

2020年度

要綱

## コース要綱

本日に移動

<							4月 2020							>																											
29	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	1	2	3	4	5	6	7	8	9

コース課題が重み付けされていません

### Special Lecture and Seminar (Studies in Comparative Private Law I)

#### [Lecture Course Basic Information]

Lecturer:	Giorgio Fabio COLOMBO
Other Lecturers:	
Course Type:	Seminar
Semester:	Spring
Year:	1&2
Course Periods:	Thu 4
Credits:	2
Whether mandatory or not:	
Classroom:	Due to COVID-19 containment measures, all classes for the 2020 Spring Semester will be held online on the NUCT platform. Students are requested to abstain from coming to the university

Outline of Lecture Course	International commercial arbitration is becoming more and more important in the field of cross-border disputed resolution. While most advanced nations already are already familiar with arbitration, there is a growing demand of expertise in this field from recent developing countries. The regulatory framework in the world is moving towards a "globalized" arbitration: there is widespread acceptance of international models as base for legislation (e.g. the UNCITRAL Model Law on International Commercial Arbitration) and the circulation of awards is made smoother by effective international instruments (e.g. the 1958 New York Convention of the recognition and enforcement of foreign arbitral awards). However, many countries are lagging back in term of effective appliance of those international tools: national resistances (both legislative, judicial and political) and the lack of arbitration theoretical and practical expertise among legislators, judges and professional operators is jeopardizing an effective and homogeneous success of arbitration all over the world. One tool to subvert this situation is trying to provide law students with a strong basis of notions in this field. This seminar focuses on both theoretical and practical issues in arbitration, covering a wide spectrum of subjects in order to provide a comprehensive picture of what international arbitration is.
Course Objectives	The aim of the seminar is to provide students with effective knowledge of international commercial arbitration. First, a general overview of the subject will be presented, in order to allow everybody to have a common frame of reference. Then, each single phase of the procedure will be analyzed in detail, from the arbitration agreement to the recognition and enforcement of the award. To better understand the interaction between theoretical and normative framework and practical problems, students will have to read and comment also on materials taken from actual cases. After the end of the seminar, students should have acquired a good knowledge of, inter alia, the UNICTRAL Model Law, the New York Convention and the main problems and issues which are currently debated among arbitration scholars and practitioners.
Textbooks	Due to the peculiar nature of the seminar, there is no need of a general textbook for students. Lessons will be based on specifically created Power Point presentations. Also, copies of some relevant readings will be distributed to students on a regular basis, via the online syllabus system. However, as a support textbook, students may want to use N. Blackaby, C. Partasides (with Alan Redfern and Martin Hunter), Redfern and Hunter on International Arbitration – Student version, Oxford, Oxford University Press, 5th edition, 2009.
Course Materials/Supplementaries	In addition to the materials mentioned under "Textbooks" above, other handouts and reading materials will be will be distributed to students via the online syllabus system. A preliminary list will be distributed during the first class
Assessment	Attendance and participation 30% Mid term test 30% Final test 40%  Students may improve their evaluation by submitting a short research paper. Details are to be agreed upon with the instructor
Prerequisites	Good command of English language (reading, speaking, and writing) is required. A basic knowledge of private international law and civil procedure is recommended.
Instructions for Out-of-Class Study	*In case of absence, please contact the instructor by e-mail to get class notes.
Responding to Student Questions	*Please contact the instructor by e-mail.
Other Notes	Due to COVID-19 containment measures, all classes for the 2020 Spring Semester will be held online on the NUCT platform.

Lecture	Theme	Lecture Course Description	Learning outside the class	Related page
1	1. Introduction to the seminar	a. Layout of the seminar b. Short explanation of the lecture plan c. Introduction to the readings d. Explanation about evaluation procedure e. Self-introduction f. Learning expectations		<a href="#">Lesson 1.pptx</a>
2	2. What is International Commercial Arbitration?	a. General definition b. "International" c. "Commercial" d. Key elements of arbitration e. Main features f. Advantages and disadvantages g. Arbitration and litigation h. Arbitration and conciliation i. Arbitration = ADR? j. Sources of international commercial arbitration		<a href="#">Lesson 2-3.pptx</a>
3	3. Types of Arbitration	a. Institutional (administered) arbitration b. Ad hoc arbitration c. Arbitration according to the law/ex aequo et bono d. Arbitration involving States e. Arbitral institutions		
4	4. Arbitration Agreements	a. Arbitration agreements and submission agreements b. Requirements for validity... c. ...in writing d. ...existing or future disputes, in respect of a defined legal relationship e. ...subject matter is capable of settlement by arbitration f. Arbitrability g. Separability of the clause h. Multi-party arbitration i. Multi-tiered and finger-point agreements j. Defective clauses		<a href="#">Lesson 4.pptx</a>
5	5. Applicable laws	a. Law applicable to the Arbitration agreement b. Law applicable to the Arbitration procedure c. Law applicable to the merits d. State law/Soft law e. Different approaches to applicable law		<a href="#">Lesson 5.pptx</a>
6	6. The Arbitration Tribunal and the Arbitrator	a. Appointment of Arbitrators b. Qualities of the Arbitrators c. Validity of Special Requirements d. Powers of the Tribunal (incl. Kompetenz kompetenz)		<a href="#">Lesson 6.pptx</a>
7	Mid-term test	Learning assessment		
8	8. Independence, Neutrality and Impartiality	a. Independence b. Neutrality c. Impartiality d. Challenge and Replacement of Arbitrators e. IBA Guidelines		<a href="#">Lesson 8.pptx</a>
9	9. The procedure	a. How to start and arbitration b. Written submissions c. Evidentiary matters d. Hearings e. Professional Ethics in International Arbitration		<a href="#">Lesson 9.pptx</a>
10	10. Arbitration and the Courts	a. Enforcing the clause, jurisdiction b. Interim measures c. Witnesses, evidence		<a href="#">Lesson 10.pptx</a>
11	11. The Award	a. Formal requirements b. Structure of the Award c. Orders, Interim Awards, Final Awards		<a href="#">Lesson 11.pptx</a>
12	12. Enforcing and Challenging an Arbitral Award	a. New York Convention b. Refusal to recognize and enforces: reasons c. Ground for Challenge		<a href="#">Lesson 12.pptx</a>
13		Discussion about outstanding topics		
14	Final test	Learning Assessment		
15	Feedback Session	Wrap-up discussion about learning outcomes		

\*Students who wish to enroll as a member should access the URL below.  
Log in using the Nagoya University ID and password, and click on "Enroll in Course".

<https://canvas.law.nagoya-u.ac.jp/enroll/MYRYJA>

## コースサマリー:

日付 詳細