborative initiative and the dispute resolution sector has significant potential to shape the future of the region. This seminar was presented to a packed room of lawyers in Macau and act as a forum for the exchange of views on matters relating to the dispute resolution services in the Greater Bay Area. The seminar invited experts in dispute resolution practice from Hong Kong, Macau and the Mainland China looking at the developments and recent trends adopted to effectively manage and resolve disputes in the Greater Bay Area as well as the role of the Courts in aiding ADR.

Mary Thomson

Shipping Contracts Management & Introduction to International Arbitration

17-21 September 2019, Hong Kong



Maritime Arbitration is logically a very important area for Hong Kong to be recognised as an International Maritime Centre. It also plays an important role in the Belt and Road Initiative.

This program was conducted jointly with SkillsPlus Ltd during 19 - 21 September 2019 and that the event in 2019 was the fourth run in the last two years. This training program

(SCM-IIA) provided an important insight into the key Shipping Contracts, followed by the one day course on "Introduction to International Arbitration" (IIA).

This course program is accredited for CPD points by the Law Society of Hong Kong. It was attended by maritime practitioners and lawyers.

Jagmeet Makkar

CIArb YMG Conference

8 November 2019, Edinburgh

On 8 Nov 2019, the CIArb (YMG) organised its flagship Annual Conference in Edinburgh. The theme of the conference was "How to make Arbitration Better".

Mr Gordon Kwok, a committee member of CIArb(EAB) YMG, attended this conference in the UK on behalf of the EAB YMG group and says "It was my honour to represent CIArb(EAB) YMG the second year to attend this annual flagship event. It was my pleasure to interact with the speakers during the conference and discuss how we can make arbitration better. I would be glad to bring some of the key messages back to Hong Kong and discuss with our members."

The one-day conference consisted of a number of panel discussions and was highly interactive. The conference started by the Opening Remarks given by Thomas D. Halket, President of CIArb. He drew the audience attention on several important aspects faced by arbitrators. This included the need to maintain a high standard of ethics, the issue of the increasing demand of transparency and flexibility of the arbitral process, and the use of artificial intelligence and its implications on arbitration practice.



This was followed by the keynote speech given by Lindy Patterson QC, FCIArb. During her speech, she raised a number of interesting contemporary issues in the arbitration field. This included the possibility of giving arbitrators sanctioning powers against dilatory tactics, and the need of diversity both in terms on gender and professional background.

Other key topics included in the discussions include the use of the Redfern Schedule, the importance of emphasising the impartiality of expert witnesses, and the way to improve the process of arriving a joint statement by the expert witnesses.

Gordon Kwok



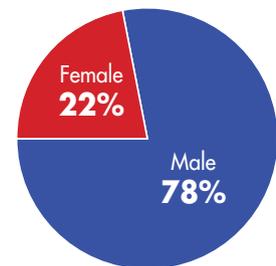
Current Branch Membership

Distribution by Membership Grade

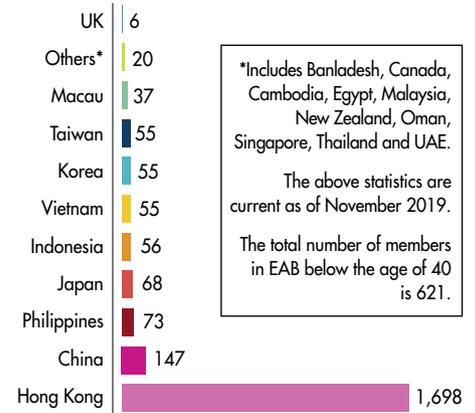
(excluding the Retired Members and students)



Distribution by Gender of Members



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 2019/2020

Nicholas Turner – Chairperson / Communications with CIArb bodies & HO, **David Fong** – Vice Chairperson / Communications with outside bodies / Public Relations Officer, **Donovan Ferguson** – Honorary Secretary, **John Cock** – Honorary Treasurer, **Mary Thomson** – Immediate Past Chairperson / Vis East Moot, **Christopher To** – Professional Development & Training, ADR Editorial / Faculty List, **Albert Yeu and David Luk** – Programme, **Lawrence Lee** – Mediation, **Joseph Leung (observer)** – Adjudication, **Cordia Yu** – Membership, **Gina Leung (observer)** – Newsletter, **Mingchao Fan** – Regional – PRC, **Glenn Haley** – Regional – Taiwan, Korea, Japan, Indonesia and others, **Micky Yip** – Website, **Vincent Li** – LinkedIn Portal, **Mac Chan** – YMG, **Helen Au** – University Promotion / Mentoring, **Giovanna Kwong (co-optee)** – Diversity

Contact Details

c/o the Hong Kong International Arbitration Centre, 38/F Two Exchange Square, Central, Hong Kong
 Telephone: (852) 2525 2381
 Website: www.ciarbasia.org
 Fax: (852) 2524 2171
 E-mail: ciarb@hkiac.org