**SIAC AND INSTITUTIONAL ARBITRATION**

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**SIAC机构仲裁**

**COURSE CONVENOR AND CO-TEACHERS**

**课程召集人和合作讲师**

*Course Convenor:* Mr Gary Born

*课程召集人：Gary Born先生*

*Co-Teachers/合作讲师:* Dr Claudia Annacker, Professor Lawrence Boo, Mr Chan Leng Sun, SC, Mr Davinder Singh, SC, Mr Alvin Yeo, SC, Ms Delphine Ho, Mr Kevin Nash and SIAC Secretariat

*[For SIAC Modules in China, we will have 6 leading practitioners (including 3 PRC practitioners) and representatives from SIAC Secretariat]*

**COURSE DESCRIPTION**

**课程简介**

Arbitral institutions are important stakeholders in the field of international arbitration, but the nature and importance of their role have often been overlooked. The course seeks to introduce participants to the role and function of arbitral institutions in the practice of international arbitration, and to the complex issues that arbitral institutions face in the administration of arbitrations, including, amongst others, appointment of arbitrators, issuance of arbitral rules and practice notes, and guiding and shaping the development of international arbitration. The course will be taught by visiting lecturers from the Board of Directors, Court of Arbitration and Secretariat of the Singapore International Arbitration Centre (SIAC).

仲裁机构是国际仲裁领域中的重要利益相关者，但其作用的性质和重要性常常被忽视。本课程旨在向学员介绍仲裁机构在国际仲裁实践中的作用和职能，以及仲裁机构在仲裁管理中面临的复杂问题，其中包括（其中包括）任命仲裁员，发布仲裁规则和实践笔记，指导和塑造国际仲裁的发展。该课程将由来访的新加坡国际仲裁中心（SIAC）董事会，仲裁院和秘书处的讲师讲授。

**OUTLINE OF SYLLABUS**

**课程大纲**

**Session 1/ 第一课**

*Lecturers讲师: Mr Gary Born; Mr Davinder Singh, SC; Ms Delphine Ho*

* **Introduction to SIAC**

**SIAC简介**

* Role of arbitral institutions in international arbitration

仲裁机构在国际仲裁中的作用

* Overview of leading arbitral institutions

领先的仲裁机构概述

* Institutional arbitration as opposed to *ad hoc* arbitration

机构仲裁，而不是临时仲裁

* History of SIAC

SIAC的历史

* Role of SIAC Court of Arbitration, President of the SIAC Court, SIAC Registrar, SIAC Secretariat, and the interactions between them

SIAC仲裁院的角色，SIAC仲裁院院长，SIAC主薄，SIAC秘书处及其之间的相互作用

* Overview of SIAC’s Rules and Practice Notes – SIAC Rules 2016; SIAC Investment Arbitration Rules 2017

SIAC规则和实践注释概述-SIAC规则2016； SIAC投资仲裁规则2017

* **Case Management Role of SIAC**

**SIAC的案例管理角色**

* Notice of Arbitration

仲裁通知

* Commencing the arbitration

开始仲裁

* Response to Notice of Arbitration; Counterclaims

对仲裁通知的回应、反诉

* SIAC Schedule of Fees

SIAC收费表

* Determining amount of deposits payable towards the costs of the arbitration; stages of deposit payment

确定应付仲裁费用的保证金数额；存款支付阶段

* Provisional estimates of costs of arbitration

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仲裁费用的临时估计

* Ensuring the smooth running of the proceedings; how to keep arbitrations on track

确保诉讼程序的顺利进行；如何使仲裁步入正轨

* SIAC’s role in administering arbitrations under the UNCITRAL Arbitration Rules

SIAC在《贸易法委员会仲裁规则》下的仲裁管理中的作用

**Session 2 / 第2课**

*Lecturers / 讲师: Mr Gary Born; Mr Kevin Nash*

* **SIAC’s role in the Constitution of the Arbitral Tribunal**

**SIAC在组庭中的作用**

* Nomination; Appointment and confirmation of arbitrators

提名；任命和确认仲裁员

* Disclosure and conflicts of interest

披露和利益冲突

* Qualifications of arbitrators

仲裁员的资格

* Challenge of arbitrators

请求仲裁员回避

* Replacement of arbitrators

变更仲裁员

* IBA Guidelines on Conflicts of Interest in International Arbitration (2014)

IBA国际仲裁利益冲突指南

* SIAC’s statutory appointing role under the International Arbitration Act

SIAC在新加坡国际仲裁法下的法定任命职能

* SIAC Code of Ethics for an Arbitrator

SIAC仲裁员道德守则

* Class Exercise

课堂练习

**Session 3 / 第3课**

*Lecturers / 讲师: Mr Chan Leng Sun, SC; Prof Lawrence Boo; Ms Delphine Ho*

* **Jurisdictional Objections, Consolidation and Joinder, Emergency Arbitrator, Expedited Procedure, Early Dismissal**

**管辖权异议、合并仲裁、追加当事人、紧急仲裁员、快速程序、早期驳回**

* Jurisdictional Objections (Rule 28.1, SIAC Rules 2016)

管辖权异议（规则28.1，SIAC规则2016）

* Multiple Contracts, Joinder of Additional Parties and Consolidation

多份合同、追加当事人及合并仲裁

* Emergency Arbitrator applications

紧急仲裁员申请

* Expedited Procedure applications

快速程序申请

* Early Dismissal applications

早期驳回申请

* Role of the SIAC Court of Arbitration, President of the SIAC Court, SIAC Registrar and the SIAC Secretariat

SIAC仲裁院、SIAC仲裁院院长、SIAC主薄和SIAC秘书处的作用

* Class Exercise

课堂练习

**Session 4 / 第4课**

*Lecturers/讲师: Prof Lawrence Boo; Mr Alvin Yeo, SC*

* **The Arbitral Proceedings**

**仲裁程序**

* Procedural Order No. 1 / Procedural Timetable No. 1

1号程序令/ 1号程序时间表

* Seat of the arbitration – delocalisation of the seat in SIAC Rules 2016

仲裁地– SIAC规则2016中的仲裁地外化

* Conduct of the proceedings

进行诉讼

* Language of the arbitration

仲裁语言

* Party representatives

当事人代理

* Third Party Funding

第三方资助

* Pleadings

文书

* Witnesses

证人

* Document disclosure

文件披露

* Hearings

开庭

* Role of Tribunal Secretaries

仲裁庭秘书的作用

* IBA Guidelines on the Taking of Evidence in International Arbitration (2010)

IBA国际仲裁取证指南（2010）

* SIAC Practice Note for Administered Cases – On the Appointment of Administrative Secretaries (2 February 2015)
* SIAC管理案件实务说明–关于行政秘书的任命（2015年2月2日）
* SIAC Practice Note on Arbitrator Conduct in Cases involving External Funding (31 March 2017)
* SIAC关于涉及外部资金的案件中仲裁员行为的实践说明（2017年3月31日）
* Class Exercise
* 课堂练习

**Session 5 / 第5课**

*Lecturers/讲师: Ms Delphine Ho; Mr Kevin Nash*

* **Award and Costs of the Arbitration**

仲裁裁决和费用

* Close of proceedings and submission of draft awards

结束程序并提交裁决书草稿

* Scrutiny of Awards

裁决审查

* Correction of Awards, Interpretation of Awards and Additional Awards

裁决的更正、裁决的解释以及补充裁决

* Decision as to the Costs of the Arbitration

关于仲裁费用的决定

* Confidentiality of arbitration

仲裁的保密性

* Publication of Awards

裁决的发布

* Authentication and Certification

认证和证明

* Class Exercise

课堂练习

**Session 6 / 第6课**

*Lecturers/讲师: Dr Claudia Annacker, Mr Kevin Nash*

* **SIAC, Investor State Dispute Settlement and Alternative Dispute Resolution**

**SIAC，投资者和被投资国争端解决和替代性争端解决**

* SIAC Investment Arbitration Rules

SIAC投资仲裁规则

* Jurisdictional criteria

管辖标准

* List procedure for appointment of sole or presiding arbitrator

任命独任或首席仲裁员的清单程序

* Opt-in mechanism for appointment of Emergency Arbitrator

任命紧急仲裁员的选择机制

* Challenges to arbitrators

请求仲裁员回避

* Early dismissal of claims and defences

早期驳回仲裁申请和答辩

* Written submissions by non-disputing parties

无争议各方的书面意见

* Third-party funding arrangements

第三方资助安排

* Confidentiality and publication of key information relating to dispute

保密和发布与争议有关的关键信息

* SIAC-SIMC Arb-Med-Arb Protocol

SIAC-SIMC“仲裁-调解-仲裁”安排

* Class Exercise

课堂练习

**MODE OF ASSESSMENT**

**课程评估**

Students will be assessed on the basis of a 4000-word research paper (**100%**). 将根据4000字的研究论文（100％）对学生进行评估。

There is no sit-down or take-home exam for this course.

此课程没有当堂或在家进行的考试。

Research papers are due for submission by [deadline to be input].

研究论文应于【截止时间待补入】提交。

The top 3 research papers may be published in the YSIAC Newsletter.

排名前三的研究论文可能会在YSIAC新闻通讯中发表。

**Topics for Written Assignments**

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**书面作业主题**

1. The end goal of an arbitration is for a valid, enforceable award to be rendered. In practice, most arbitral awards are voluntarily complied with by parties. However, in some instances, the losing party may attempt to set aside the award on various grounds and challenge the enforcement of the award.

仲裁的最终目的是提供有效，可强制执行的裁决。实际上，大多数仲裁裁决都是由当事方自愿遵守的。但是，在某些情况下，败诉方可能会出于各种原因尝试撤销裁决，并质疑裁决的执行。

Critically analyse arbitration-related court jurisprudence in Singapore and one other jurisdiction, to assess the performance of SIAC in this respect.

批判性地分析新加坡和其他司法管辖区与仲裁有关的法院判例，以评估SIAC在这方面的表现。

1. The President of the SIAC Court of Arbitration famously gave a speech in 2016, highlighting that international arbitration has enjoyed “a long golden summer where everything went right” but that “winter is coming” for international arbitration.

SIAC仲裁院院长在2016年发表了著名的演讲，强调国际仲裁经历了“漫长的黄金夏天，万事如意”，但国际仲裁的“冬天来了”。

Identify and critically analyse two of the main challenges that international arbitration faces, and propose solutions and measures that arbitral institutions and other key stakeholders can take to address these issues.

确定并批判性地分析国际仲裁面临的两个主要挑战，并提出解决方案和措施，仲裁机构和其他主要利益相关者可以采取这些解决方案和措施来解决这些问题。

1. Certain arbitral procedures were adopted and modified from national court procedures so that parties would have the benefit of these procedures even in an arbitration. For instance, the early dismissal mechanism under the SIAC Rules 2016 is similar to the striking out or summary judgment mechanism in national court proceedings.

通过了某些仲裁程序，并从国家法院的程序中进行了修改，因此，即使在仲裁中，当事方也将从这些程序中受益。例如，SIAC仲裁规则2016中的提前解雇机制类似于国家法院程序中的删除或即决判决机制。

Prepare a proposal paper to the SIAC Court of Arbitration to recommend the inclusion of two court procedures that are currently not available under the SIAC Rules. In your paper, please include the following:

准备一份给SIAC仲裁法院的提案文件，以建议包括目前在SIAC规则下尚不可用的两个法院程序。在您的论文中，请包括以下内容：

* An evaluation of why such procedures or mechanisms would be useful in an arbitral   
  proceeding;

评估为何此类程序或机制在仲裁中有用进行

* Your proposed wording for the new procedure or mechanism to be inserted into the SIAC Rules;

您建议将要插入SIAC规则的新程序或机制的措词；

* A detailed explanation of how the procedure or mechanism would work.

有关程序或机制如何工作的详细说明。

1. There is a move towards greater transparency in international arbitration and a demand for more information to be disclosed by arbitral institutions.

国际仲裁正在朝着提高透明度的方向发展，并要求由仲裁机构披露更多的信息。

Critically analyse this trend, and discuss and evaluate to what extent arbitral institutions should disclose more information about arbitral proceedings.

批判性地分析这一趋势，并讨论和评估仲裁机构应在多大程度上披露有关仲裁程序的更多信息。

**General Reading Materials**

**一般阅读材料**

1. SIAC Arbitration Rules 2016

SIAC 仲裁规则2016

1. SIAC Investment Arbitration Rules 2017

SIAC投资仲裁规则2017

1. SIAC Practice Notes

SIAC实务注解

1. Singapore International Arbitration Act (Cap. 143A)

《新加坡国际仲裁法》（第143A章）

1. IBA Guidelines on the Taking of Evidence in International Arbitration (2010)

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1. IBA Guidelines on Conflicts of Interest in International Arbitration (2014)

**Supplementary Reading Materials**

1. John Choong, Mark Mangan, and Nicholas Lingard, A Guide to the SIAC Arbitration Rules, 2nd ed., (Oxford University Press)
2. Paul Sandosham, Nish Shetty, Harpeet Singh Nehal SC, Kabir Singh, “A Practical Guide to the SIAC Rules”, (LexisNexis)