

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

*(See also General Regulations)*

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### **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 at least 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.

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### **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.
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## **Length of Curriculum**

**LL90** 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.

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## **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.

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### **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.

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### **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.

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### **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.

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### **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.

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# **SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION (LLM[ARB&DR])**

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## **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.

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## **OBJECTIVES**

Hong Kong is an ideal venue for the arbitration and mediation of disputes arising from international commercial and financial investment in Hong Kong, Mainland China and the rest of Asia. As the Hong Kong Special Administrative Region Government has stated its goal of further enhancing Hong Kong as a leading regional and 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, particularly negotiation, mediation and arbitration. This specialised postgraduate degree programme is part of a comprehensive arbitration and dispute resolution teaching and research initiative of 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.

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## **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 LLM 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, will be advised in every August to choose the elective modules for the coming two semesters via the online LLM course selection system. 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.

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## 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.

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## PROGRAMME STRUCTURE

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

### *Compulsory Modules (One module)*

LLAW6135 Alternative dispute resolution  
LLAW6138 Arbitration law  
LLAW6157 Arbitration practice, procedure and drafting  
LLAW6161 Mediation

### *Elective Modules*

(Candidates must choose four modules from the list below)

#### *One module*

LLAW6187 Advanced topics in competition law  
LLAW6185 China investment law  
LLAW6186 China trade law  
LLAW6162 Collaborative law and practice  
LLAW6238 Comparative arbitration in Asia  
LLAW6150 Comparative law  
LLAW6217 Culture, diversity and power in dispute resolution  
LLAW6137 Current issues in international arbitration and dispute settlement  
LLAW6214 Current issues in Chinese law  
LLAW6029 Managing commercial disputes in China: law, issues and techniques  
LLAW6207 Corporate conflicts  
LLAW6082 Corporate governance and shareholder remedies  
LLAW6171 Corruption: China in comparative perspective  
LLAW6173 Dispute resolution systems design  
LLAW6136 Dispute settlement in the WTO: practice and procedure  
LLAW6174 Family mediation  
LLAW6222 Financial dispute resolution: Hong Kong & international perspectives  
LLAW6107 Insurance law  
LLAW6237 International arbitration: practice, process and strategy  
LLAW6099 International commercial arbitration  
LLAW6006 International commercial transactions  
LLAW6007 International dispute settlement  
LLAW6133 International economic law  
LLAW6037 International environmental law  
LLAW6182 International organizations  
LLAW6128 International trade law I  
LLAW6132 International and comparative intellectual property law  
LLAW6170 Introduction to information technology law

LLAW6227 Introduction to private international Law (Conflict of laws)  
LLAW6230 Law and practice of investment treaty arbitration  
LLAW6163 Negotiation: settlement and advocacy  
LLAW6176 Online dispute resolution  
LLAW6196 Preventative law: approach to conflict prevention  
LLAW6164 Principles of family law  
LLAW6109 Public international law  
LLAW6141 Regulation of cyberspace: Theories of internet and normativity  
LLAW6134 Selected Issues: WTO and China  
LLAW6211 World trade law, policy and business  
LLAW6241 Arbitration Award Writing (TBC)

*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)***

LLAW6135 Alternative dispute resolution  
LLAW6138 Arbitration law  
LLAW6157 Arbitration practice, procedure and drafting  
LLAW6158 Contract law  
LLAW6159 Evidence  
LLAW6160 Legal system and methods  
LLAW6161 Mediation

***Elective Modules (One module)***

(Candidates must choose one module from the list below)

LLAW6187 Advanced topics in competition law  
LLAW6185 China investment law  
LLAW6186 China trade law  
LLAW6162 Collaborative law and practice  
LLAW6238 Comparative arbitration in Asia  
LLAW6150 Comparative law  
LLAW6217 Culture, diversity and power in dispute resolution  
LLAW6137 Current issues in international arbitration and dispute settlement  
LLAW6214 Current issues in Chinese law  
LLAW6029 Managing commercial disputes in China: law, issues and techniques  
LLAW6207 Corporate conflicts  
LLAW6082 Corporate governance and shareholder remedies  
LLAW6171 Corruption: China in comparative perspective  
LLAW6173 Dispute resolution systems design  
LLAW6136 Dispute settlement in the WTO: practice and procedure  
LLAW6054 Dissertation\*  
LLAW6174 Family mediation  
LLAW6222 Financial dispute resolution: Hong Kong & international perspectives  
LLAW6107 Insurance law  
LLAW6237 International arbitration: practice, process and strategy  
LLAW6099 International commercial arbitration  
LLAW6006 International commercial transactions  
LLAW6007 International dispute settlement  
LLAW6133 International economic law  
LLAW6037 International environmental law

LLAW6182 International organizations  
LLAW6128 International trade law I  
LLAW6132 International and comparative intellectual property law  
LLAW6170 Introduction to information technology law  
LLAW6227 Introduction to private international Law (Conflict of laws)  
LLAW6230 Law and practice of investment treaty arbitration  
LLAW6163 Negotiation: settlement and advocacy  
LLAW6176 Online dispute resolution  
LLAW6196 Preventative law: approach to conflict prevention  
LLAW6164 Principles of family law  
LLAW6109 Public international law  
LLAW6141 Regulation of cyberspace: theories of internet and normativity  
LLAW6134 Selected Issues: WTO and China  
LLAW6211 World trade law, policy and business  
LLAW6241 Arbitration Award Writing (TBC)

\* subject to the approval of the Director of the Programme

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## **COURSE DESCRIPTIONS**

### **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 harmonise 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.

Assessment: 100% continuous assessment

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### **LLAW6007 International dispute settlement**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. Inasmuch as these peaceful means of dispute settlement are governed by a body of rules and principles, lawyers play an important role in making sure that such means are used in a fair and effective manner. After explaining the history and development of international dispute settlement, as well as the general obligation on states to resolve their disputes

peacefully, this course will explore each method in light of the relevant law and cases, with particular emphasis being placed on legal resolution through international courts and tribunals, including international arbitration and resolution through the International Court of Justice, the International Tribunal for the Law of the Sea, and the WTO Dispute Settlement Mechanism. The course concludes by looking at the future of international dispute settlement, including the need for conflict prevention and dialogue, the increasing juridification of dispute settlement, and the problems associated with the proliferation of dispute settlement mechanisms.

Assessment: 80% research paper, 20% class participation

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### **LLAW6029    Managing commercial disputes resolution in China: law, issues and techniques**

This course takes students to the areas of significance in the field of dispute resolution in Mainland China, particularly with respect to resolving business and commercial disputes. All major methods of dispute resolution will be examined, including civil litigation, commercial arbitration, and mediation in Mainland China. Some topical issues such as corporate disputes, securities enforcement, private international law, civil justice reform, and cross-border judicial assistance on commercial matters with Hong Kong, Macau and Taiwan will be looked into as well.

Assessment: 70% research paper, 20% in-class presentation, 10% class participation

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### **LLAW6037    International environmental law**

The past few decades has witnessed the rise of Asia as one of the world's most economically vibrant regions. Asia's economic boom has unfortunately been accompanied by severe environmental degradation. Air pollution, deforestation, biodiversity loss, are just some of the many environmental problems that Asia faces today. In addition, global environmental problems such as climate change are at the top of the international agenda. No longer considered solely the purview of the environmentalist or social activist, environmental regulation and law touch upon nearly all aspects of social, economic and political life.

This course aims to provide students with a contextual understanding of the key global environmental issues of the day and the legal solutions. After a broad survey of the field of international environmental law, this course will focus on some key areas which provide fertile ground for exploring the major innovations and controversies in international environmental governance. These key areas will include hazardous waste, and the illegal wildlife trade.

Classes will be conducted largely in a seminar format. Preparation and participation are crucial. A background in subjects such as Public international law, Global administrative law and Environmental law will be helpful but there are no prerequisites for this course.

Assessment: 50% research paper, 30% take home examination, 20% group presentation

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### **LLAW6082    Corporate governance and shareholder remedies**

This course aims to investigate competing approaches to the concept of corporate governance explored in comparative literature and to canvass major debates on corporate governance reform among academic, business, and policy circles in selected jurisdictions, primarily Hong Kong and mainland China. The course will examine important corporate governance institutions in select jurisdictions, particularly the legal standards and arrangements for shareholder protection and remedies, as well as regulatory initiatives to promote good corporate governance practices and



addressing corporate governance failures. Useful examples from overseas jurisdictions, such as the United States and United Kingdom, will be drawn on to illustrate international experience in corporate governance reform.

Assessment: 100% research paper, subject to prior approval of research proposal

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### **LLAW6099 International commercial arbitration**

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations, revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well-known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

Students will be expected to have grasped an understanding of the core features of international commercial arbitration as a distinct discipline and to have developed a sense for how to approach technical legal problems that can arise in this field. They should also know their way around the UNCITRAL Model Law and 1958 New York Convention, and be able to apply that knowledge to relevant factual scenarios.

Assessment: 100% take home examination

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### **LLAW6107 Insurance law**

The course covers the operation and regulation of the insurance market; the definition, importance and reform of the concepts of “Insurable Interest” and “Utmost Good Faith”; the specific terms of insurance contracts; how losses and claims under insurance contracts are dealt with; the rights of insurers, including subrogation and contribution; the rights and duties of insurance intermediaries; and the nature of property insurance, marine insurance, reinsurance and liability insurance.

Pre-requisites: Law of contract

Assessment: 100% take home examination

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### **LLAW6109 Public international law**

The course is intended as a general introduction, also for non-law students. Great stress is placed on the nature of international law technique and method. For this purpose the course explains at length the concepts of sovereignty and statehood. It considers how states create international law through treaty and customary law. These techniques are explained with reference to cases. The course also introduces certain concrete difficulties facing the international community, such as the “War against

Terrorism”, the South China Sea disputes, the Middle East conflict, nuclear proliferation etc. These are outlined in an introductory way.

Other standard topics of international law are covered. These will include the relationship between international and municipal law; the subjects of international law; state recognition; state jurisdiction; the acquisition and loss of territory; state responsibility; state succession; treaties and other international legal agreements; the pacific settlement of disputes; the use of force; international institutions; human rights.

Special reference will be made throughout to considerations which are particularly relevant in the Hong Kong and Southeast Asian contexts.

Assessment: 100% written assignment

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### **LLAW6128 International trade law I**

This course will provide students with a practical insight into a number of areas of international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

The course is designed to make students research and use case law, ordinances and international conventions. It is taught in a practical way and requires students to think of commercial solutions to problems.

The course covers the following areas:

- International sale of goods – the contracts and terms found in sale contracts involving an international element
- Marine Insurance – what is covered by insurance and the duties on an insured
- Letters of Credit – the method of financing the sale contract and the obligations on the banks and parties
- Carriage of goods by sea – who has a right to sue the sea carrier of the goods, the obligations on the sea carrier of the goods and whether the sea carrier can sue anyone for their losses
- Jurisdiction and choice of law – in which country a claim can be brought and which law will be applied to the claim
- Litigation – the most useful procedures used in commercial litigation such as security for costs, freezing injunctions, orders for inspection, arrest of ships
- Arbitration – the procedures that apply to an arbitration of a claim

Pre-requisites / Co-requisites: Law of contract I and II and Law of tort I and II

Assessment: 100% take home assignment

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### **LLAW6132 International and comparative intellectual property law**

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, industrial designs, unfair competition, trade secrets, geographic indications, and other forms of intellectual property (IP). The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge

technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP protection for global competition between developed and developing countries in an integrated world market.

Prerequisites / Co-requisites: Have taken (or concurrently taking) other IP laws

Assessment: 85% take home examination, 15% class participation

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### **LLAW6133 International economic law**

The recent dramatic transformation of the international economic legal order is generally attributed to “globalization”, on the one hand, and liberalization, harmonization and unification of national policies and laws that affect trade, investment, and financial and commercial transactions across national borders, on the other hand. Concerns arise as to the coherence and compatibility of these processes and efforts with respect to national and global economic development, and overall welfare. This is the domain of international economic law; the law and policy of relations between national governments concerning the regulation of economic transactions that have cross-border effects. The course will broadly introduce those areas of international law and institutions that have shaped, or are the resultant of, the recent transformation of the international economic legal order, under three general themes: international trade, investment and competition law; international financial and monetary law; international commercial transactions. It will cover the relevant activities of international organizations such as the WTO, ASEAN, APEC, NAFTA, EU and ICSID. In addition to trade, investment and competition, the subject matter will include topics dealing with banking, insurance and securities. The role of institutions such as central banks through the BIS and the Basle Committee in the development of regulatory frameworks will be examined. The activities of two Bretton Woods international institutions, the World Bank and IMF, as well as the IOSCO will be studied. Efforts to unify or harmonise laws that affect international commercial transactions by international institutions such as the ICC, UNCITRAL, UNIDROIT, Hague Conference in Private International Law and OECD will also be examined.

Assessment: 100% take home examination

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### **LLAW6134 Selected issues: 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.

Assessment: 100% continuous assessment

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### **LLAW6135 Alternative dispute resolution**

In traditional legal studies, the judicial process (courtroom litigation) is often assumed to be the best means of resolving disputes. This adversarial approach shapes the views of future lawyers about the nature and pattern of disputes, as well as the preferred method of dispute resolution. This course considers a non-adversarial approach by analyzing the form and nature of disputes and examining the various methods of "alternative" (or "appropriate" or "additional") dispute resolution ("ADR"), particularly in the context of Hong Kong and the Asia Pacific region. At the conclusion of this course, students should:

- Be familiar with the analysis of the form and nature of disputes and their incidence in society, the pattern of dispute resolution, the traditional methods of resolving disputes and the potential impact of various social, economic, legal, political and cultural factors on dispute resolution;
- Be familiar with the broad range of alternative methods of dispute resolution encountered in legal practice, and their use and application in Hong Kong and in the Asia Pacific region generally, as well as in a comparative international context;
- Be competent in critically analyzing and evaluating the various alternative methods of dispute resolution (e.g. their advantages and problems) by considering such issues as the legitimate expectations of disputants, quality of and access to justice, public and private costs of ADR and the politics of informal justice;
- Be competent in evaluating the application of ADR methods in various substantive areas and be able to advise future clients about the potential suitability of various dispute resolution processes and prepare them for participation in these varied dispute resolution processes; and
- Have participated in some simulated negotiation and mediation role-play simulations and developed some basic competency in effectively participating in negotiations and mediations. The critical, theoretical and evaluative material will be combined with simulated role-playing exercises for a better understanding of the various dispute resolution methods and processes.

This course is composed of two main parts:

- (a) an introduction to traditional methods of dispute resolution and a critique of their relative advantages and disadvantages; and
- (b) an examination of a broad range of ADR methods, which will cover the following:
  - the origin and development of the alternative dispute resolution movement, and
  - an in-depth study of confidential private listening; negotiation, mediation and conciliation; arbitration; good offices/ombudsman; mini-trials/summary jury trials; private courts, dispute resolution centres and online web-based dispute resolution schemes.

These methods of dispute resolution will be examined by considering their present and potential application in Hong Kong, other parts of Asia and internationally, as well as in such areas as civil, commercial and construction disputes (both domestic and international), labour relations, landlord and tenant disputes, matrimonial disputes and public and administrative disputes. Students will also engage in simulated role playing negotiation and mediation exercises with assessment.

Assessment: 80% research assignment, 20% class participation

### **LLAW6136    Dispute settlement in the WTO: practice and procedure**

This course is a specialised 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 specialised 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.

Assessment: 100% continuous assessment

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### **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.

Assessment: 100% continuous assessment

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### **LLAW6138    Arbitration law**

The aim of the Arbitration Law course is to provide students with sufficient knowledge and understanding of the law of arbitration. The specific educational learning outcomes of this course are as follows:

#### **A. Knowledge and Understanding**

- To introduce the fundamental principles of arbitration law set out in detail in the syllabus below.
- To introduce the importance of the Hong Kong Arbitration Ordinance when deciding disputes.
- To introduce the essential elements of a binding arbitration agreement and an enforceable arbitration award.
- To introduce the important role of reading and analyzing the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

## B. Intellectual and Practice Skills

This course seeks to help students develop the following intellectual skills:

- Ability to analyse and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
- Ability to apply rules of law to hypothetical factual situations;
- Ability to isolate crucial issues in hypothetical factual scenarios; and
- Ability to support oral and written arguments using relevant judicial decisions and statutory provisions.

This course also seeks to help students develop the following practical skills:

- Ability to undertake the reading and research of the sources of arbitration law;
- Ability to express ideas both orally and in writing in a clear and coherent manner; and
- Ability to translate technical legal terms into language appropriate for users of arbitration and dispute resolution generally.

Students will consider a range of theoretical issues and substantive topics in this course, including:

- General Introduction to Arbitration and ADR
- Agreement to Arbitrate
- Appointment of Arbitrator
- Rights, Duties and Powers of an Arbitrator
- Commencement of Arbitration and Interlocutory Proceedings
- Arbitration Hearings
- Evidence in International Arbitration
- Costs & Interest in Awards
- Appeals
- Enforcement and Execution of Awards

Assessment: 70% written final exam, 30% research paper

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## **LLAW6141 Regulation of cyberspace: theories of internet and normativity**

The course takes a closer look at the legal and political challenges brought about by the internet and related technologies. The goal is to provide participants with an in-depth understanding of the conflicts involved in the governance of the information environment and equip them with the tools to analyze and assess these conflicts from a normative perspective. This involves two analytical steps: (a) understanding the challenges and limitations of conventional legal institutions on the Internet, especially those administered by the State, and (b) reinterpreting and reinventing these institutions in the context of the Internet.

In order to achieve this goal, the course combines foundational readings with contextual analyses of legal institutions on the Internet. This approach enables participants to make connections between some timeless questions of law and politics implicated in regulation and revisit them in the broader context of networked information technologies. To complement this framework, class discussions will pick up contemporary cases and events to which the concepts and theories will be applied.

The course is not necessarily targeted at students with prior knowledge of the interplay between law and technology, in general, and law and the Internet, in particular. While not focused on any particular jurisdiction, it takes major common law systems as its starting point.

Assessment: 80% research paper, 20% 4 notes and queries

## **LLAW6150 Comparative law**

The common law system provides principles and methods for responding to society's needs and values. Some of those principles and methods will be compared with the legal and extra-legal equivalents in non-common law nations. The influence of special social and economic characteristics will be noted. Appropriate jurisprudential theory will be discussed.

Assessment: 10% presentation, 10% class participation, 80% research paper

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## **LLAW6157 Arbitration practice, procedure and drafting**

The aim of the Arbitration Practice, Procedure & Drafting course is to provide students with sufficient knowledge of and practice in the key procedural preliminary meetings and the hearings, discovery and inspection of documents, interlocutory proceedings, submissions, evidentiary issues, decision making and arbitration awards. There is particular focus on developing the students' ability to dispense independent advice of the arbitration process with confidence. The course also considers the knowledge and practice necessary to write a final, reasoned and enforceable arbitration award. The specific educational objectives of this course are:

### **A. Knowledge and Understanding**

- i) To introduce the fundamental elements of the practice and procedural elements of the arbitration process;
- ii) To introduce the drafting requirements of an arbitration agreement;
- iii) To introduce the key procedural features of the arbitration process, including preliminary meetings, discovery and inspection of documents, arbitration hearings, making submissions before an arbitrator or tribunal, making interlocutory applications, and the presentation and reception of evidence, decision making and arbitration awards; and
- iv) To introduce the essential elements of how to draft a final, reasoned and enforceable arbitration award that is clear, cogent, comprehensive and concise.

### **B. Intellectual and Practical Skills**

This course seeks to help students develop the following intellectual skills:

- v) Ability to analyze and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
- vi) Ability to apply rules of law to hypothetical factual situations;
- vii) Ability to isolate crucial issues in hypothetical factual scenarios;
- viii) Ability to support oral and written arguments using relevant judicial decisions and statutory provisions;
- ix) Ability to evaluate submissions and distil relevant issues from them;
- x) Ability to evaluate evidence, deduce facts from it; and
- xi) Ability to decide issues and make rational decisions by applying legal principles to facts.

This course also seeks to help students develop the following practical skills:

- xii) Ability to undertake the reading and research of the sources of arbitration law;
- xiii) Ability to express ideas both orally and in writing in a clear and concise manner;
- xiv) Ability to translate technical legal terms into language appropriate for users of

- arbitration and dispute resolution generally;
- xv) Ability to act as counsel in an arbitration proceeding and make oral and written submissions and interlocutory applications before an arbitrator or tribunal;
  - xvi) Ability to act as an arbitrator and control the arbitration process in a fair and impartial manner, giving the parties balanced opportunity to make submissions and present their cases;
  - xvii) Ability to give fair and rational procedural and substantive decisions within an arbitration hearing;
  - xviii) Ability to select appropriate rules and procedures and apply them in a reasoned manner;
  - xix) Ability to draft and publish a final, reasoned and enforceable arbitration award; and
  - xx) Ability to intelligently and intelligibly use language that is grammatically correct and correctly spelled.

The following topics will be covered in the course:

- Drafting of an Arbitration Agreement
- Accepting Appointment as an Arbitrator
- Preliminary Matters
- Pleadings and Submissions
- Discovery and Inspection of Documents
- Interlocutory Proceedings
- Challenge to Jurisdiction
- Oral Evidence & Expert Evidence
- The Hearing
- Recoverable Costs and Offers
- Decision-making
- Arbitration Award Writing

*The Arbitration Practice course is based upon a sound understanding of the law of arbitration. Therefore, students are required to complete the Arbitration Law course in the first semester prior to enrolling in the Arbitration Practice course in the second semester.*

Pre-requisites: LLAW6138 Arbitration law

Assessment: 70% 3-hours written final exam, 30% written assignment  
(For CIArb credit, students must achieve a minimum of 55% of the final mark.)

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## **LLAW6158 Contract law**

This course is designed to provide students enrolled in the LLM in Arbitration and Dispute Resolution who do not have a first degree in law to acquire sufficient knowledge and understanding of the Hong Kong contract law. Students who thoroughly prepare for and participate in the course will be able to:

- understand the theoretical and practical aspects of Hong Kong contract law such as the legal principles of this subject.
- analyze contract law problems by spotting the legal issues in which contractual obligations arise, identifying the relevant principles of contract law and applying the law to the legal problems in order to reach a solution.
- understand the underlying philosophies and public policy considerations behind certain principles of contract law
- engage in discussion of a variety of legal issues surrounding contract law



- evaluate the functions that contract law plays in our society and the extent to which existing principles promote these functions.

The following topics will be covered:

**Contractual and quasi-contract obligations:** Introduction to contract law, contract types, formalities, formation and contents, privity and third party rights, offer and acceptance, intention to create legal relationship, consideration and estoppel, consent and certainty, terms, exemption clauses, effects and liabilities, performance and discharge, non-performance (breach), rules of remoteness and mitigation, remedies such as contractual damages, illegal contracts, undue influence, duress, unconscionability, fraud, mistake, misrepresentation, frustration, agency (principal/agent and effects on third party), unjust enrichment.

Assessment: 50% final exam, 30% mid-term closed book test, 20% attendance with adequate pre-class preparation & in-class participation

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## **LLAW6159 Evidence**

The aim of the course is to enable the students who do not have a first degree in law to acquire sufficient knowledge and understanding of the nature and law of evidence in a common law jurisdiction to act effectively as Hong Kong arbitrators. The following topics will be covered in the course:

- the fact finding process: facts in issue, facts relevant to facts in issue, relevance and Prejudice – use of similar fact evidence in civil cases as an illustration
- legal burden; evidential burden; allocation of burdens with respect to specific issues standards of proof for discharge of these burdens in civil proceedings presumptions in a civil law context
- proof without evidence: formal admissions, judicial notice, estoppel (basic)
- testimonial evidence, evidence in chief, cross-examination, HK's rules relating to witness statements, leading questions v open questions, fair putting of issues to a witness
- the problem of fallible human memory and refreshment of memory rules
- the concepts of previous consistent statements/ previous inconsistent statements – current HK rules in civil trials
- issues of law and substance concerning the credibility of witnesses
- documentary evidence: testimonial and non-testimonial; authenticity
- real evidence with emphasis upon recognition of need for reliability
- hearsay: the concept, the significance of identifying hearsay, how to identify hearsay, the current HK legal regime, alternative approaches suitable for arbitration
- opinion evidence: the nature, inevitability and weaknesses of lay opinion evidence: the nature, uses and limits of expert opinion evidence, the current HK law both substantial and procedural
- the basics of legal professional privilege and the privilege against self incrimination
- the concept of public interest immunity

Assessment: 58% in-hall exam, 30% small group in-class presentations, 12% class participation

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## **LLAW6160 Legal system and methods**

The aim of the Legal System and Methods module is to provide students who do not have a first degree in law to acquire sufficient knowledge and understanding of the Hong Kong legal system and legal research, legal analysis and legal reasoning. The module will provide an introduction to the Hong Kong legal system and introduce students to sources of law, categories of law, the courts, the

civil process in Hong Kong, the personnel of the legal system and other relevant aspects. Students will be trained in the use of legal materials and introduced to the case law process, the precedent system, the legislative process and approaches to statutory interpretation. Students will acquire and develop basic legal skills such as legal research, legal analysis and legal reasoning:

- understand the salient features of the HK legal system which act as a sound foundation for the study of other courses in this degree.
- engage in discussion of a variety of legal issues surrounding the HK legal system and critically evaluate some current issues.
- understand the common law world, in particular the nature of case law and the rules of judicial precedent, as well as the significance of statute and its interpretation.
- understand the principles of the tort of negligence, occupier's liability, trespass, nuisance and their application and operation
- understand and appreciate the potential overlap between tort and contract claims and their remedies
- acquire sufficient legal research skills to locate relevant materials.
- identify crucial issues in hypothetical factual scenarios covering topics of substantive law such as tort, contract and criminal law, apply the law in analyzing the problems and reach a solution.
- understand the current reforms, both in the court system and alternative dispute resolution in HK.

Assessment: 40% closed book mid-term test (will include assessment of tort law topics); 60% research essay

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## **LLAW6161    Mediation**

The mediation module is a comprehensive 40 hour module approved by the Hong Kong Mediation Accreditation Association Limited (HKMAAL) to satisfy Stage 1 of the mediator accreditation process. Participants are educated and trained in the process of mediation and the necessary skills required for effective mediation of disputes and are also assessed for HKMAAL mediator accreditation. While the participants will be introduced to a broad range of dispute resolution processes, the course focuses specifically on the process of mediation, including the structure and phases of mediation, the essential communication skills, management of the mediation process and effective mediation skills.

The course teaches the facilitative model of mediation. Please note that this is not the only way a mediation can be conducted. It is also the process which course assessors will expect and the process which HKMAAL expects people to follow if they wish to sit for the Stage 2 mediator accreditation assessments after the course.

The teaching of the Mediation Skills Training Course relies on an interactive and role playing method of learning and participants must have sufficient command of English language to comprehend and express themselves in an articulate manner. The course involves education and training in the mediation process, management and communication skills and the core skills necessary to conduct an effective mediation. Case studies, large and small group discussions, role playing (of different parts - the mediator, mediating party and advisor), Faculty coaching, individual feedback and peer review are all utilised. The participants mediate simulated cases with Faculty observation and assessment of mediation performance. Participants must complete the practical spoken part of the mediation assessment and may also be required to submit written assignments as part of the course assessment e.g. dealing with mediated settlement agreements and other mediation issues.

Assessment: 50% participation in mediation role play simulations, 50% research assignment

## **LLAW6162 Collaborative law and practice**

This interactive skills-based course will explore two dispute resolution models, the new and innovative collaborative practice model and the mediation model, as they are being developed and utilised within the family law context. The student will learn the basics of interest-based negotiation as it is used in both these dispute resolution models, as well as the conceptual and procedural framework for both collaborative practice and family mediation. The course will explore the use of advocacy (both oral and written advocacy) in both collaborative practice and as counsel in the mediation process. Students will also analyze the future development of both collaborative practice and mediation in the broader context of the Hong Kong community.

Assessment: 40% class participation/ role play, 30% in-class presentation, 30% short research paper

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## **LLAW6163 Negotiation: settlement and advocacy**

This course is designed to give students an intensive opportunity to develop negotiation skills which can be used in the global arena to create and repair relationships and to manage and resolve conflict. Classes will consist primarily of inter-active negotiation role play simulations and inter-personal communication exercises, together with some lectures and class discussions. Initially, we will explore personal characteristics, cultural matters and communication skills. Then, we will focus on the acquisition of negotiation skills through inter-active negotiation problems. Throughout the course, we will emphasise critical reflection on the negotiation process.

This Negotiation module will involve an interactive mix of class discussions, small group sessions, student exercise and negotiation role playing simulations. Each seminar has a specific topic and students are provided with assigned readings. The teaching programme is designed to encourage maximum participation of students in the teaching process.

Students must be aware of the following expectations upon by the teacher in this course – all students in the Negotiation course must:

1. Attend all classes, on time and all the time. Each student depends on full and active participation by every other student. This cannot be over emphasised.
2. Be prepared to participate.
3. Prepare written outlines for all Negotiation Problems.
4. Complete all Negotiation Problems in class.
5. Complete and submit a descriptive, analytical journal of the student's progress in acquiring negotiation skills during the course.

Assessment: 50% research paper, 25% outlines & participation & 25% skills journal

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## **LLAW6164 Principles of family law**

Family law is about people in a domestic setting; how domestic relationships are created, dissolved (which involves status alteration), reconstituted (remarriage, adoption), how relationships are regulated and disputes resolved. Hong Kong Family law is both common law and statute-based. However, the rules and principles are not ends in themselves, but they serve certain purposes or goals.

In this course, we examine the basic principles governing the creation of family relationship, termination and its consequences, how does the law deal with the evolving notion of domestic relationships, abuse occurring within such relationships, the protection it offers to the weaker party and the reconstitution of family relationships.

Families are undergoing changes constantly, as is society. Debates on transsexual marriage, same-sex marriage reflect this. Families are the microcosm of society bearing all the pressure which society exerts on its members. The challenge of the course is to understand the problems facing families today, to what extent the law is in tune with these problems, how best these problems could be alleviated, minimised or resolved by law reform or other means.

The objectives of the course is to enable you to learn the basic family law rules, understand how these rules are applied to a particular legal problem (which you need to utilise as a lawyer). As rules are not ends in themselves and they promote certain underlying values – you are required to critically analyses and assess what outcomes/values these rules promote; whether these values are consistent with prevailing societal values along certain theme, such as: (i) effective dispute resolution, (ii) protective (physical/economic) function of family law and (iii) upholding fundamental societal values concerning family, personal relationships and human rights.

Assessment: 45% written exam, 45% assignments and presentation, 10% attendance and class participation

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### **LLAW 6170      Introduction to information technology law**

This is a basic course in the LLM IP/IT stream introducing students to the information technology and the legal issues arising from the technology. The course will begin by examining the essential features of information technology and the characteristics of the Internet, followed by investigations into the legal issues created by the technology. Discussions will primarily be based on the laws of Hong Kong, with references made to the laws of other leading jurisdictions. Topics to be covered include, but are not limited to, the following:

- Introduction to information technology and the internet
- Intellectual property issues
- Illegal contents on the Internet (e.g. defamatory or obscene materials)
- Online trading
- Data privacy
- E-crimes
- Jurisdictional issues

Assessment: 100% research paper

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### **LLAW6171      Corruption: China in comparative perspective**

This course examines the pervasive problem of corruption in the People's Republic of China in comparative perspective. The course aims to combine theoretical understanding of corruption with the best practice in prevention, investigation and punishment of corruption. Subject matters to be covered in the course include perception of corruption, definition of corruption, theoretical observations, case studies on corruption, anti-corruption system, legal framework, education and whistle blowing, and international cooperation.

Assessment: 100% research paper

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### **LLAW6173    Dispute resolution systems design**

This module will explore the growing trend toward the design and development of dispute resolution systems within the organizations: in the workplace, at the enterprise level, in business-to-business and e-commerce marketplaces, and in other organizational settings. Starting with the historical and legal context, the module will examine the burgeoning field of dispute systems design on the new economy with focus on the potential advantages and disadvantages of this approach to what is arguably the privatization of justice. Students will also be provided with a practical framework to apply dispute systems design concepts in specific situations. The specific objectives of the module are as follows:

- To learn the language and conceptual framework of dispute systems design;
- To examine the latest developments in dispute system design and the goals and policies behind them, with particular emphasis on the implications of complexity studies;
- To identify emerging “best practices” and make future predictions for the field;
- To explore specific, practical examples of existing dispute systems in a variety of settings; and
- To get acquainted with strategies in designing dispute systems and consider how to apply them in particular contexts, drawing upon the experiences and interests of students in the course.

Assessment: 100% continuous assessment

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### **LLAW6174    Family mediation**

Using a combination of lecture, discussion, demonstration, and simulation, Family Mediation will present students with the theory and practice of family mediation, including: a basic grounding in the practice and theories of mediation, an understanding of the many variations of how mediation is actually conducted in family law cases, critical judgment as to when family law mediation might or might not be appropriate in individual cases, a familiarity with legislation involving family law mediation and critical inquiry as to the efficacy of different legislative initiatives, special issues facing mediators in family law mediation, and ethical consideration both as a family law mediator and as an attorney in family law mediation.

Assessment: 100% continuous assessment

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### **LLAW6176    Online dispute resolution**

This course will introduce students to the use of information technology as a means of facilitating the resolution of disputes between parties. Despite the prevalent impression that online dispute resolution (ODR) is simply the online equivalent of alternative dispute resolution (ADR), the course will demonstrate to the students that ODR can augment the traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Although the course will focus on the technological application in out-of-court alternative dispute resolutions, it by no means ignores the potential that these technologies have for direct application in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical value to practitioners and academics.

Assessment: 60% research paper, 40% in-class moot court practice

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## **LLAW6182 International organizations**

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as affecting, our daily lives. The body of rules that govern the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

This course has two aims. First, it will provide an in-depth look at this area of law from a traditional perspective. Starting with a general history of international organizations and overview of current international organizations, the course will develop a definition of international organizations, which focuses on international legal personality, and then will develop a framework for classifying international organizations. This course next will explore the sources of power for international organizations, which involves the law of treaties and the doctrines of attributed powers, implied powers, and inherent powers, among other important principles. This course then will compare their structures, decision-making processes (including the settlement of disputes), membership and financing, privileges and immunities, sanctioning abilities, treaty-making powers, and relations with other international organizations, among other aspects. The United Nations, its subsidiary organs and its specialised agencies will be a major focus of the course, though many other international organizations also will be studied. Relevant ICJ, PCIJ and other case law will be given particular emphasis in understanding these powers and functions of international organizations.

Second, with this basic understanding of the law of international organizations, students will be expected to explore contemporary legal debates surrounding international organizations. The course will discuss the problem of responsibility for international organizations and creating limitations on their powers. Indeed, while international organizations first were seen as helping to bring “salvation to mankind,” today they are seen in a less than ideal light, largely due to concerns over their misdeeds and accountability for those misdeeds. The course will explore the problems associated with functionalism – the predominant theory associated with the expansion of international organizations’ powers. The discussion will move on to exploring the possibility of creating limitations and accountability for international organizations through such alternative tools as constitutionalism, judicial review, an emphasis on the rule of law, and global administrative law, to name a few. Other debates to be discussed include the legal status of decisions and resolutions of international organizations in light of the sources doctrine of international law, and whether the differences between international organizations that stem from the differences in their constituent instruments make it impossible to talk of a unified body of law that governs these different entities. Students will be expected to develop their own thoughts on these debates, which they will demonstrate through their participation in class, as well as through the writing of at least four short case comments and either a longer paper on a topic to be chosen by the student in consultation with the professor.

Assessment: 40% research paper, 40% 3 case comments, 20% class participation

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## **LLAW6185 China investment law**

This course provides a comprehensive, informed treatment and analysis of the legal, policy and business aspects of foreign direct investment in China. Areas covered include: current PRC foreign investment policies and priorities, including “encouraged industries”; investment incentives and investment protection; PRC regulatory authorities and government approval process; offshore structures; PRC foreign-related business and investment organizations: representative offices, branches offices, holding companies, foreign investment enterprises (FIEs): Sino-foreign cooperative and equity joint ventures, wholly foreign-owned enterprises (WFOEs), listed and unlisted Sino-foreign joint stock limited companies (JSLCs); practical joint venture contract drafting and operational issues; trading and distribution; technology transfer; conversions; mergers and

acquisitions; selected regulatory issues: corporate income taxation, foreign exchange control; FIE debt and equity financing; out-bound China investment.

Assessment: 100% research paper

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### **LLAW6186 China trade law**

This course provides a focused, legal and policy treatment of China's conduct and regulation of international trade at both the macro- and micro-economic levels. Areas covered include: China's participation in the WTO, and in other multilateral, regional and bilateral trade-related arrangements, including ASEAN+ and China-ASEAN FTAs; Regulation of China's foreign trade: PRC regulatory authorities, PRC Foreign Trade Law, foreign trade operators (FTOs), foreign trade agency: commissioning and entrustment arrangements; PRC Customs, licensing and inspection/standards systems, and trade remedies: particularly, China's anti-dumping regime; WTO, US and EU anti-dumping and subsidies/countervailing codes and related non-market economy (NME) treatment of China's export enterprises and industries; Trade transactions: standard-form contracts, import-export sales contract issues arising under the PRC Contract Law and CISG.

Assessment: 100% research paper

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### **LLAW6187 Advanced topics in competition law**

This course focuses on the interface between intellectual property laws and competition law in the two leading competition law jurisdictions in the world: the US and the European Union ("EU"). The interface between these two bodies of law is one of the most complex and controversial, and yet theoretically interesting, areas of competition law. This interface juxtaposes the public policy rationale behind intellectual property laws and competition policy, and requires the enforcement agencies and the courts to strike delicate balances between these two policies. With respect to patent law, for example, the treatment of patent rights under competition law requires the courts to calibrate the provision of innovation incentives without incurring an excessive loss in consumer welfare. Similar tradeoffs are also found in the interface between copyright law and competition law, and to a lesser extent, between trademark law and competition law.

Most of the thorniest issues in the interface between intellectual property laws and competition law arise under patent law. As such, this course will largely focus on the patent competition interface. The first half of the course will focus on the treatment of the exercise of intellectual property rights under US antitrust law, with topics including intellectual property enforcement, tying, unilateral refusal to deal, deceptive conduct in standard-setting organizations, predatory product design, and various kinds of collusive conduct. The second half of the course will cover similar topics under EU law.

Assessment: 100% Two take home examinations

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### **LLAW6196 Preventative law: approach to conflict prevention**

Lawyers can play a key role not just in the resolution of disputes, but also in the prevention and management of conflicts within organizations and societies. This course will explore key processes through which a system is consciously created to address a stream of conflicts among individual and entities, as well as legally defined disputes. Similar to the public health model, which aims to promote positive individual and collective habits that stem the occurrence of disease, this course seeks to examine those mechanisms, principles and processes oriented toward the prevention of conflict. The approach of the course will be both theoretical and participatory in nature.

Assessment: 75% research paper, 25% class participation

## **LLAW6207 Corporate conflicts**

With increasing globalisation many corporations today operate beyond their domestic borders. Many businesses operate transnationally by means of a multinational group structure or through the medium of a joint venture. This course seeks to introduce students to the issues that arise in dealings with corporations that have a presence in more than one jurisdiction.

Some of the issues which we will be looking at are: What laws regulate companies that are incorporated in one jurisdiction but operate in another? How are mergers and amalgamations of corporations done when corporations operate in a number of jurisdictions? What are the issues that arise in the transnational collapse of corporations such as those we have witnessed in recent years? How are they dealt with?

The financial and securities markets are grappling today with issues arising from dealings in securities from multiple jurisdictions. We will also consider these issues.

The course will be useful to those who intend to have a corporate practice, or to work in the corporate, securities or banking sectors.

Assessment: 20% presentation and defense of paper, 80% research paper

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## **LLAW6211 World trade law, policy and business**

This course may only be taken by graduate students. While there are no pre-requisites and no prior knowledge is required, the course is designed to be especially attractive to students who have taken Global Business Law I, or International Economic Law. It is not, however, open to graduate students who have previously taken Global Business Law II.

The course is tailor-made for graduate students who, in past years, would likely have taken Global Business Law II instead. Unlike Global Business Law II, the current course provides students with the opportunities to write a paper of no more than 6,000 words comprising 50% of the examination, and incorporates materials on the policy and business aspects of trade in East Asia (China, Korea and Japan). The course will also address specific policy and business challenges in other Asian countries and sub-regions (e.g. Vietnam, Southeast Asia more generally, and India).

Assessment: 50% take home examination, 50% research paper

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## **LLAW6214 Current issues in Chinese 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.

Assessment: 85% research paper, 15% class participation

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## **LLAW6217 Culture, diversity and power in dispute resolution**

This course will examine the dimensions of culture relevant to dispute resolution, including diverse identities, perceptions and world views. Using short lectures, experiential exercises, dialogues and



discussions, students will explore the various processes, capacities and tools that can be used to bridge intercultural disputes. Drawing on current interdisciplinary literature and case examples from scholarly and personal sources, participants will:

- explore interpersonal and intergroup dynamics of intercultural disputes;
- learn about the processes to address deep rooted intercultural conflict;
- examine and critique cultural dimensions of conventional dispute resolution processes, including in person and online mediation;
- analyze implicit meanings and cultural values of a continuum of dispute resolution processes as applied in a variety of sectors and settings, including private and public sector organizations and communities;
- identify ways that chaos and complexity theories inform conflict analysis and implications for dispute resolution process design;
- experience imaginative and creative tools for transforming cultural disputes;
- experiment with somatic, arts-based methodologies including applications and limitations in inter-cultural dispute intervention; and
- apply cultural fluency in a range of case types and practice settings through small group discussions and practice outside the classroom.

Assessment: 80% research paper, 20% written assignment

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### **LLAW6222 Financial dispute resolution: Hong Kong & international perspectives**

The course will focus on the new financial dispute resolution regime in Hong Kong and the establishment of the Financial Dispute Resolution Centre (FDRC) and what these developments may signify for the future of resolving financial disputes in Hong Kong. In addition, the course will provide a comparative overview of financial dispute resolution from some selected markets globally. In response to increasing investor participation in financial markets, regulators and governments have sought different ways of responding to investor-broker disputes. This course will analyze these different approaches and discuss the impact of legal systems, markets and cultural preferences. The course will consider what choices have been made by Hong Kong in order to adapt to local circumstances and will challenge students to assess these choices in the light of global experience. The design of dispute resolution systems can be key to their success. Students will be expected to understand who the stakeholders are in financial disputes, what their specific needs are and how the Hong Kong FDRC may address these concerns. The class will be assigned reading in advance of class. Students will be expected to participate in discussions and role-plays during class.

Assessment: 80% in-hall examination, 20% class participation

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### **LLAW6227 Introduction to private international law (Conflict of laws)**

The field of private international law, otherwise known as “the conflict of laws”, is a body of principles by which Hong Kong courts deal with cases involving a mainland or overseas element. It is particularly important in this jurisdiction. Hong Kong’s economy is an intersection of many different people and places, including the mainland and elsewhere in Asia, as well as Europe and the Americas. Therefore, a significant proportion of disputes here have a connection outside of Hong Kong. An understanding of the conflict of laws will be useful to you as members of Hong Kong’s legal profession and if you are involved in international business.

In private international law, there are three questions that a judge must ask himself or herself. The answers to those questions form the backbone of this course:

- Is it appropriate for me to exercise jurisdiction in this dispute, even though it is connected in

- some way with a place outside Hong Kong?
- If I decide that I will exercise jurisdiction, is it right for me to apply only the law of Hong Kong to the dispute? Or does its “foreign element” mean I should, to some extent, apply the law of some other jurisdiction?
  - Has the dispute already been the subject of a decision by a court outside Hong Kong? Should I somehow give effect to that decision within Hong Kong?

The aim of this course is to giving you a working knowledge of private international law so that you can competently advise your clients on such issues.

Assessment: 100% take home assignment

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### **LLAW6230 Law and practice of investment treaty arbitration**

This course is about a form of arbitration which is specific to disputes arising between international investors and host states – i.e. investor-state disputes – involving public, treaty rights. In contrast, international commercial arbitration typically deals with the resolution of disputes over private law rights between what are usually private parties.

It will be of interest to those interested in arbitration, or the law of foreign investment.

The course will be taught from the viewpoint of a commercial law practitioner, and international lawyer and former treaty negotiator who has drafted such treaties.

Assessment: 50% take home examination, 50% research paper

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### **LLAW6237 International arbitration: practice, process and strategy**

The course will introduce students to the practice of international arbitration with a focus on administered arbitration (utilizing the HKIAC Administered Arbitration Rules) and investment arbitration. Utilizing a case study as the basis for the course, students will apply the theory of arbitration to a mock case. The course will provide students with the opportunity to manage a case from the beginning to the end. From negotiating and drafting an arbitration clause to drafting pleadings, students will have the opportunity to enhance their legal writing skills in the context of an arbitration. Students will also learn how to strategise and learn the various options available during the course of an arbitration (mediation, negotiation, settlement, etc). An investment arbitration component will be incorporated into the case study whereby students will learn how to navigate the investment arbitration process and options. Mock hearings will also take place before eminent arbitrators in the industry. The class will be assigned reading in advance of class. Students will be expected to participate in role-plays and teamwork during class.

Assessment: 20% completion of a final research paper, 80% class participation, written assignment and oral presentation in class

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### **LLAW6238 Comparative arbitration in Asia**

The course will survey the arbitration laws in major jurisdictions in Asia, including but not limited to Hong Kong, Singapore, China, India, Korea and Malaysia. For the sake of comparison and analysis, reference will be made to the UNCITRAL Model Law and the laws of major European arbitration centers. In addition, the course will survey compare and contrast the various approaches taken by arbitral institutions in these regions (such as HKIAC, SIAC, CIETAC, etc.) with respect to procedural

and other matters. Again, reference to the UNCITRAL Model Rules and the rules of other major arbitral institutions (such as the ICC and the LCIA) will be useful for comparison and analysis.

Notwithstanding reference to UNCITRAL and other materials, the course will focus on the laws and procedural rules in use in the Asia-Pacific region, in particular Hong Kong, Singapore, China and India. In addition, although the course will take a comparative approach to these laws and rules across jurisdictions in the region, the interaction of state law and institutional rules within a particular jurisdiction will also be the subject of analysis and discussion. Finally, cultural and other issues which may impact the practice of arbitration in a given jurisdiction will be explored.

Students will be assigned reading in advance of class, and will be expected to participate in discussions and role-plays during class.

Assessment: 80% take home examination or research paper; 20% class participation (a set of assessment rubrics will be developed to assess class participation)

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### **LLAW6421 Arbitration Award Writing**

This course provides students with the knowledge required to analyze arbitral submissions, arrive at a conclusion and write a final, reasoned and enforceable arbitration Award in compliance with the UNCITRAL Model Law and Arbitration Rules. In accordance with the Chartered Institute of Arbitrator's (CI Arb) Module 4, this course focuses on the processes followed by an arbitrator in defining the issues that have to be decided by an Award, dealing with the submissions made by the parties, analyzing the appropriate law, evaluating the evidence, applying the law to that evidence, arriving at a conclusion and then writing a final, reasoned and enforceable Award. It is therefore valuable for students wishing to understand the processes involved in award writing. It is also an essential requirement for qualification as a Fellow of CI Arb and for those who aim to practice as an international arbitrator.

Pre-requisites:

Students or graduates of the HKU LL.M. in Arb & DR programme are required to pass the following compulsory courses:

- LLM Alternative Dispute Resolution (LLAW6135)
- LLM Arbitration Law (LLAW6138)
- LLM Arbitration Practice, Procedure and Drafting (LLAW6157) and must achieve a minimum 55% (grade C for admission before 2012-13 academic year or D+ from 2012-13) in LLAW6157

**AND** non-law students or graduates also need to pass the following courses:

- LLM Legal System and Methods (LLAW6160)
- LLM Contract Law (LLAW6158)
- LLM Evidence (LLAW6159)

Assessment:

- A written assignment to be submitted during the course (20%).
- A 4-hour open book final examination (80%).
- Marks for the examination will be divided into two parts: (Part A – Technical Merit; Part B – Judicial Merit). For CI Arb credit candidates must achieve a minimum of 70% in each part.
- The assignment and examination are both Award writing exercises. The Award must be reasoned and enforceable. Any candidate that submits an unenforceable Award will be deemed as a fail and awarded zero marks.

## **REGULATIONS GOVERNING THE FORMAT, BINDING, AND PRESENTATION OF DISSERTATIONS FOR HIGHER DEGREES BY COURSEWORK**

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
  2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
  3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.
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<sup>1</sup> 297 mm x 210 mm

N.B. Candidates for higher degrees are reminded that any dissertation not typed or printed on the correct paper will not be accepted. Any candidate who has difficulty in obtaining the paper should consult his Faculty Office.