

**REGULATIONS FOR THE DEGREE OF
MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION
(LLM[ARB])**

(See also General Regulations)

Admission requirements

LL86. To be eligible for admission to the courses leading to the degree of Master of Laws in Arbitration and Dispute Resolution a candidate shall

- (a) comply with the General Regulations; and
- (b)
 - (i) hold the degree of Bachelor of Laws with at least second class honours of this University; or
 - (ii) hold a degree in law with at least second class honours from another university or comparable institution accepted for this purpose; or
 - (iii) hold a degree in a discipline other than law with at least second class honours or qualification of equivalent standard from this University or from another university or comparable institution accepted for this purpose and provided that the Faculty Higher Degrees Committee is satisfied that by reason of candidate's background, experience and professional qualifications, if any, the candidate is fit to follow the programme; or
 - (iv) have been admitted to the professional practice of law in Hong Kong or in a territory or country other than Hong Kong; or
 - (v) have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained a second class honours degree of this University or from another university or comparable institution accepted for this purpose.

LL87. A candidate for admission under Regulation (b)(ii), (b)(iii), (b)(iv) or (b)(v) above shall produce evidence of sufficient academic attainment and shall satisfy the examiners in a qualifying examination if such an examination is required. A candidate who fails to meet the requirements of (b)(i), (b)(ii), (b)(iii), (b)(iv) or (b)(v) above by reason only of the fact that his or her degree is not of at least second class honours standard may, nevertheless, be admitted provided that the Faculty Higher Degrees Committee is satisfied that by reason of his or her background, experience and professional qualifications, if any, the candidate is fit to follow the courses.

Qualifying examination

LL88.

- (a) A qualifying examination may be set to test the candidate's formal academic ability or his or her ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
 - (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.
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Award of degree

LL89. To be eligible for the award of the degree of Master of Laws in Arbitration and Dispute Resolution a candidate shall

- (a) comply with the General Regulations; and
- (b) complete the curriculum and satisfy the examiners in accordance with the regulations set out below.

Length of Curriculum

LL 90. The curriculum shall comprise approximately 300 hours of prescribed work. It shall extend over one academic year of full-time study or two academic years of part-time study. To complete the curriculum a candidate shall

- (a) in the case of a full-time candidate satisfactorily complete courses equivalent to 8 modules;
 - (b) in the case of a part-time candidate satisfactorily complete courses equivalent to 4 modules in each of the two years of study;
 - (c) satisfactorily complete all prescribed written and other work and comply with attendance requirements;
 - (d) satisfy the examiners in each course of instruction by either assessed written work carried out during the course or a written examination at the end of the teaching programme or both; and
 - (e) satisfy the examiners in an oral examination if such an examination is required.
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Dissertation

LL91. A candidate, whether full-time or part-time, who elects to submit a dissertation equivalent to either one module or two shall submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.

LL91(a). In exceptional circumstances a candidate may apply to the Faculty Board for an extension of the period within which the dissertation must be presented.

LL91(b). The candidate shall submit a statement that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.

Failure to satisfy the examiners

LL92. A candidate who has failed to satisfy the examiners in not more than two modules in any academic year may be permitted

- (a) to attend a supplementary examination; or
- (b) to repeat the module(s) at the next available opportunity and to re-take the prescribed examination or examinations; or
- (c) to re-take the prescribed examination or examinations at the next available opportunity without repeating the module(s); or
- (d) to undertake the study of an alternative module(s) at the next available opportunity and to take the prescribed examination or examinations.

LL93. A candidate who has failed to present a satisfactory dissertation may be permitted, subject to his or her performance in other examinations, to revise the dissertation and to re-present it within a specified period as determined by the Board of Examiners after receiving a notice that it is unsatisfactory.

LL94. A candidate who is not permitted to present himself or herself for re-examination in any module(s) in which he or she has failed to satisfy the examiners or to revise and re-present the dissertation shall be recommended for discontinuation of studies under General Regulation G 12.

Absence from examination

LL95. A candidate who is unable because of illness or other acceptable reason to attend for examination may apply for permission to attend for examination at some other time.

Examination results

LL96. At the conclusion of the examination a pass list shall be published. A candidate who has shown exceptional merit at the whole examination may be awarded a mark of distinction and this mark shall be recorded in the candidate's degree diploma.

Advanced standing and Exemption

LL97.

- (a) The Board of The Faculty of Law may grant advanced standing to any candidate up to the maximum of 2 modules, on the ground that equivalent subjects have been passed at another university or comparable institution accepted by the Senate for this purpose : provided that no candidate shall be eligible for the award of the degree of the Master of Laws in Arbitration and Dispute Resolution without having earned at least 6 modules by satisfactorily completing courses in this programme.
- (b) A candidate may be exempted from any of the compulsory modules up to the maximum of 2 modules, on the ground that equivalent subjects have been passed at another university or comparable institution accepted by the Senate for this purpose : provided that he or she shall be required to take an approved alternative module under the syllabus of this programme.
- (c) Application for advanced standing and/ or exemption shall normally be made at the same time of application for admissions to the programme, and should be accompanied by copies of academic transcripts to support the application.

Candidates will not be given any credits from course(s) being exempted or for advanced standing being granted. The total number of course exemption is 2 and advanced standing is 2.

Publication

LL98. Any publication based on work approved for this degree should contain a reference to the effect that the work was submitted to the University of Hong Kong for the award of the degree.

SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION

COURSEWORK

The Board of Examiners shall decide what proportion of the final assessment for each module shall be determined by written work carried out during the course. Candidates will be informed at the beginning of the course of the relative proportions of the final assessment to be derived from coursework and from written examinations which will be held at the end of the teaching programme.

OBJECTIVES

Hong Kong is an ideal venue for the arbitration and mediation of disputes arising out of international commercial and financial investment in Hong Kong, mainland China and the rest of the Asian region. As the Hong Kong Special Administrative Region Government has stated its goal of developing Hong Kong as an international centre for dispute resolution, the Faculty of Law is offering the degree of Master of Laws in Arbitration and Dispute Resolution to train professionals with the necessary

knowledge, skills and expertise in dispute resolution methods, including negotiation, mediation and arbitration. This new specialized postgraduate degree programme is part of a comprehensive Arbitration and Dispute Resolution Teaching and Research Initiative being launched by the Faculty of Law. This initiative seeks to (a) better serve the dispute resolution needs of Hong Kong's business, commercial and broader community; and (b) advance the Faculty as a regional and international centre of excellence in the teaching and research of negotiation, mediation, arbitration and dispute resolution generally.

STRUCTURE

Each candidate is required to complete a total of 8 modules.

A candidate who holds a degree in law will be required to take four compulsory modules. He or she may apply to choose the remaining four modules from among the modules developed by the Faculty of Law for this programme or, with the approval of the Chairman of the Faculty Higher Degrees Committee and the Director of this programme, up to 2 modules from modules/ courses offered under the other specialist programmes or by any other Department in the University or by any other approved Universities offering LLM programmes. Such application shall be approved by the Chairman of the Higher Degrees Committee and the Director of this programme who have to be satisfied that such course(s)/module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s)/module(s).

A candidate who holds a degree in a discipline other than law will be required to take seven compulsory modules. He or she may apply to choose the remaining one module from among the modules developed by the Faculty of Law for this programme.

A candidate, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee and the Director of this Programme of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of the Faculty Higher Degrees Committee and the Director of this Programme in the light of the availability of resources. In any academic year only some of the modules listed will be available.

DISSERTATION

A two-module dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

PROGRAMME STRUCTURE

Candidates with a degree in law will follow the following syllabus:

Compulsory Modules (One module)

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|-----------|--------------------------------------|
| LLAW 6135 | Alternative Dispute Resolution |
| LLAW6138 | Hong Kong Arbitration Law |
| LLAW6161 | Mediation |
| LLAW6099 | International Commercial Arbitration |

Elective Modules

(Candidates must choose four modules from the list below)

One module

| | |
|----------|---|
| LLAW6029 | Dispute Resolution in the PRC |
| LLAW6136 | Dispute Settlement in the WTO : Practice and Procedure |
| LLAW6007 | International Dispute Resolution |
| LLAW6163 | Negotiation : Settlement and Advocacy |
| LLAW6162 | Mediation Advocacy |
| LLAW6137 | Current Issues in International Arbitration and Dispute Settlement |
| LLAW6157 | Arbitration Practice |
| LLAW6128 | International Trade Law I |
| LLAW6129 | International Trade Law II |
| LLAW6006 | International Commercial Transactions |
| LLAW6039 | International Trade Regulation I : Introduction to the Law of the WTO |
| LLAW6134 | International Trade Regulation II : Selected issues on WTO and China |
| LLAW6028 | Current Issues in PRC Commercial Law |
| LLAW6132 | International and Comparative Intellectual Property Law |
| LLAW6109 | Public International Law |
| LLAW6164 | Principles of Family Law |
| LLAW6003 | PRC Civil and Commercial Law |
| LLAW6013 | Trade and Investment in PRC |
| LLAW6141 | Regulation of Cyberspace: Technology & Internet Governance |

One/Two modules

LLAW6054/LLAW6014 Dissertation

Candidates with a degree in a discipline other than law will follow the following syllabus:

Compulsory Modules (One module)

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|----------|--------------------------------------|
| LLAW6135 | Alternative Dispute Resolution |
| LLAW6138 | Hong Kong Arbitration Law |
| LLAW6161 | Mediation |
| LLAW6099 | International Commercial Arbitration |
| LLAW6160 | Legal Concepts |
| LLAW6158 | Commercial Contracts |
| LLAW6159 | Evidence and Procedure |

Elective Modules (One module)

(Candidates must choose one module from the list below)

| | |
|----------|--|
| LLAW6029 | Dispute Resolution in the PRC |
| LLAW6136 | Dispute Settlement in the WTO : Practice and Procedure |
| LLAW6007 | International Dispute Resolution |
| LLAW6163 | Negotiation : Settlement and Advocacy |
| LLAW6162 | Mediation Advocacy |
| LLAW6137 | Current Issues in International Arbitration and Dispute Settlement |
| LLAW6157 | Arbitration Practice |
| LLAW6054 | Dissertation * |

* subject to the approval of the Director of the Programme

COURSE DESCRIPTIONS

LLAW6003 Civil and commercial law in the People's Republic of China

Topics to be covered include: the law of person, agency, property, obligations (contracts, torts etc), family and succession, with an introduction to traditions, reforms, civil procedure and modes of alternative dispute resolution. Each topic is discussed in light of recent developments in China, such as corporatization of Chinese enterprises, experiments in bankruptcy, contract employment and regulating the new urban real estate market. Reading knowledge of Chinese helpful but not required. No prerequisite.

LLAW6006 International commercial transactions

The topic of International Commercial Transactions touches on a number of legal frameworks that govern international business. The various frameworks consist of a patchwork of national and international, governmental and private-sector laws, agreements and mandatory or voluntary codes of conduct. This course will be presented in four parts, and in each part, relevant laws and decisions of tribunals in various jurisdictions in Asia are comparatively considered to present a range of issues arising in contemporary practice. It will begin with an introduction and examination of commercial and legal implications of terms-of-art frequently used in international sales agreements, shipping contracts, insurance and financing arrangements, and customs documentation. International efforts to unify or harmonize definitions and their legal implications, as well as rules that govern the interpretation of contractual terms, such as the 2000 Inco-terms, ICC Uniform Customs and Practice for Documentary Credits, 1980 Vienna Convention on the International Sale of Goods, and UNIDROIT principles, will be discussed. Agency, distribution, technology and intellectual property transfers, and e-commerce, as widespread and emerging modes of conducting international business, the legal issues inherent in each form, and associated regulation will be considered. Issues related to international investment agreements involving governments will be examined. Special problems related to corruption and money-laundering will be discussed. Significant attention will be paid to the settlement of international commercial and investment disputes, which will include an examination of special problems associated with the recognition and enforcement of awards and judgments.

LLAW6007 International dispute resolution

LLAW6013 Trade and investment in the People's Republic of China

This course provides a comprehensive treatment of the major legal aspects of international trade, investment, finance and dispute resolution in the People's Republic of China. After a brief introduction to the Chinese legal system, the course concentrates on foreign-related legislation governing trade and investment in China. Particular attention is given to standard-form and model contracts as well as prevailing Chinese practices in the fields of trade and investment.

Areas treated in detail include: customs; import and export licensing; foreign economic contract law; technology transfer; trade finance; compensation trade; investment protection; foreign investment vehicles — equity joint ventures, co-operative ventures and wholly foreign-owned subsidiaries; special investment regimes — Special Economic Zones, Economic and Technological Development Zones and the Open Coastal Cities; foreign exchange problems; taxation and investment finance. Dispute resolution is also considered at length, with discussion of Chinese and third-country arbitration and enforcement of foreign arbitral awards as well as litigation in the People's Courts. A reading knowledge of simplified Chinese characters would be desirable.

LLAW6028 Current issues in PRC commercial law

This course will highlight one or more areas of contemporary Chinese commercial law and practice of importance to foreign trade, investment or finance in the People's Republic of China. The subject matter to be covered in the course is not fixed and will vary from year to year. Students will be apprised in advance of the subject of the course to be offered. A reading knowledge of simplified Chinese characters would be desirable.

LLAW6029 Dispute resolution in the People's Republic of China

This course examines the major features of commercial dispute resolution in the People's Republic of China. Chinese approaches to disputes and dispute settlement, including cultural and political influences, will be considered at the outset. The four principal Chinese institutions for commercial dispute resolution - amicable negotiations, conciliation, arbitration and litigation - will be the focus of the course, with an emphasis on commercial arbitration. Administrative channels for resolving disputes will also be discussed.

Both PRC foreign-related and domestic commercial arbitration will be treated at length. Arbitration before the China International Economic and Trade Arbitration Commission (CIETAC) will be a prominent feature of this part of the course, including an examination of the jurisdiction, procedures and practices of CIETAC. The emergence of reorganized domestic arbitration commissions will be discussed, including arbitral procedures and practices. Issues of enforcement of both Chinese and foreign arbitral awards in the PRC will also be covered.

Other topics include : institutional conciliation before the Beijing Conciliation Centre and in the People's Courts; joint conciliation; enforceability of conciliation agreements; foreign-related litigation in the People's Courts, including court organization, jurisdiction and venue, service of process, preservation measures, pre-trial and trial procedures, appellate procedures and enforcement of judgements; and bilateral judicial assistance agreements. A reading knowledge of simplified Chinese characters would be desirable.

LLAW6039 World Trade Organization : law and policy

“Public” or governmental regulation of international trade is separate from but complementary to “private” international business transactions. At the international level, the World Trade Organization (WTO) is the primary multilateral legal and institutional framework that governs trade relations and trade-related issues between States. This course will examine the rules, norms and policies that constitute the WTO and its substantive agreements, with a special perspective and focus on issues that are related to China’s membership. The course will begin with a review of policies that affect international trade, and economic theories associated with such policies. The Agreement Establishing the WTO (WTO Agreement), the increasingly complex management of the activities of the WTO, and its decision-making processes, will be examined. Next, the substantive agreements and associated legal instruments included in the Annexes to the WTO Agreement will be analyzed. Significant attention will be focused on the core principles of the WTO Agreements: market access; non-discrimination; transparency and administration of justice; and, binding dispute settlement. In particular, the application of these principles under the GATT and GATS will be explored. The course will further examine some WTO rules that allow derogations from these general principles and specific obligations. These derogations include rules pertaining to regional trading agreements, safeguards, general exceptions, anti-dumping measures, subsidies and countervailing duties. Finally, the course will conclude with an examination of WTO rules on trade-related investment measures (TRIMs), and environmental measures which affect international trade.

LLAW6099 International commercial arbitration

In the world's globalizing economy there has been a dramatic increase in the size and complexity of international commercial transactions. This course will examine the legal problems and other risks (including financial, monetary, political and cultural) associated with the resolution of disputes arising out of such international commercial transactions. The main focus of the course will be on the use of international commercial arbitration to resolve disputes in a globalizing economy. The course will consider the following topics : the sources of international arbitration law (domestic and international), ad hoc and institutional arbitration, model arbitration laws and arbitration rules, arbitration laws of the HKSAR, the PRC and other Asia-Pacific states, and issues relating to the international arbitral process and procedure, such as arbitrability of disputes, arbitration and submission agreements, powers of arbitrators, the applicable law, the form of the arbitration hearing, interim and final remedies, arbitral awards (including challenges and appeal), and the recognition and enforcement of arbitral awards.

LLAW6109 Public international law

This is an introductory course in the theory and practice of public international law. Topics will include the historical development of international law; sources of international law; the concepts of sovereignty and statehood; jurisdiction and territory; state responsibility; law-making through treaties and other means; the use of force; human rights; and international institutions. Strongly recommended for students in the LLM in Human Rights Programme.

LLAW6128 International trade law I

International trade terms and the use of documents in export sales; contract issues in the international trade context; China trade comparisons; attempts at standardisation, codification and unification; Hong Kong regulation of international sales transactions; bills of exchange; collections; documentary credits; bank guarantees and performance bonds; export credit insurance.

LLAW6129 International trade law II

Carriage by sea; carriage by air; multi-modal transport and containerisation; marine insurance; commercial arbitration regimes in Hong Kong and abroad; public regulation of international trade including aspects of the General Agreement on Tariffs and Trade and Multi-fibre Agreement.

LLAW6132 International and comparative intellectual property law

This course examines the international framework within which intellectual property law operates, including copyright, patents, trade marks, designs and other forms of intellectual property. The course examines how multilateral Conventions and other agreements such as TRIPS shape national intellectual property laws, the effect of international bodies such as WIPO and WTO, the role of bilateral agreements, and other international influences on the development of intellectual property laws. The course also discusses the enforcement provisions (i.e. civil and criminal process); dispute resolution (including the new WTO decisions on intellectual property); and the overall implications for global competition between developed and developing countries in an integrated world market.

Previous or concurrent study of any other intellectual property law is strongly recommended.

LLAW6134 Selected issues on WTO and China

This course is an advanced seminar on the interactions between WTO law and national measures in selected areas such as customs administration; public health and safety, consumer protection, industrial and competition policies; agricultural, textiles and clothing markets, financial services markets, telecommunications, and intellectual property rights. Each topic will include a discussion of the interactions between WTO law and national measures with respect to China. This will include examination of issues related to State trading, economies in transition and differential treatment to accommodate the special needs of developing economies. The course will begin with a review of the general principles of the WTO agreements, and a discussion of the sources of WTO law concerning China's commitments and obligations. Topics of study will include valuation for customs purposes, pre-shipment inspection, rules of origin and import licensing procedures. The WTO agreements on sanitary and phytosanitary measures and technical barriers to trade will also be considered, as will the treatment of anti-dumping measures, subsidies and countervailing duties, and government procurement. Policies related to trade in agricultural products, textiles and clothing will be addressed in the light of relevant WTO agreements. The GATS and its annexes on Financial Services with respect to banking, insurance and securities, and, Telecommunications will be examined. Finally, the course will conclude with a detailed analysis of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and a review of the requirements necessary for a national regime to implement the TRIPs agreement.

LLAW6135 Alternative dispute resolution

LLAW6136 Dispute settlement in the WTO : practice and procedure

This course is a specialized seminar on issues that arise in the context of WTO law and its dispute settlement processes. It will unfold along three themes : the foundations of WTO law; the law and policy of dispute settlement in the WTO; and, practice and procedure before WTO dispute settlement and arbitral Panels and Appellate Body (AB). The first theme will review the sources of WTO law, its relationship with, and status within, the legal systems of WTO members. This includes an analysis of the standards of WTO review applicable to national measures applied by its Members within their own domestic legal systems, and the effects of WTO dispute settlement mechanisms on certain fundamental dimensions of national sovereignty.

The second theme will consider the provisions that establish and govern the processes and institutions for the settlement of disputes in the WTO. The principles that govern WTO dispute settlement will be explored, and the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) will be examined in some detail. Equally, particular attention will be given to specialized rules that are applicable to the settlement of disputes arising from the operation of a number of WTO Multilateral Agreements on Trade in Goods (MTAs), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and the Plurilateral Trade Agreements.

The third theme will address issues concerning the scope of the jurisdiction of the WTO Panels and AB, practice and procedure related to claims and defenses, stages of pleadings involved before the Panels and AB, evidentiary requirements, adoption and implementation of the decisions ("reports") of the Panels and AB, as well as available remedies for breach of WTO obligations, and in particular, for failure to implement a Panel or AB decision.

LLAW6137 Current issues in international arbitration and dispute settlement

This course will focus on selected issues of current interest in international arbitration and dispute settlement. The topics offered will vary from year to year. The course is likely to be offered by permanent staff of the Faculty, Visiting Professors and Practitioners.

LLAW6138 Hong Kong arbitration law

In the world's globalizing economy there has been a dramatic increase in the size and complexity of international business and commercial transactions. The main focus of this cross-listed course will be on the use of arbitration to resolve disputes arising out of such business and commercial transactions. The course will provide a comprehensive introduction to the arbitration law and practice in Hong Kong and students will consider a range of theoretical issues and substantive topics in this course, including:

- overview of the wide range of dispute resolution methods, including arbitration
- fundamental concepts of arbitration law
- legal framework of arbitration law in Hong Kong
- overview of Hong Kong's Arbitration Ordinance and its objectives and principles
- issues relating to the arbitral process and procedure, such as the:
 - arbitrability of disputes
 - enforceability of arbitration and submission agreements
 - appointment and powers of arbitrators
 - jurisdictional challenges
 - preliminary proceedings
 - form of the arbitration hearing
 - interim and final remedies
 - evidentiary matters (hearings and discovery)
- rendering of arbitral awards (including challenges and appeal)
- recognition and enforcement of arbitral awards
- interests and costs
- role of the courts in the arbitral process

LLAW6141 Regulation of cyberspace: technology & internet governance

LLAW6157 Arbitration practice

LLAW6158 Commercial contracts

LLAW6159 Evidence and procedure

LLAW6160 Legal concepts

LLAW6161 Mediation

LLAW6162 Mediation advocacy

LLAW6163 Negotiation : settlement and advocacy

LLAW6164 Principles of family law