

HANDOUT FOR SILE PART B COURSE

LAW AND PRACTICE OF INTERNATIONAL ARBITRATION IN SINGAPORE

Contact Session 1 (2 hours)

You are expected to have reviewed at least sections 1 to 3 of the study notes. At the contact session, I will take any questions those sections in the study notes (20 minutes).

1. Navigating soft law instruments (20 minutes)

I will explain during the contact session how different laws come into play in an international arbitration. For that purpose, please download and have a look through the latest version of the following soft law instruments:

- IBA Rules on the Taking of Evidence in International Arbitration / Prague Rules
- IBA Guidelines on Conflicts of Interest
- CIArb Protocol for the Use of Party-Appointed Expert Witnesses in International Arbitration
- IBA Guidelines on Party Representation in International Arbitration

Please also download and look through the latest version of the following UNCITRAL/UN instruments:

- UNCITRAL Model Law on International Commercial Arbitration 1985 and 2006
- UNCITRAL Arbitration Rules
- UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)

2. Selecting DR Forum and Drafting DR clauses (60 minutes)

You receive the following email from your client. Prepare a substantive response which you may be asked to present during the contact session.

Dear Associate

Happy New Year!

Thank you for providing my company, India Bittal Heavy Industries, with all your guidance to date.

As we know, we now have large scale highway construction in Bangladesh, Sri Lanka, Thailand, Cambodia and Indonesia, all of which I oversee in my role as Asia GC.

In 2023, we are especially excited because we are in the process of discussing a large contract with China's Sino Steel for them to supply specialized rolled steel products to support our ongoing construction projects.

I am now in the process of negotiating a master contract with Sino Steel. Some of our orders with Sino Steel may be modest (eg US\$ 1 or 2m), but some of our orders may be large (US\$10m).

I need your advice on what dispute resolution clause to insert into the contract. I have heard a lot about commercial courts such as the SICC, but do not know whether they are necessary better for us? I have also heard a lot about multi-tiered dispute resolution clauses, but again do not know if they are too cumbersome (although as you know every company will want to resolve disputes amicably if given a choice). In relation to arbitration, we would also be grateful for your advice on which institution and seat to choose?

I am looking for succinct and practical advice, which should include the recommended dispute resolution clause itself. Please do not incur more than S\$3,000 in time costs.

3. Drafting Request/Notice of Arbitration (20 minutes)

Please familiarize yourself with the key elements of a Notice/Request of Arbitration in the latest version of the SIAC and ICC Rules (which you should download).