



## The Commencement of a New Era of Ciarb EAB Taiwan Chapter & Taiwan YMG Sharing Session on “Cultivating a Career in International Arbitration” 13 June 2024, Taiwan

On 13 June 2024, Ciarb EAB Taiwan YMG collaborated with the ADR Committee of Taiwan Bar Association and Chen and Chang, Attorneys-at-Law to hold a sharing session on the topic ‘Cultivating a Career in International Arbitration’. Two distinguished speakers, Dr David Fong FCI Arb, Immediate Past Chair of the Ciarb EAB and Dr Winnie Jo-Mei Ma FCI Arb (joining online), were invited to share their experiences. The sharing session was conducted in hybrid mode facilitating online and in-person participants, and was moderated by the Chair of Ciarb Taiwan YMG, Dr Pei-Jung Li MCI Arb.

The event commenced with an announcement made by the Chapter Convenor, Dr Helena Chen C. Arb FCI Arb. In her remark, Dr Chen highlighted the growth of the Chapter with the membership increasing from 21 to 210 during her tenure, and announced the handover of the Convenor position to Ms. Alison Chang FCI Arb, who founded Ciarb (EAB) Taiwan YMG in 2019. Ms Monica Wang FCI Arb will continue serving as the Secretary-General of the Taiwan Chapter.

In response to the announcement, Alison briefly recapped the history of the Taiwan Chapter. She then shared her vision for leading it with Monica, which includes proactive engagement with other chapters and branches, continuous organization of ADR courses and events, and strong support for Taiwan YMG.

Following these remarks, the sharing session started in form of interactive dialogue with the moderator posing questions



(Top right) Dr. Winnie Jo-Mei Ma FCI Arb  
(Front row from left to right) Dr. Pei-Jung Li MCI Arb, Dr. Helena Chen C. Arb FCI Arb, Ms. Alison Chang FCI Arb, Ms. Monica Wang FCI Arb, and Dr. David Fong FCI Arb

Hello everyone!

We welcome our new committee for this session. Again, we are led by a strong committee with members across the EAB region. This session promises to be eventful and exciting.

As for this quarter’s newsletter, we have a two-part article on Third Party Funding, a hot topic around the APAC region. The second part will be published in the next newsletter.

As for Branch events, we have recaps of several big events, such as the Branch AGM And the YMG AGM. We also have an article on our Post-ICCA 2024 cocktails which was a smashing success.

In addition, we have upcoming courses featured in the newsletter. If you want more information, don’t hesitate to reach out either using the QR Codes provided or visiting our website.

Many thanks to the team for the write-ups and as always, a big thank you to our editorial team.



Ronald Pang

to the speakers in turn. Dr Fong shared his career journey, transitioning from a certified accountant to an arbitrator, his first spark of enthusiasm, as well as the time and effort invested along the way. Dr Ma shared with the participants how her career has demonstrated a blending path of scholarship and practice, and her experience in managing different roles. In particular, both speakers stressed the importance of foundational knowledge, quality of mindset, passion and determination, effective time-management, networking skills, and relation-building within the field to enhance self-visibility.

The sharing session was conducted in English and was attended by more than 60 (sixty) participants online or in person. The participants showed significant interest in the content and raised questions about the speakers’ self-assessment of past decisions, the use of licenses and certificates in various jurisdictions, and the legal education and certification requirements for becoming an arbitrator.

Pei-Jung Li

## A Guide to Third-Party Funding: Mitigating Financial Risks and Optimizing Recovery Potential (Part I)

The following is a two-part article on Third Party Funding (“TPF”) prepared by Ms Irene Lee, General Counsel of Deminor Litigation Funding and Ms Sammy Koo, Strategic Advisor of DVC and former partner of EY. In the first part, our authors give an overview on the landscape of TPF around the region together with some observations from an end-user’s perspective.

### What is TPF?

TPF is gaining considerable traction, significantly improving access to justice in jurisdictions worldwide. In Asia, Hong Kong and Singapore have recognized the importance of TPF and implemented regulatory frameworks to facilitate its implementation, thus creating a supportive environment for claimants seeking financial support to pursue their claims. TPF is where a party, external to the litigation, arbitration or enforcement proceedings, provides financial support to the party in the dispute to pursue its claims. If the party wins in the proceedings, the funder will obtain a portion of the damages recovered as its financial return. If the party loses, the funder will lose its investment or even need to pay the adverse party costs of the opposing party. Thus, by alleviating the burden of legal costs, TPF enables claimants with limited financial resources to level the playing field.

In Hong Kong, TPF is governed by the Arbitration Ordinance and Code of Practice for Third Party Funding of Arbitration, and is allowed in arbitration and insolvency related court cases. In Singapore, TPF is allowed in arbitration, cases before the Singapore International Commercial Court and insolvency related proceedings.

There are no laws prohibiting third-party funding under PRC law. There are a number of cases affirming legitimacy of TPF in arbitration. One example would be *Sunan Ruili Airlines Limited et al v Silver Aircraft Leasing (Tianjin) Co, Ltd* (2022) Jing 04 Min Te No. 368, (2022) Jing 04 Min Te No. 369 which was a case involving an application, which was eventually dismissed, to resist the enforcement of an arbitral award on the grounds that confidentiality in arbitration proceedings had been breached when information was disclosed to the third-party funder. During the course of dealing with the application, the PRC Court confirmed that TPF is not prohibited under PRC law and that it is well within the parties’ rights to resort to TPF.

In Japan, Korea and Indonesia, there are currently no explicit legal restrictions or regulations regarding TPF. On the other hand, however, TPF is prohibited in Malaysia.

### TPF from Users’ Perspective

TPF not only provides support in the form of funds, but contributes to efficient dispute resolution. It enables claimants to allocate resources to its core business while pursuing legal action, empowering individuals and businesses



Irene Lee



Sammy Koo

to protect rights without compromising finances. Moreover, funders also provide valuable insight in evaluating claims and enforcement strategy that help parties make informed decisions as funders can tap into their experience and network in dispute resolution, a resource many businesses might not readily have access to.

TPF in the construction industry offers several advantages. Construction claims are often expensive to pursue with heavy evidential burden and involvement of multiple experts. It allows parties to share the costs of bringing or defending a claim, thus reducing their financial risk. It is observed that opposing parties are often more ready to settle when they realise that a third party with sufficient financial backing is confident enough in the claim to investment in it. Furthermore, given the technical and legal complexity of construction cases, early-stage seed funding in suitable cases allows parties to devote sufficient resources to develop its case and obtain necessary expert advice.

From the users’ perspective, there are important considerations to bear in mind when engaging with litigation funders. When assessing and comparing multiple funders, parties should be aware of any potential conflict of interest. They should perform their due diligence to understand the funders’ case assessment process and criteria, their experience, financial stability, reputation and track records. Taking such measures can ensure that the parties can work smoothly with the funder and ensure that the case will be funded till the very end. Parties should also be expecting the funders to conduct their own detailed due diligence on the case before committing to the provision of funds, and in some cases, although uncommon, may alter the terms as previously agreed upon under certain specific circumstances like failure by the party to provide certain key information about the case during the due diligence process. Thus, it is essential to carefully review and study the terms and conditions of the funding agreements including but not limited to any variation from previous understanding, sufficiency of the legal budget, funders’ stake in the outcome, any repayment obligation and the relevant structure, whether funding is non-recourse, and understand termination options to ensure no hidden or misleading provision. As different funders have their own target fund size, funding models, level of control over litigation, decision making process, and appetite on return/settlement, in order to maximise the benefits of the application of TPF, parties should select a funder that best align with their interests, legal strategy and exit plan. To ensure success of collaboration with funders, it is highly advisable for users to continuously monitor the costs of litigation, keep detailed records of fund utilisation, and communicate regularly with funders while maintaining autonomy over the case.

From the users’ perspective, there are important considerations to bear in mind when engaging with litigation funders. When assessing and comparing multiple funders, parties should be aware of any potential conflict of interest. They should perform their due diligence to understand the funders’ case assessment process and criteria, their experience, financial stability, reputation and track records. Taking such measures can ensure that the parties can work smoothly with the funder and ensure that the case will be funded till the very end. Parties should also be expecting the funders to conduct their own detailed due diligence on the case before committing to the provision of funds, and in some cases, although uncommon, may alter the terms as previously agreed upon under certain specific circumstances like failure by the party to provide certain key information about the case during the due diligence process. Thus, it is essential to carefully review and study the terms and conditions of the funding agreements including but not limited to any variation from previous understanding, sufficiency of the legal budget, funders’ stake in the outcome, any repayment obligation and the relevant structure, whether funding is non-recourse, and understand termination options to ensure no hidden or misleading provision. As different funders have their own target fund size, funding models, level of control over litigation, decision making process, and appetite on return/settlement, in order to maximise the benefits of the application of TPF, parties should select a funder that best align with their interests, legal strategy and exit plan. To ensure success of collaboration with funders, it is highly advisable for users to continuously monitor the costs of litigation, keep detailed records of fund utilisation, and communicate regularly with funders while maintaining autonomy over the case.

Irene Lee & Sammy Koo

## Post-AGM Talk: Hong Kong Arbitration: Where are we and where do we go from here, by Ms. Joanne Lau, Secretary-General of HKIAC

23 April 2024, Hong Kong

The Branch invited Ms Joanne Lau, Secretary-General of HKIAC to deliver a post-AGM talk on 'Hong Kong Arbitration: Where are we and where do we go from here'.

During the talk, she discussed the followings:

- 2023 case statistics
- Arbitration caseload
- Breadth of industry expertise
- Arbitration caseload by party nationality
- Arbitrator appointments
- Arbitration ecosystem

The presentation was given physically at The Hong Kong Club as well as on Zoom. The event was well attended by around 40 members.

*David Luk*

## Evening Talk: Climate Change, Policy and Arbitrability, by The Hon. James Allsop AC

19 June 2024, Hong Kong

The Branch invited The Hon. James Allsop AC to deliver an evening talk on 'Climate Change, Policy and Arbitrability'.



During the talk, he shared some of the cases about legal liability in sovereign courts for emissions of carbon and related greenhouse gas (GHG) emissions. One issue of some importance in those cases has been the justiciability in courts of complex government policy for GHG emission control. The question arises as to how responsibility for GHG emissions will filter down into arbitrations. In that context questions of arbitrability may arise as questions of justiciability arise in sovereign courts. This and the nature of the claims for legal responsibility was discussed. Cases concerning human rights by reference to European Convention on Human Rights; cases concerning public nuisance; 2030 goals; and how to persuade the Government to enforce climate change in its policy; were also discussed.

The presentation was given physically at The Hong Kong Club as well as on Zoom. Around 30 members attended the talk in-person and around 20 members attended online.

*David Luk*

## YMG Pre-AGM Talk: Fireside Chat with the Hon. Geoffrey Ma, former Chief Justice of Hong Kong

19 June 2024, Hong Kong



The pre-Annual General Meeting talk for the Ciarb EAB Young Members Group was held on 16 April 2024 at the Hong Kong International Arbitration Centre. The YMG was delighted for

the talk this year to be joined by the Honourable Geoffrey Ma, former Chief Justice of the Court of Final Appeal of Hong Kong and currently an arbitrator and mediator.

The talk took place as a fireside chat, where our Chairperson at the time, Ms Jennifer Wu invited the Honourable Geoffrey Ma to gaze into the future of arbitration with our members present. The fireside chat explored the current landscape of arbitration and discuss the rule of law and the administration of justice. The Honourable Geoffrey Ma shared that the administration of justice is a means of resolving dispute and the ability to fairly resolve disputes – both of these qualities are present in the Hong Kong judiciary system as well as in arbitration, where disputes continue to be heard. Practitioners should have confidence in the rule of law and administration of justice in Hong Kong, and explain this to those concerned.

For those visiting Hong Kong, dim sum and peking duck are amongst some of the great culinary dishes that are recommended. Members present thoroughly enjoyed their time with the Honourable Geoffrey Ma and we sincerely thank him for his sincere and approachable nature to instil confidence and inspire young members on this topic.

*Jennifer Wu*

## Post-ICCA 2024 Cocktails

8 May 2024, Hong Kong

As part of the ICCA 2024 activities the Branch organised drinks for its members across the region at the Hong Kong Club on 8 May 2024. This event was co-organised with various Chapters in the region in particular Australia and Singapore.



As part of the drinks, Ciarb CEO, Catherine Dixon MCI Arb and CI Arb President, Jonathan Wood FCI Arb gave speeches detailing the future of Institute and the upcoming changes.

The drinks was well attended with nearly 200 members present during the course of the night.

*Ronald Pang*

## YMG New Committee 8 May 2024, Hong Kong



In April 2024, Felda Yeung was elected to Chair this session of YMG, with Jennifer Wu as Immediate Past Chair. Felda is supported by Co-Vice Chairs Mathew Briggs and Johnson Ng. Richard Poon and Nicholas Tam as Honorary Co-Secretaries. Jessica Chan and Karin Leung as Honorary Co-Treasurers, Yu-Hsuan Lin and Vivien Wong as committee members and Dini Sejko, Winnie Chung, Gloria Li and Aria Cheung as co-optees.

In this session, YMG will have various networking events to connect likeminded young practitioners as well as skills workshops, panel discussions and lectures for professional development.

In May and June 2024, YMG co-hosted networking drinks with the British Chamber of Commerce and the Australian Chamber of Commerce and held a lunchtime webinar on the Moral Foundations of Arbitration with Professor Shahla Ali. YMG will soon be hosting a practitioners' insights mini-series so that young members have the opportunity to learn from eminent practitioners.

The YMG Committee encourages members to attend its events avidly and enthusiastically, and hopes to see members in person at an event very soon!

*Felda Yeung*

## The Chartered Institute of Arbitrators (East Asia Branch) is accepting applications for the following four courses.

### Module 1 – Law, Practice and Procedure of International Arbitration Course



**Course date:**  
6/9/2024  
4/10/2024  
1/11/2024  
21/11/2024  
*(online assessment)*

#### Course Delivery

The course is delivered over a period of three months, with a combination of private study and virtual tutorials.

### Introduction to International Arbitration Course (In-person/Online)



**Course date:**  
21/9/2024  
**Course assessment date:**  
26/9/2024

#### In-person Venue

2/F, West Wing, Justice Place, 11 Ice House Street, Central, HK

### Accelerated Route to Fellowship (International Arbitration) Course



**Course date:**  
30/10/2024  
13/11/2024  
14/11/2024  
6/12/2024  
*(online assessment)*

#### Venue

2/F, West Wing, Justice Place, 11 Ice House Street, Central, HK

### Accelerated Route to Membership (International Arbitration) Course



**Course date:**  
20/11/2024  
21/11/2024

#### Venue

2/F, West Wing, Justice Place, 11 Ice House Street, Central, HK

## 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 2024/25

Chair & Communications within Ciarb and outside bodies/PR Officer – **Donovan Ferguson**, Vice-Chairs – **Lawrence Lee & Gina Leung**, Honorary Secretary – **Micky Yip**, Honorary Treasurer & Finance – **John Cock**, Immediate Past Chair – **David Fong**, Professional Development & Training – **Stephen Chu**, Regional (PRC) – **David Fong** assisted by **Jerry Zhang & Minghao Fan** (co-optee), Regional (Taiwan, Korea, Japan, Indonesia, Vietnam, Philippines & Others) – **Glenn Haley**, Adjudication – **Nichols Turner**, Membership – **Richard Leung**, Mediation – **Lawrence Lee & Albert Yeu**, Programme – **David Luk**, Vis East Moot – **Karen Mills**, IT – **Lawrence Tam**, Social Media/Newsletter – **Ronald Pang**, Mentoring – **Jennifer Wu**, YMG – **Felda Yeung** (co-optee), Diversity – **Caroline Thomas** (co-optee)

#### 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](http://www.ciarbasia.org)

Fax: (852) 2524 2171  
E-mail: [ciarb@hkiac.org](mailto:ciarb@hkiac.org)