SCHOOL OF LAW
Year 2019-20 Term 2
COURSE CODE: LAW481
COURSE TITLE: INTERNATIONAL MEDIATION LAW AND PRACTICE

NOTE: THIS IS AN SMU-X COURSE

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COURSE DESCRIPTION

This course deals with the rapidly growing area of private international mediation and multi-tiered dispute resolution processes that have mediation as an element. It offers participants a framework for understanding cross-border law and practice in this field and the opportunity to develop specialised mediation know-how relevant to cross-border settings. The course is conducted as an SMU-X course with input from institutions and organisations in the cross-border mediation and dispute resolution field as set out below.

Imagine the following scenario: A Singaporean mediator is asked to mediate a professional negligence dispute. The plaintiff is based in Indonesia, the defendant accounting firm is in the Netherlands, and the defendant’s insurer has its headquarters in the United States. All agree to attend mediation in Singapore. The preliminary discussions and meetings, however, take place via email and video-conference with all parties in their home countries. The mediation occurs and the parties reach a settlement, which the parties’ legal representatives draft into contractual form. Such cross-border mediations involve:

- international and intercultural competencies;
- online and face-to-face mediation protocols; and
- knowledge of private international law in relation to the substantive and procedural aspects of mediation.

This term the course will focus on a number of projects around the following themes:

- What happens after the ink has dried on the Singapore Convention? Once countries have signed on, what does it mean for them and what else to they need to do or to build to benefit from the Convention.
- International and comparative legal frameworks for mediation (and dispute resolution) with a focus on Asia.
PRE-REQUISITE/ CO-REQUISITE/ MUTUALLY EXCLUSIVE COURSE(S)

Nil

COMPULSORY READINGS
Given the very “current” nature of the topic, compulsory reading will be assigned in class and via e-learn as it becomes available.

RECOMMENDED TEXT AND READINGS

The following readings may be useful for students throughout the course. However they are not compulsory.


Hopt K. and Steffek F. (eds), (2012), Mediation: Regulation and Reform, Oxford University Press.

Additional readings will be assigned.

Students are expected to keep abreast of current international developments by reading leading news sources such as the Kluwer Mediation Blog, the Kluwer Arbitration Blog, the SIDRA blog, Mediate.com’s blog and the Herbert Smith Freehills ADR blog. Also in relation to the Singapore Convention on Mediation, the UNCITRAL website is very useful: www.uncitral.org

ASSESSMENT METHOD

Class participation: 15%
Group presentation: 15%
Applied research report (c. 3500 words): 70%

No questions from past year papers or published test banks will be used verbatim for the graded continuous assessments and examinations in this course.

COURSE METHODS

The course is conducted as an SMU-X course. It has a strong policy and practice focus and will involve presentations and mentoring by industry partners and guests such as the Singapore International Dispute Resolution Academy, The Singapore International Mediation Centre, the International Chamber of Commerce, the Singapore International Commercial Court and members of the Working Group II of UNCITRAL who drafted the Singapore Convention on Mediation. Students will be engaged with a range of key policy documents practice-focused applied research projects to further develop the implementation of the Singapore Convention in the region. Further the course offers students case studies and practical tools for analysing and comparing mediation law and practice internationally.

ACADEMIC INTEGRITY

All acts of academic dishonesty (including, but not limited to, plagiarism, cheating, fabrication, facilitation of acts of academic dishonesty by others, unauthorized possession of exam questions, or tampering with the academic work of other students) are serious offences.

All work (whether oral or written) submitted for purposes of assessment must be the student’s own work. Penalties for violation of the policy range from zero marks for the component assessment to expulsion, depending on the nature of the offence.

As a reminder on how to avoid plagiarism, students are encouraged to refer to this Library guide at: https://library.smu.edu.sg/elearn

When in doubt, students should consult the instructor of the course. Details on the SMU Code of Academic Integrity may be accessed at http://oasis.smu.edu.sg/Documents/Downloads/DOS-WKLSWC/code_of_academic_integrity.pdf#search=ACADEMIC%20INTEGRITY

ACCESSIBILITY

SMU strives to make learning experiences accessible for all. If you anticipate or experience physical or academic barriers due to disability, please let me know immediately. You are also welcome to contact the university's disability services team if you have questions or concerns about academic provisions: included@smu.edu.sg.

Please be aware that the accessible tables in our seminar room should remain available for students who require them.

CLASS SCHEDULE

Note: some classes are likely to be rescheduled to accommodate industry partners and to facilitate site visits.
<table>
<thead>
<tr>
<th>Week No.</th>
<th>Topic</th>
<th>Readings (tba)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Introduction and overview of course. What is cross-border mediation (CBM) law? How has the practice and law developed in relation to mediation and multi-tiered dispute resolution processes internationally?</td>
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<tr>
<td>2</td>
<td>The law of cross-border mediation I: Areas covered include: legal issues, form and content of cross-border mediation law, diversity and harmonisation in cross-border mediation law, cross-border legal instruments</td>
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<tr>
<td>3</td>
<td>The law of cross-border mediation II : Introduction to the Regulatory Robustness System for Mediation Regimes</td>
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</tbody>
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| 4       | Enforceability of international mediated settlement agreements:  
- Mediated settlement agreements as consent arbitral awards and court orders  
- Singapore Convention on Mediation (draft) and The Model Law on Mediation: The work of UNCITRAL on cross-border commercial mediation and the enforceability of cross-border mediated settlement agreements |                |
<p>| 5       | Finalisation of groups and projects. Initial scoping of projects. |                |
| 6       | International comparative overview of mediation law |                |
| 7       | Presentations of group research proposals with feedback |                |
| 8       | Mid-term Break |                |
| 9       | Guest presenter from Working Group II UNCITRAL 2018: The making of a convention |                |
| 10      | Site visits (Singapore International Commercial Court)/ Group project work |                |
| 11      | Potential site visits (Singapore International Mediation Centre, International Chamber of Commerce)/ Group project work |                |
| 12      | Facilitated group project work and final preparations for presentations |                |</p>
<table>
<thead>
<tr>
<th>13</th>
<th>Group presentations to faculty and industry partners with Q&amp;A</th>
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</thead>
<tbody>
<tr>
<td>14</td>
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**Note:** The above syllabus/schedule is meant only as a guide and is subject to amendment.