



Course Outline

Course number	RMT137
Course title	International Commercial Arbitration
Credit points	3 ECTS
Total lect/sem hours	24 Contact Hours
Course level	Masters
Prerequisites	LLB

COURSE RESPONSIBLE

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
Dr Galina Zukova	LLM, PhD	Associate Professor

COURSE TEACHERS

<i>Name</i>	<i>Academic degree</i>	<i>Academic position</i>
Dr Galina Zukova	LLM; PhD	Associate Professor
Tjaco van den Hout former Secretary-General Permanent Court of Arbitration, The Hague	LLM (w/ distinction) Leiden Univ	Visiting Professor

COURSE ABSTRACT

Arbitration is an effective mechanism for resolving international commercial and investment disputes providing a final and binding determination and global recognition and enforcement of the arbitral awards. The course aims to provide students with a basic introduction to key topics in international commercial arbitration. The emphasis of the course will be on arbitration of international commercial disputes, but some insight will be also given in the international investment arbitration system. Students will become acquainted with some of the strategic problems that arise in the course of international arbitration proceedings and gain an understanding of both the benefits and drawbacks of arbitration as a mechanism for resolving transnational commercial disputes.

LEARNING OUTCOMES

- **Knowledge:** On completion of this course students should have a clear understanding of the theory and practice of international commercial arbitration.
- **Competencies:** On completion of this course the students should be able to draft a valid arbitration clause, to interpret arbitration clauses, to identify problems in an arbitration clause, to know the procedure to start up the arbitration proceedings.
- **Skills:** skill to draft a valid arbitration clause, to interpret arbitration clauses, to identify problems in an arbitration clause, to know the procedure to start up the arbitration proceedings.

GRADING CRITERIA

No.	Criteria	Weighting
1	Final Exam	100%
	The exam consists of <u>two</u> parts: (1) multiple choice questions (50%) and (2) case-study (50%)	
2	Class preparation and participation	
	An additional point may be granted at the professors' discretion for good preparation for and active participation in the class	
3	Total	100%

COURSE PLAN – MAIN SUBJECTS

No.	Main subjects	Planned hours
1	International Commercial Arbitration	22
2	International Investment Arbitration	2

COURSE PLAN – SESSIONS

Session	Session subjects and readings	Lecture/seminar
1	<p>Introduction to International Commercial Arbitration General Overview of the Sources</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ <i>Redfern & Hunter on International Arbitration</i>, Chapter 1. An Overview of International Arbitration, paras. 1.01-1.134; 1.197-1.243. <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards ○ 1985 UNCITRAL Model Law on International Commercial Arbitration (as amended in 2006) ○ UNCITRAL Arbitration Rules 	Lecture/Seminar GZ
2-3	<p>Arbitration agreement & Validity of Arbitration Agreement</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ <i>Redfern & Hunter on International Arbitration</i>, Chapter 2. The Agreement to Arbitrate, paras. 2.01-2.123. <p>Case law:</p> <ul style="list-style-type: none"> ○ <i>Dixie Aluminum Products v. Mitsubishi International Corporation</i>, United States District Court, N.D. Georgia, Gainesville Division (12 February 1992) <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ IBA Guidelines for Drafting International Arbitration Clauses (2010). 	Lecture/ Seminar GZ
4	<p>Ad hoc and Institutional Arbitration (Particular emphasis on the ICC Court of International Arbitration and the PCA)</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ <i>Redfern & Hunter on International Arbitration</i>, Chapter 1. An Overview of International Arbitration, paras. 1.140-1.187. <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ 2012 ICC Rules of Arbitration ○ 2012 PCA Arbitration Rules 	Lecture/ Seminar GZ
5-6	<p>Arbitrators: Selection and Appointment of Arbitrators; Independence and Impartiality of Arbitrators; Challenge, Replacement and Resignation</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ <i>Redfern & Hunter on International Arbitration</i>, Chapter 4. Establishment and Organisation of an Arbitral Tribunal, paras. 4.01-4.168; Chapter 5. Powers, Duties and Jurisdiction of an Arbitral Tribunal, paras. 5.01-5.90. <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ IBA Guidelines on Conflicts of Interest in International Arbitration (2014) 	Lecture/ Seminar TVH

7	<p>Applicable Laws; Limitation to Arbitrator's Authority; kompetenz-kompetenz; Arbitrability</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ Redfern & Hunter on International Arbitration, Chapter 3: Applicable Laws, paras. 3.01-3.220; Chapter 5. Powers, Duties and Jurisdiction of an Arbitral Tribunal, paras. 5.91-5.137; Chapter 2. Arbitrability, paras. 2.124-2.160. ○ Julian Lew, "The Law Applicable to the Form and Substance of Arbitration Clause", ICCA Congress series no. 9, 1998, Paris, pp. 114-145 	Lecture/Seminar TVH
8	<p>Investment Arbitration: BITS, MFN and National Treatment; Expropriation; Umbrella Clause; Effectiveness of BITS and the future (including the TTIP)</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ Redfern & Hunter on International Arbitration, Chapter 8. Arbitration under Investment Treaties, paras. 8.01-8.169; ○ Rudolf Dolzer and Christoph Schreuer, <i>Principles of International Investment Law</i>, OUP, 2008 	Lecture/Seminar TVH
9	<p>Arbitral Procedure & Evidence</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ Redfern & Hunter on International Arbitration, Chapter 6. Conduct of the Proceedings, paras. 6.01-6.204. <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ IBA Rules on the Taking of Evidence in International Arbitration (2010) ○ Prague Rules ○ IBA Guidelines on Party Representation in International Arbitration (2013) ○ UNCITRAL Notes On Organizing Arbitral Proceedings 	Lecture/ Seminar TVH
10	<p>Arbitral Tribunal and National Courts</p> <p>Reading:</p> <p><i>Redfern & Hunter on International Arbitration</i>, Chapter 7. The Role of National Courts during the Proceedings, paras. 7.01-7.64; Chapter 5. Powers, Duties and Jurisdiction of an Arbitral Tribunal, paras. 5.112-5.117.</p>	Lecture/Seminar GZ
11	<p>Arbitral Award: Content and Form</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ Redfern & Hunter on International Arbitration, Chapter 9. The Award, paras. 9.01-9.202; ○ Drafting Awards in ICC Arbitrations, by H. Lloyd et al, <i>ICC International Court of Arbitration Bulletin</i> Vol. 16/No. 2 – Fall 2005 	Lecture/ Seminar GZ

12	<p>Arbitral award: Challenge to Awards; Recognition, Enforcement and Setting-aside of Arbitral Awards</p> <p>Reading:</p> <ul style="list-style-type: none"> ○ Redfern & Hunter on International Arbitration, Chapter 10. Challenge of Arbitral Awards, paras. 10.01-10.95; Chapter 11. Recognition and Enforcement of Arbitral Awards, paras. 11.01-11.155. <p>Acquaint yourself with:</p> <ul style="list-style-type: none"> ○ 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards <p>Case law: Yukos saga</p> <ul style="list-style-type: none"> ○ Challenge - pleading notes prof. A.J. Van Den Berg, The Hague District Court, February 2016 ○ GAR - Another Yukos decision creates waves ○ Kluwer Arbitration Blog - The US\$50 billion Yukos award overturned - Enforcement becomes a game of Russian roulette 	<p>Lecture/ Seminar</p> <p>GZ</p>
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COURSE RESULTS

By completing the study course and successfully passing examination, the student will be able to:

Study results	Evaluation criteria		
	(40-69%)	(70-89%)	(90-100%)
Knowledge	The student has acquired only basic knowledge of the course subject. The student lacks understanding of some of the core issues of the course subject.	Overall, the student's knowledge complies with the expectations. However, there are issues that the student does not fully understand.	The student has demonstrated in-depth knowledge and understanding of the issues related to the course subject.
Skills	The student has demonstrated only basic level of skills.	The student has demonstrated good skills.	The student has demonstrated excellent skills.
Competencies	The student can apply the knowledge only at a basic level. The student struggles with assessment and evaluation of legal issues. The student can identify the relevant legal norms. However, the student cannot correctly apply them.	The student can apply the knowledge at a reasonably good level. However, the student does not have the necessary level to be able to fully apply the acquired knowledge independently. The student has some problems to correctly apply the legal norms.	The student is able to apply the knowledge independently and correctly. The student can assess and evaluate legal issues, identify the relevant legal norms, and correctly apply them.

COURSE LITERATURE

No.	Author, title, publisher
1	Blackaby, Nigel, Partasides, Constantine, Redfern, Alan, Hunter, Martin, <i>Redfern and Hunter on International Arbitration</i> , Sixth ed., OUP, 2015
2	Gary B Born, <i>International Commercial Arbitration</i> , Kluwer, 2nd ed., 2014
3	Gary B Born, <i>International Arbitration: Law and Practice</i> , Wolters Kluwer, 2012
4	Emmanuel Gaillard, John Savage (eds.), <i>Fouchard Gaillard Goldman on International Commercial Arbitration</i> , Kluwer Law International, 1999
5	Emmanuel Gaillard, <i>Legal Theory of International Arbitration</i> , Martinus Nijhoff Publishers, 2010
6	1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention.html
7	1985 UNCITRAL Model Law on International Commercial Arbitration (with 2006 amendments), http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1985Model_arbitration.html
8	2012 ICC Rules of Arbitration , http://www.iccwbo.org
9	2012 PCA Rules of Arbitration, https://pca-cpa.org/en/documents/pca-conventions-and-rules/
10	IBA Guidelines on Conflicts of Interest in International Arbitration (2014), IBA Guidelines on Party Representation in International Arbitration (2013), IBA Rules on the Taking of Evidence in International Arbitration (2010) & IBA Guidelines for Drafting International Arbitration Clauses (2010), http://www.ibanet.org/Publications/publications_IBA_guides_and_free_materials.aspx Rules on the Efficient Conduct of Proceedings in International Arbitration (Prague Rules) (2018), https://www.praguerules.com/upload/medialibrary/9dc/9dc31ba7799e26473d92961d926948c9.pdf
11	Journal of International Arbitration, Kluwer Online http://www.kluwerlawonline.com/toc.php?area=Journals&mode=bypub&level=4&values=Journals~~Journal+of+International+Arbitration
12	Investment Treaty Arbitration https://www.italaw.com/
13	UNCTAD Investment Policy Hub http://investmentpolicyhub.unctad.org/
14	IA Reporter https://www.iareporter.com/
15	ICSID https://icsid.worldbank.org/en/
16	Covington's The Arbitration Handbook, available at https://appsto.re/gb/Mn1x8.i (Apple users) or https://play.google.com/store/apps/details?id=uk.covington.arbitrage&hl=en (Android Users)

Programme director	/signature/	/date/

Field expert	/signature/	/date/
Course responsible	/signature/	/date/