

International Commercial Arbitration
Fall 2023

Thursdays from 5:30-7:30 pm

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- Course Materials: No book for the course. The course packet will be emailed to the students before the first day of class and will be available through the UofH Cloud Drive
Office Hours: Monday-Friday – 9:00 AM – 4:00 PM
- Grading: 30% practical class project, 70% final (closed book, in class).
- Attendance: Attendance will be taken. Half a grade drop for every two unexcused absences. When attending via Zoom, students must keep cameras and audio on.
- Meeting: Please contact the professors at the above contact information to schedule a meeting if needed.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Course Syllabus

CLASS #	DATE	TOPIC	ASSIGNMENT
1		Preliminary Considerations Bearing on the Selection of the International Arbitral Process	<ol style="list-style-type: none"> 1. Coe, Chapter 1, Section 1.8 2. Coe, Chapter 2
2		The Five Stages of the International Arbitral Process	<ol style="list-style-type: none"> 1. Coe, Chapter 3, Sections 3.1-3.8 Ben H. Sheppard, Jr., “<i>Commercial Arbitration: An Overview of the Preliminary Stages of the Arbitral Process</i>,” (hereinafter, “An Overview”) Tab 12 of Supplemental Materials Notebook, Section I.
3		The Five Stages of the International Arbitral Process, continued	<ol style="list-style-type: none"> 1. Coe, Chapter 6 “An Overview”, Tab 12 of Supplemental Materials Notebook, Section III
4		<u>Stage I</u> The Making and Enforcement of the Arbitration Agreement	<ol style="list-style-type: none"> 1. Coe, Chapter 5, Sections 5.1-5.5 The New York Convention, Coe Appendix 42 U.S. Federal Arbitration Act, Coe Appendix 11 Texas International Arbitration Act, Texas Civil Practice & Remedies Code § 172, Subchapters A & B, p1-4.
5		<u>Stage I</u> The Making and Enforcement of the Arbitration Agreement, continued	<ol style="list-style-type: none"> “An Overview”, Tab 12 of Supplemental Materials Notebook, Sections II and IV. “The Moth, the Light and the United States Severability Doctrine”, Tab 13 of Supplemental Materials Notebook <i>Buckeye Check Cashing, Inc. v. John Cardegna</i>, 126 S.Ct. 1204 (2006), Tab 11 of Supplemental Materials Notebook <i>Schein v. Archer White Sales</i>, 139 S. Ct. 524 (2019).

CLASS #	DATE	TOPIC	ASSIGNMENT
6		<u>Application of the Arbitration Agreement to Non-Signatories</u>	<ol style="list-style-type: none"> 1. Strategic Options When Catastrophe Strikes the International Energy Project, Section C on pp. 61-63. 2. “Motion for Stay Pending Arbitration, Marathon Oil Co. et al v. Ruhrgas AG”, Supplemental Materials 3. AAA Supplementary Rules For Class Arbitrations
7		<u>Stage II</u> The Selection and Appointment of the Arbitral Tribunal	<ol style="list-style-type: none"> 1. Coe, Chapter 4, Section 4.13 2. “An Overview”, Tab 12 of Supplemental Materials Notebook, Section V. 3. London Court of International Arbitration (LCIA), Arbitration Rules, Articles 5-13. https://www.lcia.org/Dispute Resolution Services/lcia-arbitration-rules-2020.aspx#Article%205
8		<u>Stage II</u> The Selection and Appointment of the Arbitral Tribunal, continued	<ol style="list-style-type: none"> 1. Code of Ethics for Arbitrators in Commercial Disputes – 2004 Revision, promulgated by the American Bar Association and American Arbitration Association, Tab 8 of Supplemental Materials Notebook. 2. IBA Guidelines on Conflicts of Interest in International Arbitration (23 October 2014), Tab 9 of Supplemental Materials Notebook. 3. Ben H. Sheppard, Jr., “A New Era of Arbitrator Ethics for the United States: The 2004 Revision to the AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes,” ARBITRATION INTERNATIONAL, Vol 21, No. 1 (2005), Tab 10 of Supplemental Materials Notebook. 4. Sample Motions to Strike Arbitrator (to be provided by Prof. Dimitroff)

CLASS #	DATE	TOPIC	ASSIGNMENT
9		<u>Stage III</u> Preliminary Proceedings, Including Procedural Orders and Interim Relief	<ol style="list-style-type: none"> 1. Coe, Chapter 4, Section 4.12 2. Coe, Chapter 9, Sections 9.1 – 9.9. 3. UNCITRAL Notes on Organizing Arbitral Proceedings, https://uncitral.un.org/en/texts/arbitration/explanatorytexts/organizing_arbitral_proceedings
10		<u>Stage III</u> Preliminary Proceedings, Including Procedural Orders and Interim Relief, continued	<ol style="list-style-type: none"> 1. Samples of Procedural Order and Terms of Reference (to be provided by Professor Dimitroff) 2. IBA Rules on the Taking of Evidence in International Commercial Arbitration, International Bar Association, 29 May 2010 revision, Tab 7 of Supplemental Materials Notebook. 3. Strategic Options When Catastrophe Strikes the International Energy Project, pp. 16-22 regarding interim orders. 4. Federal Rules of Civil Procedure 64 and 65.
11		<u>Stage IV</u> The Evidentiary Hearing on the Merits	<ol style="list-style-type: none"> 1. IBA Rules on the Taking of Evidence in International Commercial Arbitration, International Bar Association, 29 May 2010 revision, Tab 7 of Supplemental Materials Notebook. 2. UNCITRAL Notes on Organizing Arbitral Proceedings, Coe Appendix 8. 3. LCIA Arbitration Rules, Articles 15-25. 4. Rules on the Efficient Conduct of Proceedings in International Arbitration (Prague Rules)

CLASS #	DATE	TOPIC	ASSIGNMENT
12		<u>Stage V</u> The Making and Enforcement of the Arbitral Award A. The Making of the Arbitral Award B. Recognition and Enforcement of the Award	1. Coe, Chapter 12.
13		<u>Stage V</u> The Making and Enforcement of the Arbitral Award, continued	1. LCIA Arbitration Rules 26-29. 2. The New York Convention, Articles III through VI, Coe Appendix 42. 3. U.S. Federal Arbitration Act, Sections 9 through 16, Coe Appendix 11.
14		<u>Stage V</u> The Making and Enforcement of the Arbitral Award, continued	1. Hall Street Assoc., L.L.C. v. Mattel, Inc., Tab 14 of Supplemental Materials Notebook. 2. Articles 67 and 71 of the English Arbitration Act (to be provided by Professor Dimitroff) 3. ICC Arbitration Rules, Article 35 (to be provided by Professor Dimitroff)