



Japan YMG Event Recap: Demystifying Arbitration Agreements 27 July 2023, Tokyo

CIArb YMG Japan Chapter recently held a brown bag in-person lunch event on “Demystifying Arbitration Agreements” on 27 July 2023. The event was hosted by Anderson Mori & Tomotsune at their offices in Otemachi, Tokyo. The event explored the complexities and disputes around arbitration agreements through a set of questions that the audience answered through their smartphones and the panelists thereafter discussed. Three audience members who answered the most correct

The event began with a welcoming address by the moderator, Niharika Dhall (Counsel at Toyo Engineering Corporation and Hon. Treasurer of the YMG Japan Chapter). Thereafter, the panelists were introduced. We were privileged to have an excellent panel comprising Miriam Rose Ivan L. Pereira, P.R. Officer, Japan Commercial Arbitration Association and Counsel, Oh-Ebashi LPC & Partners; Kaori Sugimoto, Counsel, Nagashima Ohno & Tsunematsu and Mohsun Ali, Senior Associate, Clifford Chance.

The questions discussed in the event had been put together after considerable research and discussion, including how to tackle and interpret pathological arbitration agreements.

This proved to be a very engaging and interactive way to discuss issues related to arbitration agreements. Lastly, Tatsuhiko Makino, Associate, Anderson Mori & Tomotsune, gave the closing address and discussed the opportunities that YMG brings to the arbitration community in Tokyo.



Welcome to the October edition of the Newsletter.

Happy Hong Kong Arbitration Week!

As always, it is an exciting time for ADR professional around APAC region as we congregate in Hong Kong and this edition of the Branch newsletter clearly embodies this excitement.

This edition brings to its members a smorgasbord of event highlights and write-ups a sign that all is back to normal post-pandemic and the moniker of “new normal” can finally be retired.

We also have the much-anticipated Q&A by our newest Branch Chair where he gives us an insight of his thoughts and background.

As always, thank you everyone contributing to the newsletter and to our editorial team for their invaluable work.

Finally, please follow our LinkedIn account using the QR Code below for the most updated news and events around the Branch.



Happy reading!

Ronald Pang

The panel discussion and quiz was followed by a long Q&A session which proved to be both enjoyable and dynamic. In response to questions received from the audience, the panelists discussed issues like how to draft effective

agreements, whether or not the law governing the arbitration agreement needs to be specifically mentioned, etc.

The event was designed to be interactive and given the tremendous response received, CIArb YMG Japan Chapter may hold a subsequent trivia content in early December.

Niharika Dhall

Chair Q&A

Donovan is a Partner of King & Wood Mallesons in the Dispute Resolution team in Hong Kong. He specialises in infrastructure, construction and commercial disputes. He works closely with clients in the building, energy and projects sectors, advising on the full life cycle of their projects in Asia. Donovan is known for resolving major disputes quickly and cost effectively, avoiding litigation or arbitration where he can and using other methods to achieve his client's commercial objectives.



Can you tell us about yourself and your past involvement in Ciarb EAB?

I am a solicitor, having initially qualified in Australia. However, early on, my wife (then girlfriend) and I had a burning desire to live and work in Asia. So, a few years after admission, we left Brisbane for the bright lights of Hong Kong. Apart from a slight detour back to Brisbane for a couple of years, we have lived and worked here ever since.

I joined Ciarb during our time back to Brisbane which I just mentioned. I completed a Post Graduate Diploma of International Arbitration, Queen Mary, University of London and wanted to concentrate on building an arbitration practice, which is what I had been doing in Hong Kong.

When we returned to Hong Kong, Paul Barrett suggested that I throw my name in the ring for the EAB elections. I was lucky enough to be elected, and during the next 8 years on the committee, I really learnt what Ciarb EAB is about and the work that is being done to promote ADR in the region. I held roles of Secretary and Deputy Chair during the Chairmanships of Mary Thomson, Nicholas Turner and David Fong, and I learnt a great deal from them and everyone else on those committees.

So why did you return to work in Hong Kong – twice?

I wanted to focus on arbitration work. In Hong Kong and the region, in the infrastructure space, arbitration is the default method of resolving disputes. In other parts of the world, that is not necessarily the case. My view is that if you want to be an arbitration lawyer, there is nowhere else you would want to be other than Hong Kong. Plus, we missed the dim sum, junk boats during summer and our friends.

What changes have you observed in the ADR work in this region throughout the years?

There has been remarkable growth in international arbitration and other forms of dispute resolution in Asia over the past 20 years. It is incredible that Asia has two of the three top seats for arbitration in the world, and both Hong Kong and Singapore are very busy. The use of arbitration will only continue to increase as borders reopen and normal business activities resume following the pandemic.

What challenges do you see in the future?

As practitioners, we need to ensure that arbitration and other forms of ADR remain fit for purpose. If they don't meet the commercial objectives of the users, then they won't be used. This means we need to continue to educate and train dispute

resolution advisors and professionals. We need to ensure practitioners keep efficiency and cost at the top of their minds, while ensuring a fair process.

Ciarb EAB, along with other educational institutions, has been at the centre of this training. It is incumbent that we train members who live and work in the region, so that the local knowledge and understanding of business and culture plays an integral part in the resolution of disputes in EAB.

What about security of payment legislation? Will that be the end of arbitration in the infrastructure space?

While this would take a whole hour to answer, my short answer is No. There will still be arbitrations, where a claim has not been adjudicated or where one of the parties are unhappy with the decision of an adjudicator. However, I do foresee that the number of arbitrations will reduce (perhaps significantly), and the number of adjudications will increase (definitely significantly). This is why Ciarb EAB is preparing training materials to assist with the qualification of adjudicators under the SOP legislation, something that will be rolled out during this term.

What do you hope to achieve in and during your time as Chair of Ciarb EAB?

I hope to:

- Help members reconnect. It has been a tough couple of years given most activities went online. One of the great benefits of Ciarb are the networks and relationships you can make, so we will facilitate this reconnection over the next 12 months. This is invaluable to our members.
- Train and educate the next generation of dispute resolvers and those who represent parties in ADR processes. These people need to be agile, capable and aware of how to best resolve disputes in the region. Local knowledge and experience is vital.
- Continue to promote and facilitate the determination of disputes by arbitration and other forms of ADR, in the region. EAB as a region has huge opportunities. We need to remain at the forefront of arbitral developments, and Ciarb EAB has an important contribution to make.
- Grow the membership of Ciarb EAB. New members and new sectors and industries are two priorities, and I look forward to working with our Chapters to deliver on this.
- Continue to promote all forms of diversity and inclusion. I consider it particularly important to focus on the next generation dispute resolvers who will carry the strong legacy of Ciarb EAB which has been created by the tireless work of all those who have gone before us over the past 50 years.

Finally, I would like to say thank you to all of our members who continue to support Ciarb EAB. We value and appreciate your support and will work hard over this term to ensure that we deliver for you.

What do you do in your spare time?

What spare time? Only kidding. I enjoy spending time with my wife and 2 daughters travelling hiking. I also don't mind the odd visit to Shatin or Happy Valley.

Evening Talk: Keeping Arbitrations on track in 2023, by Ms. Rachel Ansell KC 12 July 2023, Hong Kong



Ciarb EAB welcomed Ms. Rachel Ansell KC to deliver an evening talk on 'Keeping Arbitrations on track in 2023'.

During the talk, Rachel discussed her views about latest development in arbitrations, including:

Some of the biggest differences in arbitration practice over the past 30 odd years.

Practical guidance on both new and old issues such as the use of virtual hearings and electronic bundles, pleadings vs memorials, witness evidence, expert evidence, oral evidence, and managing the hearing timetable.

Rachel shared her personal views on what works well in international arbitration, and areas where arbitration practitioners may need to improve in order to best serve their clients.

Ciarb EAB thanks its members who joined us in person at The Hong Kong Club, along with our overseas members who joined us on Zoom. The event was attended by around 40 members.

David Luk

Evening Talk: Latest Development in Arbitration following C v D, by Mr. Simon Chapman KC 24 August 2023, Hong Kong



Ciarb EAB has invited Mr. Simon Chapman KC to deliver an evening talk on 'Latest Development in Arbitration following C v D'.

During the talk, he discussed his views about the case of C v D, including:

- The factual background
- The key dispute resolution clauses
- Findings of Court of First Instance, Court of Appeal and Court of Final Appeal, in particular, the distinction on admissibility and jurisdiction

The seminar was held in person at The Hong Kong Club as well as on Zoom. The event was very well attended by around 70 members.

David Luk

CIArb Introduction to International Arbitration Course in Hsinchu, Taiwan 19 August 2023, Taiwan

On 19 August 2023, our Taiwan successfully hosted the "Introduction to International Arbitration" course at a classroom generously provided by the National Yang Ming Chiao Tung University (NYCU) School of Law in Hsinchu, Taiwan. Candidates include students from NYCU School of Law as well as members of the Taiwan Bar Association (TBA). This collaborative effort involved NYCU School of Law, the ADR Committee of the Taiwan Bar Association, and Chen & Chang, Attorneys-at-Law.

Dr. Helena Chen, Convenor of the Taiwan Chapter, Ms. Alison Chang, Former Head of the Taiwan Chapter YMG, as well as Dr. Pijan Wu, a senior counsel at LCS & Partners, delivered their lectures in person and contributed their insights and expertise. Mary B.L. Thomson (ex EAB Chair), a prominent figure and regular lecturer in courses organized by the Taiwan Chapter, once again provided her invaluable support online from her base in Hong Kong. Additionally, Mr. David Holloway, a distinguished barrister (England and Wales), participated remotely from Dubai and interacted with the candidates via asking and answering questions online.

Our Taiwan Chapter is very grateful to all participants for their engagement and curiosity during the course. Special recognition goes to the NYCU School of Law, especially Prof. Tsai-Fang Chen, for his long-term support as well as the assistant, Ms. Chia-Yen Chou, for her dedicated assistance kindly extended to this course.

With an unwavering commitment to fostering growth in international arbitration, the Chapter remains devoted and eagerly anticipates organizing an ARM course in Taipei on 28 October 2023. This endeavor will further enrich the local arbitration community and provide support to those interested in exploring the world of international arbitration.

Claire Ching-Yun Liu



Top row: from left to right: Glenn Haley, Mary Thomson, Dr. Helena Chen, Alison Chang, Mr. David Holloway and Dr. Pijan Wu FCIArb

YMG Event Recap: Meet the Ciarb (EAB) Young Members Committee 28 July 2023, Hong Kong

On 28 July 2023, the YMG hosted "Meet the Ciarb (EAB) Young Members Committee" event.

In the session, the YMG provided a remarkable opportunity for young members and young professionals to meet and connect with its committee members for the year.

The event, was held in a warm and welcoming atmosphere, aimed to foster discussions on alternative dispute resolution in Hong Kong and the region, while strengthening the bond between the committee and the young members.

The evening commenced with an air of excitement as members gathered at the designated venue, eager to meet and engage with the YMG members. The event was designed as a "meet-and-greet" and YMG hopes to strength its connections with its members and other professionals after a long hiatus due to the pandemic.

No doubt we will organize similar events in the future!

Alvin Cheng



Current East Asia Branch Membership

The Branch currently has under 3,000 members in the region. Find out the composition of the Branch membership in the diagrams below.

Distribution by Membership Grade

(excluding the Retired Members and Students)



Distribution by Gender of Members



Distribution by Region



The above statistics are current as of August 2023.

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 2022/23

Chairperson – **Donovan Ferguson**, Vice-Chairpersons – **Lawrence Lee & Gina Leung**, Honorary Secretary – **Micky Yip**, Honorary Treasurer & Finances – **John Cock**, Immediate Past Chair – **David Fong**, Professional Development & Training – **Stephen Chu**, Regional (PRC) – **Mingchao Fan & Tim Liu** assisted by **Jerry Zhang**, Regional (Taiwan, Korean, Japan, Indonesia & Others) – **Glenn Haley**, Adjudication – **Nicholas Turner**, Membership – **Richard Leung**, Mediation – **Lawrence Lee & Albert Yeu**, Programme – **David Luk**, Vis East Moot – **Karen Mills**, IT – **Lawrence Tam**, Communications within CIArb and Communications with outside bodies/Public Relations Officer – **Donovan Ferguson**, Diversity – **Caroline Thomas** (co-optee), YMG – **Jennifer Wu** (co-optee), Newsletter/Website/Social Media – **Ronald Pang** (co-optee)

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