

MODULE DESCRIPTOR

MODULE TITLE	INTERNATIONAL COMMERCIAL ARBITRATION		
MODULE CODE	LA4605 (L7)	CREDIT VALUE	20 UK CREDITS / <u>10 ECTS</u>
SCHOOL	SCHOOL OF LAW		

MODULE AIMS

This module aims to explore the role and regulation of arbitration as a method of dispute resolution, adopting a comparative approach and highlighting contrasting approaches to regulation. Students will obtain a thorough understanding of the role and significance of private institutions, national laws and international instruments in providing a framework for arbitration. A particular focus is examination of the ways in which arbitration remains embedded in national legal systems, and a critical assessment of its potential as a 'supra-national' system of dispute resolution. Students will be encouraged to undertake a critical comparison of contrasting national and institutional rules and to consider whether the 1958 New York Convention is still fit for purpose. In the national law context, the principal comparisons will be between English law and the UNCITRAL Model Law. At the institutional level, comparison will be made of contrasting provisions selected from the rules of the principal arbitral institutions (e.g. ICC, LCIA).

Successful completion of this module can also provide a stepping stone for students to become involved in international alternative dispute resolution (ADR). This module is recognised by the Chartered Institute of Arbitrators, therefore students who successfully complete this module will be eligible to apply to become Associates of the Chartered Institute of Arbitrators, allowing them to use the post-nominal letters ACI Arb.

MODULE CONTENT

Indicative syllabus content:

- Comparison of dispute resolution procedures; arbitration as a method of dispute resolution: advantages and disadvantages; fundamental principles of the international arbitration process;
- The UNCITRAL Model Law and Arbitration Rules
- Legal framework: the arbitration agreement, arbitral institutions, national laws, international soft law and international conventions; arbitration rules: time-limited, institutional, industry standards, industry schemes and ad hoc agreements
- The agreement to arbitrate: validity under the New York Convention 1958 and national laws
- Separability and competence-competence
- The importance of the seat.
- The *lex arbitri*
- Appointment of arbitrators
- Obligations and powers of arbitrators, independence and neutrality, ethics
- Responsibilities and obligations of the parties;
- Arbitral proceedings:
 - Documents only and oral hearings
 - Managing the arbitration process: communications, preliminary meeting, interlocutory matters, dealing with factual and opinion evidence and disclosure of documents

including introduction to the IBA Guidelines;

- Presenting the claim and the defence: alternative methods;
- Procedure at a typical hearing, including contrasting common and civil law jurisdictions;
- Costs and interest: alternative approaches in different jurisdictions
- Enforcement of the arbitration agreement: declining jurisdiction; anti-suit injunction;
- The award and challenges to the award

Enforcement of arbitral awards

INTENDED LEARNING OUTCOMES

On successful completion of this module a student will be able to:

1. Discuss the appropriateness of arbitration for the resolution of a particular dispute
 2. Understand the requirements for a valid arbitration agreement and appreciate the pros and cons of different arbitral seats, and assess critically the ways in which they intervene in the process of arbitration
 3. Understand the role of arbitral institutions, the competition between them and the role of the *lex arbitri* and be able to identify the relevant law
 4. Critically assess both the effectiveness of provisional measures in international arbitration and the success of the New York Convention 1958 in promoting the enforceability of arbitral awards
 5. Research, critically evaluate and present well-structured arguments in written and oral work
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TEACHING METHODS

This module is organised into 2-hour weekly seminars. During each seminar, the tutor will deliver a short presentation and facilitate a discussion of critical issues within the said topic led by the students, either working in groups or individually. Some topics may be divided between two Seminars. Students will be expected to have independently researched the issues for discussion in each seminar and to come to seminars prepared to respond and participate in an open and active critical discussion.

ASSESSMENT METHODS

This module is assessed through an individual presentation and a written assignment.