

“GES Scholarship Training Program”

Workshop 4

Dispute Settlement Mechanism

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1. General introduction
2. Negotiation
3. Litigation
4. Arbitration
5. Mediation/Conciliation

1. Dispute Resolution Practitioners

Who are they?

- Negotiator
- Litigator
- Arbitrator
- Mediator

Dispute Resolution Practitioners (con.)

Specialised fields of law?

- Contract Law
- Civil Procedure Law
- Arbitration Law
- Mediation Law

Learning technique

- What does your supervisor want?
- What does international law provide?
- What does Vietnamese law state?
- What we cannot find in the law?
- How to identify the main source of reference on relevant international law ?
- Where can we investigate the practical issue ?
- Which case law is typical for your legal issue?

2. Commercial Negotiation

- Who are suitable for negotiation?
- Harvard Negotiation Program
- Negotiating skills
- What is your role in negotiation table?

Westminster's Perspectives on Conflicts and Disputes

- The importance of negotiation
- A starting point: the problem of distributing 'goods'
- Bargaining: negotiating styles and strategies
- The importance of interests *and* positions
- People and problems
- What about power?
- The roles of trust and ethics in negotiation
- Cultural and other concerns in negotiation
- Negotiation and conflicts/disputes
- Negotiation and the law/the legal system

3. UCL's Litigation

1. Jurisdiction: Title to sue and Time bar; Jurisdiction Agreements and Forum Shopping

Stay of proceedings and restraining foreign proceedings

2. Interim Measures

3. Choice of law in contractual matters – Proper law doctrine

4. Proof of Foreign Law and Exclusion of Foreign Law

5. Evidential issue

6. Financial Aspects

7. Recognition and Enforcement of foreign judgments

4. QMUL's Arbitration

- General introduction
- Arbitration agreement
- Arbitration tribunal – Kompetenz Kompetenz
- Arbitrability
- Arbitration and the courts
- Provisional and protective measures
- Procedural matters / Evidentiary matters
- Applicable law
- Multi-party arbitration
- Arbitration awards
- Recognition and Enforcement of arbitration awards
- Investment Arbitration

5. QMUL's Mediation

- Characteristics of mediation
- Role of mediator
- Power-imbbalances in mediation
- Stages of mediation
- Evaluative and Facilitative Mediation
- Transformative Mediation
- Narrative Mediation and Therapeutic Jurisprudence
- Recent innovations
- ADR providers; ADR regulation; Qualifications of mediators

Key Text Books

Negotiation

- Dispute processes: **ADR and the primary forms of decision-making:** XX1028770.1
Palmer, Michael, Publisher: Cambridge University Press, Pub date: 2005. Pages: xviii, 389 p. ;
- Roger Fisher and William Ury, **Getting to Yes: Negotiating Agreement Without Giving In**, 2d ed., Penguin Books, 1991

Litigation

- **International commercial disputes in English courts:** Hill, Jonathan, 1961-Publisher:Hart, Pub date: 2005.Pages:788 p.ISBN: 184113466X
- **Dicey, Morris & Collins, The Conflict of Laws** (14th edn. 2006) , **Publisher:** Sweet & Maxwell; 14Rev Ed edition (August 29, 2006) **ISBN-10:** 042188360X , **ISBN-13:** 978-0421883604

Arbitration

- **Comparative international commercial arbitration:** Lew, Julian D. M
- Alan Redfern & Martin Hunter with Nigel Blackeby and Constantine Partasides, **Law and Practice of International Commercial Arbitration** (Sweet & Marwell 4th edition) 2004

Mediation

<http://www.amazon.com/>

- Reading Lists

<http://bookshop.blackwell.co.uk/jsp/readinglists/selectlist.jsp>

- Professional training course providers

- Collection of court judgments and arbitral awards

- Appropriate professionals: judges, arbitrators, lecturers, colleagues, friends, etc.

Thank you for your kind attention!

Q&A

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