

Virtual Diploma International Maritime Arbitration



Introduction

The number of international maritime arbitrations has grown over the past few years and, as the world emerges from the pandemic, they are expected to continue to increase¹. The scale, diverse range and complexity of maritime arbitrations coupled with an increase in arbitral systems means that it is essential to have the right knowledge and skills to navigate this field.

The Chartered Institute of Arbitrators' (Ciarb) Virtual Diploma in International Maritime Arbitration provides the in-depth training you need. Ciarb is an international centre of excellence for the practice of alternative dispute resolution (ADR).

The Diploma in International Maritime Arbitration, which is delivered online using Ciarb's virtual classroom from **5 April 2023** to **28 June 2023**, one day a week (on Wednesdays) for two and a half hours (time TBC), has specific international maritime arbitration themes.

Course Director

In the last three years, the maritime industry has been facing unprecedented challenges leading to new types of disputes.

The outbreak of COVID-19 in 2020 directly and indirectly affected international trade and transport. High-value claims over, indicatively, prolonged detentions of vessels by authorities in zero-Covid policy countries and consequent termination of charter parties, effectively changed the trading map. All of the various unanticipated effects of the outbreak and government restrictive measures had a dramatic effect on the ability of vessels and their crew to operate.



The Russian invasion in Ukraine in 2022 has also had a dramatic effect on ships trading, not just in the Black Sea but around the world. Some commercial vessels have been detained, caught in war operations and even subjected to attempts of wrongful expropriation. The war seriously affected grain exports, leading to spiralling food prices, famine scenarios worldwide and, eventually, a UN agreement, allowing for significant volumes of commercial food exports from key Ukrainian ports via the Black Sea amid the ongoing war.

US, EU and UK sanctions imposed following the outbreak of hostilities have further complicated shipping and trading worldwide. The export and carriage of basic commodities, such as coal and fertilizers, from Russia to EU and other ports worldwide have been excluded with certain exceptions, resulting in the sudden termination of existing fixtures and high-value disputes. The unprecedented sanctions have led to significant disruption and uncertainty in maritime trade.

The latest crisis in connection with sanctions relates to the transport of Russian oil. In December 2022, about 30 tankers laden with oil from Kazakhstan got stuck in a queue for weeks, seeking to leave the Bosphorus and Dardanelles straits, resulting in complex disputes over delays. Turkey required certain insurance documents to allow oil tankers pass through Turkish waters, which if provided, insurers would have been in breach of existing sanctions aiming to prevent the export of Russian oil, unless it was sold at an enforced low price or cap.

Maritime arbitration has always been the dispute resolution forum of choice since

ancient times, and it continues to be particularly suited to resolve these novel and complex international disputes, which usually involve multiple jurisdictions. Parties have the option to appoint arbitrators with experience in the industry and understanding of the particularities of shipping. Furthermore, flexible arbitral procedures and enhanced enforcement prospects, via the New York Convention, often make arbitration an attractive option for maritime dispute resolution compared to court proceedings.

Ciarb's Diploma in International Maritime Arbitration is a practical course given by experienced practitioners in the field, ideal to introduce you to the world of international maritime arbitration. This is not an academic course. It is designed to be a practical guide, taught by top maritime practitioners.

The course aims to provide candidates with a detailed knowledge of the procedural elements of an international maritime arbitration, as practiced in the most commonly used maritime centres, using legislation based on the English Arbitration Act 1996 and the United Nations Commission on International Trade Law (UNCITRAL) Model Law, together with the London Maritime Arbitrators' Association (LMAA) Terms, the UNCITRAL Arbitration Rules and other maritime arbitration rules, to enable them understand and participate in such proceedings.

In addition, the course is designed to provide the candidate with the knowledge required to analyse submissions, arrive at a conclusion and write a final, reasoned and enforceable arbitration award in compliance with the Arbitration Act 1996 and maritime arbitration rules.

This course focuses on legal principles, process, practice and procedure in international maritime arbitration, 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, analysing 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 anyone wishing to understand this topic generally, for example as a party, party representative or witness. For anyone who is considering a career as a maritime arbitrator, the course provides an opportunity to achieve Fellowship of ciarb which is in and of itself, a helpful indication to institutions and parties of a deep knowledge of arbitration practice and procedure.

The Diploma in International Maritime Arbitration, which is delivered online using Ciarb's virtual classroom from **5 April 2023** to **28 June 2023**, one day a week (on Wednesdays) for two and a half hours (time TBC), has specific international maritime arbitration themes and is split into three parts.

PART 1 Law, Practice and Procedure of International Maritime Arbitration

Part 1 is delivered by experienced practitioners by way of virtual training sessions. Upon completion of the training, candidates will have to undertake and pass a law, practice, and procedure exam on **13 July 2023** to be eligible to join Ciarb as Members (MCI Arb).

PART 2 Law of Obligations

The part 2 link for this online test is sent out to those candidates who meet the criteria for the exemption test after successfully completing the Part 1 assessment. This can be expected in the beginning of July. Candidates that hold a recognized Law Degree are eligible for the exemption test and must take and pass the online exemption test on the common and civil law of contract and tort before their Part 3 evidence and award writing exam on **1 December 2023**. Existing Fellows of the Ciarb are exempt from having to complete Part 2. Candidates that are *not eligible* for the exemption test, must take the full module 2 course and assessment at an additional cost. The full module 2 course will take place from November 2023; part 3 can only be commenced after successful completion of the module 2 course and assessment if you are not eligible for the exemption test.

PART 3 Evidence and Award Writing of International Maritime Arbitration

After successfully completing Part 1, candidates can apply to become a Member of Ciarb. After successfully completing Parts 2 and 3, and a peer interview, candidates can apply to become a Fellow of Ciarb. (Eligibility dependant)

¹ HFW, The Maritime Arbitration Universe in Numbers, July 2020

PART 1

Law, Practice and Procedure of International Maritime Arbitration

Part 1 of the Diploma course looks at the legal and practical framework of international maritime arbitration. This includes relevant international instruments, types of arbitration, the powers of an arbitrator and the fundamentals of an enforceable award. It also gives candidates the opportunity to look deeper at discrete themes in international maritime arbitration.

What are the learning outcomes?

On successful completion of the Diploma candidates will be able to:

- Describe
 - the contractual nature of Arbitrator appointment
 - the range and limitations of an Arbitrator's powers and jurisdiction
 - the rights, duties, and responsibilities of a party to an Arbitration
- Explain
 - Legal procedural principles, rules, and agreements relevant in International Maritime Arbitration
 - the legal limitations on what matters/disputes it is permissible to arbitrate
 - the methods of initiating and processing a Maritime Arbitration
 - the relevance of the state court at each stage of an Arbitration from appointment to enforcement and challenge
- List the elements required for an Award to be enforceable.
- Identify and apply the correct relevant rules and laws to procedural issues which may arise in a maritime arbitration.
 - List the advantages and possible disadvantages of maritime arbitration compared to other means of maritime dispute resolution.

What is covered in the syllabus?

ADR Processes and Arbitration

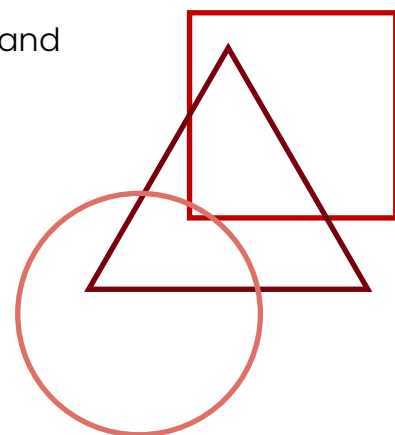
Definition and placement of Arbitration within a range of DR processes

Law and the Legal Framework surrounding Arbitration

- Legal systems, the hierarchy of norms, and the role of courts in support of arbitration
- The New York Convention, importance of the seat of arbitration and choice of law
- Nature and limits of arbitration
- DR clauses and the arbitration agreement; formation, validity and incorporation by reference
- Types of arbitration: ad-hoc, institutional, documents only, time limited

The Arbitration Procedure

- The appointment of the arbitrator and terms & conditions of appointment
- An arbitrator's jurisdiction and powers
- Obligations and responsibilities of the tribunal and the parties
- Managing the arbitration process: communications, preliminary meeting, interlocutory matters, submissions, dealing with factual and opinion evidence and disclosure of documents, the hearing
- The commencement of the arbitral process, the activation and scope of the agreement
- Challenges to jurisdiction and conflicts of interest
- Preparation for procedure at a typical hearing, contrasting common law and civil law jurisdictions
- Alternative methods for presenting claim and defence
- Interim measures, including injunctive relief and security for costs
- Costs, offers and interest - approaches in different jurisdictions
- Essentials of an enforceable award
- Using technology in arbitration



Maritime arbitration

- Maritime contracts including international sales contracts and Incoterms, bills of lading, charter parties, shipbuilding contracts, marine insurance, salvage
- Maritime Arbitration Commissions and Rules in major shipping nations with a particular emphasis on the London Maritime Arbitrators Association Rules (LMAA) and the Hong Kong Maritime Arbitration group (HKMAG) and the Singapore Chamber of Maritime Arbitration (SCMA).
- Legislation in England & Wales and the APAC Region.

How is Part 1 delivered?

Part 1 is delivered during virtual training sessions across one semester, with a combination of lectures, exercises, and interactive workshops, dealing with international maritime arbitration law, practice and procedure. Ciarb's virtual

classroom platform will be used.

How will I be assessed for Part 1?

Candidates must take a law, practice and procedure of international maritime arbitration assessment on **13 July 2023**.

This assessment is completed via LearnADR, Ciarb's online learning platform. Candidates will be given 48 consecutive hours within a 5-day window to submit their answers online. Candidates must achieve a minimum overall mark of 65% to pass the assessment. Candidates who fail any assessment will be required to retake them as per the Candidates Regulations.

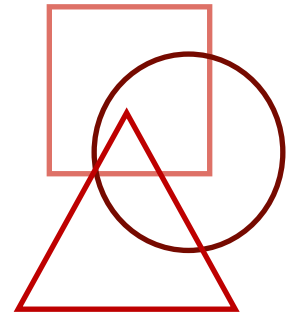
The assessment will be split into 2 parts:

Part One

Is a compulsory case study exercise with a number of questions that candidates will be required to answer worth 40 marks.

Part Two

Consists of five questions, candidates are required to select and answer three questions worth 60 marks.



PART 2

Law of Obligations

The Diploma in International Maritime Arbitration aims at preparing candidates for FCIArb which is a mark of proficiency in dealing with evidence, decision making and award writing in international maritime arbitration. As the law of obligations provides an essential framework for this, candidates are required to show expertise in it. Existing Fellows of Ciarb are exempt from having to complete Part 2.

How will I be assessed for Part 2?

Candidates that hold a recognized Law Degree are eligible for the exemption test. This is done via the LearnADR platform on the common law and civil law of contract and tort sent out to candidates after successfully completing the Part 1 assessment. 30 questions will need to be answered within 90 minutes, with a pass mark of +70%. Existing Fellows of the Ciarb are exempt from having to complete Part 2. Candidates that are *not eligible* for the exemption test, must take the full Module 2 course and assessment

at an additional cost. The full module 2 course will take place from November 2023; part 3 can only be commenced after successful completion of the module 2 course and assessment if you are not eligible for the exemption test.

PART 3

Evidence and Award Writing of International Maritime Arbitration

During the virtual training programme relating to part 3 of the Diploma, candidates focus 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, analysing 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.

What are the learning outcomes of Part 3?

On successful completion of this course candidates, will be able to:

- Analyse and evaluate evidence
- Identify issues that arise from the parties' submissions
- Create a workable structure and deal with all the issues that arise
- Apply logic and legal knowledge to produce a legally sound, well-reasoned and argued award
- Describe and further develop award-writing skills independently.
- Draft the discursive and operative parts of the award
- Identify and address issues related to parties' costs and interests arising out of an award
- Allocate arbitrators' fees and expenses
- Write an Award that is compliant with the legal and other requirements for it to be enforceable.

What is covered in the syllabus?

- Purpose of the award
- Purpose of reasons
- Formal requirements of an award
- Substantive requirements for an award
- Elements of an award:
 - The recitals
 - Defining the issues
 - Defining the law

- Ordering and handling issues
- Contentions on the issues
- Summarising evidence
- Findings of fact
- Dealing with legal submissions
- Arriving at a conclusion for each issue
- Parties' costs and interest
- Arbitrator's fees and expenses
- The seat of the arbitration
- Publishing the award
- Sending out the award and dealing with slips.

How is Part 3 delivered?

Part 3 is delivered during the one semester virtual training programme.

How will I be assessed for Part 3?

This assessment is completed via LearnADR, Ciarb's online learning platform. Candidates will be given 48 consecutive hours within a 5-day window to submit their award online. Candidates must achieve 70% in Part A, Part B and overall to pass the assessment. The assessment start date for Part 3 will be **1 December 2023**.

Part A: Focuses on the technical merit and counts as 40% towards the overall mark.

Part B: Focuses on the judicial merit and counts as 60% towards the overall mark.

The assessment is split into two stages:

Stage One: This consists of the papers in the case. They are sufficient to enable you to grasp the nature of the case and the likely legal problems. Most of the documents are extracts only. You should consider the recitals you intend to include and the relevant law.

Stage Two: This is the equivalent of the hearing stage. It includes an extract from your (i.e. the arbitrator's) notebook. This records the oral evidence and arguments the arbitrator has heard, as well as any other relevant documents. From the evidence you must make your findings of fact. Different candidates will no doubt make different findings. This is of no consequence, except that it means there are a great many possible answers to the question. When you have made your findings of fact, write the award. It must be a final award as regards the issues you decide.

Stage One of the assessment is released via LearnADR 10 days before the assessment start date.

Stage Two is released at 12pm noon London Time on the assessment start date via LearnADR too.

Stage 2 will be available for 5 days from the assessment start date and within those 5 days, you will have 48 consecutive hours to submit your award back onto LearnADR.

Results are dispatched to candidates normally twelve weeks from the deadline date of the submission. Candidates will be informed of any delays.

What are the entry requirements?

There are no pre-requisite entry requirements for this course. The course is open to:

- Professionals wishing to increase their knowledge and relevant skills in the field of international maritime arbitration, and/or
- Members or Fellows of the Chartered Institute of Arbitrators who have experience of domestic or international arbitration practice and wish to extend their knowledge to include international maritime arbitration procedures.

All candidates enrolling on any Ciarb course should ensure that their command of spoken and written English is adequate for the course for which they have applied. Ciarb specifies the need for its candidates to have adequate English in order to ensure that their academic progress is not hindered by language difficulties. Ciarb issues this advice as a guideline and, while it will not require any evidence of this standard prior to enrolment on a course, candidates who do not have this standard of English may be disadvantaged. It is recommended that they have achieved a standard that is, as a minimum, equivalent to the International English Language Testing System (IELTS) level 7 or a score of 94-101 in the Test of English as a Foreign Language (TOEFL) system but we do not require an official IELTS or TOEFL result.

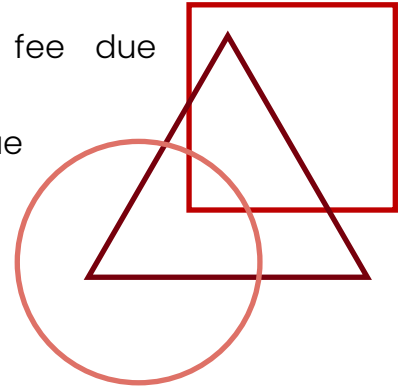
Please contact the British Council for further details on how to improve your English skills:
<https://learnenglish.britishcouncil.org/>

What is the course fee?

The course fee for the Virtual Diploma in International Maritime Arbitration is £5,100.00 inclusive of VAT.

This course fee can be paid either as one payment of £5,100 or in three instalments as follows:

- First Instalment: 50% (£2,550.00) of the course fee due immediately upon registration.
- Second Instalment: 20% (£1,020.00) of the course fee due by 26 February 2023.
- Third Instalment: 30% (£1,530.00) of the course fee due by 19 March 2023.



What does the course fee include?

The fee is £5,100.00. The fee includes:

- registration onto the Diploma course
- study materials for the course, except for the material that may be purchased by the candidate (see below).
- Part 1 assessment.
- Part 2 exemption test.
- Part 3 assessment.

Should a candidate fail any part of the Diploma, a resit fee for that part will be charged accordingly.

What happens when I register for the course?

Upon successful registration on the course, candidates will receive confirmation that they are booked on the course. Joining instructions will be sent to candidates approximately 2 weeks before the course start date.

Candidates are encouraged to purchase the following books prior to the start of the Diploma course:

London Maritime Arbitration by Clare Ambrose, Karen Maxwell and Michael Collett QC, Fourth Edition 2017, Inform a Law from Routledge (Consultant Editor Bruce Harris).

Candidates will be provided with access to a virtual learning environment and electronic copies of material to assist them with the Diploma, together with a suggested reading list. It is recommended that candidates are familiar with the English Arbitration Act 1996 and the LMAA Terms 2017 and the substantive law in their respective jurisdictions. Candidates should also refer to the recognised standard textbooks to supplement their study in their respective jurisdictions where these are available.

What is Ciarb's policy on cancellation of courses?

Ciarb reserves the right to cancel or change the date, venue or content of programmes and the names of speakers, lecturers, and tutors. Candidates will be provided with adequate notice of any change. If Ciarb must cancel a course, candidates will be provided with a full refund or the opportunity to transfer their registration to the next course. Should a candidate wish to cancel their registration of a course, notification must be received in writing to education@ciarb.org. Cancellation charges apply. Please refer to the Fee Sheet.

What is my next step when I complete the course?

On successful completion of the Diploma course and the corresponding assessments, all candidates:

- may be eligible to claim CPD if the course has contributed to members' development, and evidence of participation is provided. It may count as part of the CPD requirement for CI Arb, Solicitors Regulation Authority, Bar Standards Board, ACCA, CILEX, ICE and RIBA;
- may use the designatory letters DipCI Arb;
- will be eligible to apply for:
 - Member grade of CI Arb upon successful completion of Part 1, or
 - Fellowship of CI Arb upon successful completion of Part 2, 3 and the Peer Interview. (Eligibility dependant)