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EDITOR'S NOTE

The role of IMI in certifying mediators internationally and making mediation an independent global profession has been widely acknowledged by users, mediators, trainers and providers. Now IMI is taking the next step of assessing mediators for their mastery of intercultural dynamics and is proposing steps for qualifying mediators for IMI Inter-Cultural Certification. The Intercultural Taskforce of the IMI Independent Standards Commission has published the Draft Criteria for IMI Inter-Cultural Competency Certification of Mediators. The draft criteria is given in the View Point section of this edition.

Your comments are invited.

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Draft Criteria for Approving Programs to Qualify Mediators for IMI Inter-Cultural Certification

The Intercultural Taskforce of the IMI Independent Standards Commission (ISC) after a year of meetings and consultation, is publishing for comment Draft Criteria for the planned IMI Inter-Cultural Competency Certification of Mediators. The launch of this new initiative is planned for late 2011 following a public consultation period and testing of the criteria in a pilot program. Comments on the criteria are invited by 30th April 2011 and can be sent to intercultural@IMImediation.org. All comments received will be greatly appreciated and individually acknowledged.

The Intercultural Taskforce of the IMI Independent Standards Commission (ISC)[1] after a year of meetings and consultation, is publishing for comment Draft Criteria for the planned IMI Inter-Cultural Competency Certification of Mediators.

Organisations approved by the ISC as an Inter-Cultural Qualifying Assessment Program (ICQAP) will assess mediators for their mastery of intercultural dynamics and qualify mediators for IMI Inter-Cultural Certification. The launch of this new initiative is planned for late 2011 following a public consultation period and testing of the criteria in a pilot program.

This initiative has attracted much interest and support from users, mediators, trainers and providers and will be presented at the 13th Annual Spring Conference of the ABA Section of Dispute Resolution in Denver in April 2011.

IMI Inter-Cultural Certification is available to any experienced mediator who is qualified by an Inter-Cultural Qualifying Assessment Program (ICQAP) that has been approved by the IMI Independent Standards Commission (ISC), based on meeting the following criteria:

I. CRITERIA FOR APPROVING INTER-CULTURAL QUALIFYING ASSESSMENT PROGRAMS (ICQAP)

(Footnote)

[1] The IMI Task Force includes: Hal Abramson, Professor of Law, Touro Law School, New York (USA) and Joanna Kalowski, Mediator and Management Consultant (Australia) as Co-Chairs; Gigi de Groot, Managing Director, Itim International (Cultural and Management Consultants), Stockholm (Sweden\Netherlands); Jeremy Lack, Altenburger (CH), PCZLaw (US), and Quadrant Chambers (UK), Geneva (Switzerland/UK/USA/Israel); Joel Lee, Professor of Law, National University of Singapore (Singapore/New Zealand); Ian Macduff, Professor of Law, Director, Centre for Dispute Resolution, Singapore Management University (New Zealand/ Singapore/ Malaysia); Hannah Tümpel, Manager, Dispute Resolution Services, ICC, Paris (Germany/ France); and Irena Vanenkova, Secretary, IMI, The Hague (Russia), as an Ex Officio Member.

Any ICQAP must meet the following criteria in order to qualify mediators for IMI Inter-Cultural Competency Certification:

1. METHODOLOGY FOR ASSESSMENT. Any QAP that provides Inter-Cultural Certification must implement a performance-based assessment methodology for evaluating whether each candidate's performance meets each of the Substantive Criteria in Section II.

Comment: The assessments may be based on written material, role-play or live action evaluations, other suitable methods, or any combination, and may include videotaped and online assessments such as web dramas, self-assessments, interviews, peer reviews, user feedback and other in-practice skill evaluations.

2. PROGRAM TRANSPARENCY. The benchmarks and criteria applied by QAP must be published and openly accessible on the organization's website.

Comment: Details of all approved programs will be listed on the IMI web portal www.IMImediation.org and will include a direct link to the credentialing organizations' websites.

3. PROGRAM INTEGRITY. Each Assessor must have substantial experience in evaluating the performance of mediators. At least one of the Assessors on each Program must be independent of the ICQAP training faculty for Inter-Cultural Certification.

4. COMMITMENT TO DIVERSITY. The ICQAP must be accessible on an equal basis to experienced mediators regardless of their professional affiliations, gender, race, ethnicity, age, religion, sexual orientation or other personal characterization.

II. SUBSTANTIVE CRITERIA

Any Program that qualifies for IMI Inter-Cultural Certification must meet these minimum substantive criteria when teaching mediators inter-cultural abilities:

A. THEORY

1. CULTURAL FRAMEWORK. Ability to understand and apply at least one credible theory and approach to cultural dimensions as a means to reach cultural competence. The theory and approach shall include an appreciation of similarities and differences among cultures.

Comments:

a. Any selected framework should consider how to use cultural dimensions while avoiding stereotyping when setting up and participating in mediations. Although there are many recognized and respected theories, the goal is not to learn comparative theories about culture or even a particular theory. The goal is to reach a level of cultural competence by means of the selected theory, as applied in each of these other criteria.

The Lighter Side

A lady lost her handbag in the bustle of shopping. It was found by an honest little boy and returned to her. Looking in her purse, she commented: "Hmmm... That's funny. When I lost my bag there was a $20 bill in it. Now there are 20 $1 bills."

The boy quickly replied: "That's right, lady. The last time I found a lady's purse, she didn't have any change for a reward."

b. Understanding culturally shaped norms and expectations can help explain parties' different perspectives and the impasses these perspectives can create. However, it is important to avoid using culture as an overly inclusive concept to try to explain all differences that parties manifest. Mediators should strive to apply their understanding of culture as an explanatory tool to specific, justifiable circumstances.

c. Any discussion of culture needs to consider how the concepts of "conflict", "resolution", "mediation" and "process" can have different meanings in different cultures.

B. SKILLS to LEARN

2. SELF-AWARENESS. Ability to recognise one's own cultural values and their possible effect on one's view of the mediation.

Comments:

a. Mediators should be conscious of their own culturally influenced practices including how culture forms the lens through which they view and interpret the behaviour of others.

b. Mediators should be aware of how their culturally shaped behaviour might be viewed and interpreted by participants.

c. Mediators should learn to recognize signs of their own surprise, discomfort, or cognitive dissonance when facing cultural differences, and develop adaptive strategies for reestablishing balance, coping with cultural ambiguities, and managing unfamiliar or contrary practices.

3. MULTIPLE CULTURAL PERSPECTIVES. Ability to recognise each participant's culturally shaped perspectives of behaviours or events. Ability to understand and appreciate participants' complementary and opposing cultural perspectives. Ability to manage the inevitable ambiguities and mistakes that can emerge when dealing with multiple cultural perspectives.

Comments:

a. Mediators should understand participants' possible perceptions of the behaviour of the mediator, the behaviour of each other, and procedural issues and subject matter.

b. Mediators should not react negatively when faced with different ways of doing things, unless the behaviour violates the mediator's fundamental personal values.

c. When working with multiple cultural perspectives, mediators should learn to deal with uncertainty, ambiguous information or circumstances, unintentional mistakes (e.g. cultural clumsiness), and possibly unconscious biases of participants.

d. Mediators should consider the best style and process for dealing with issues related to multiple perspectives, including whether to address them in caucuses or joint sessions or directly or indirectly with the participants.

e. When managing multiple cultural perspectives, mediators should consider how and whether to co-mediate with neutrals from other cultures or involve interpreters as cultural consultants when preparing for and participating in mediations.

It's not what we eat but what we digest that makes us strong;
not what we gain but what we save that makes us rich;
not what we read but what we remember that makes us learned;
and not what we profess but what we practice that gives us integrity.
~ Francis Bacon Sr. ~

4. COMMUNICATION SKILLS. Ability to adjust one's own communication style to the needs of participants from other cultures, and to help participants communicate optimally with each other, including establishing suitable processes to facilitate communications.

Comments:

a. Mediators should be able to employ suitable inter-cultural communication skills when interacting with participants as well as with co-mediators from other cultures. For example, under one theory, the communication style suitable for mediators may involve pinpointing a point on the direct-indirect communication continuum, a point that can be influenced by a number of other cultural parameters such as the power distance index and relationship orientation of the participants or co-mediators.

b. Mediators need to check for compatible communication styles among the participants and know how to assist participants with communicating despite incompatible communication styles.

c. Mediators should be able to assist participants in understanding how information can be perceived and conveyed in different ways across cultures.

d. Mediators may need to help participants adjust the way they communicate with each other based on such parameters as the participants' comfort displaying emotion, their ability to empathize or understand others' perspectives, their comfort with face-to-face discussion of sensitive subject-matter, and their preference to pursue delicate matters through indirection (e.g in order to avoid loss of face).

e. Mediators need to learn to assess if, when, and how to use caucuses with participants to facilitate communications.

5. DIAGNOSTIC and INTERVENTION TOOLS. Ability to identify salient cultural issues and design sensitive interventions.

Comments:

a. Mediators should learn to recognize and test for any culturally shaped interests, impediments and information-gathering issues. They also should learn skills to help participants address interests, overcome any impediments, and resolve any information-gathering issues, including facilitating an optimal exchange of information among parties with different communication styles and approaches to sharing information.

b. Mediators' understanding of interests should include the possibility of wider interests at stake than only those of the participants at the table, including those of other constituents (e.g., family members, elders, communities, and tribunals). This assessment also should consider whether there may be impediments due to differences related to the participants' conflicting sense of status or needs for procedural certainty, autonomy, fairness, or relatedness.

C. APPLICATION of SKILLS

6. PREPARATION. Ability to research culture of the participants, formulate a culturally suitable process, and design sensitive interventions.

Comments:

a. Mediators should prepare by trying to learn about the culture and traditions of each participant and by figuring out what process may work best for these participants given their cultural predilections. When preparing, mediators may need to design sensitive interventions to help parties meet culturally influenced interests, overcome any culturally shaped impediments, and facilitate inter-cultural communications. The aim of this preparation is to construct hypotheses for how best to proceed given what a mediator may know about the participants and to prepare to test these hypotheses as the mediation gets underway.

b. Mediators should be flexible and open to reassessing and modifying their preferences for procedures and interventions, as illustrated by the following examples:

- Whether to convene a pre-mediation meeting with one party, both parties, or only the representatives of the parties;
- Whether to request prior submissions and the type of submissions that may be helpful;
- Where the mediation should take place, who should attend, and what venue, food, external resources, social activities or welcoming rituals to arrange.
- Whether to work with the parties to design a procedure to meet any needs for mutual respect, autonomy, affiliation, certainty, or procedural fairness, in which status and roles are understood (e.g. seating and forms of address);
- Whether to help participants avoid cultural norms that may be deemed politically or culturally incorrect by others, as well as avoid being manipulated by cultural norms;
- How participants or their representatives should communicate with one another prior to and during a mediation including resolving the role of the mediator, the need for co-mediators or interpreters, who should speak or write, and how time should be allocated;
- How proposals might be presented (e.g., in some cultures, parties may not be comfortable presenting options because they are not clear what is expected, need more guidance, and do not want to do so because they may appear weak, lose face, or lose respect of others).
- Whether, when and how to provide for evaluative feedback.

c. Mediators may need to become more or less directive or facilitative at times on procedural issues, depending on the needs of the participants.

7. MONITORING PROGRESS. Ability to help participants take stock of what they have achieved as the mediation progresses, where they wish to be headed, and what they expect at the end.

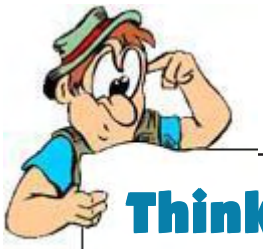
Comment:

Although monitoring progress is important in all mediations, this task requires special attention in inter-cultural mediations where signposts of progress may be less evident. Even though the mediator and the participants may feel they are advancing well, each individual may think they are heading in a direction whose outcome may be culturally influenced and different. In order to provide a check and elicit the range of different understandings, mediators should be able to assess the extent to which participants expectations are aligned, can be reconciled, or can be respected.

8. OUTCOMES AND CLOSURE. Ability to help participants set parameters for a final work product or action items, so that the participants can feel they have reached satisfactory closure.

Comment:

Conflicts underlying a mediation are seldom ended by only an oral agreement, nor are they always ended when there has been a signed agreement. In inter-cultural disputes, mediators should be aware of additional procedural or ceremonial steps that may be necessary to enable participants to feel that they can bring closure to the conflict. At times, participants may need to be reassured that their outcome will be honoured, such as by a court or tribunal ratifying an agreement, converting the agreement to a consent award, or following some other ritual or tradition.



Think ... Would You?

Would you want to marry YOU?

That's an interesting question that every single (and married) person needs to ask themselves.

Would you really want to marry you?

If you are a man then try to think like a woman and honestly ask yourself, "If I were a woman, would I want to marry me?"

If you are a woman then try to look through a man's eyes and ask yourself, "If I were a man, would I want to marry me?"

You know you better than any other human.

You know how you are. You know the secrets and the quirks. You know the likes, dislikes, strengths and weaknesses of your inner soul. You know YOU even if you don't admit the truth.

If you are already married then you need to ask yourself, "Would I really want to stay married to me if I could walk away with no strings attached?"

If the answer in any scenario is "No," then perhaps it's time for change.

So... Would you?

Article

Privilege in International Arbitration

: JANE PLAYER - CLAIRE MOREL DE WESTGAVER

Issues of privilege often arise in international arbitration and yet the predictable outcome lacks certainty. In the absence of an agreement by the parties, whether in the form of a reference to arbitration rules or a specific consensus, questions as to whether materials are protected by privilege remain at the discretion of the Tribunal. Given the disparity in privilege regimes, there is a real risk inherent in discrepancies between the parties' expectations at the time of the communication and what is subsequently deemed privileged by an arbitral panel. This practical note aims to identify the areas which may need to be considered at an early stage in the relationship and to explore solutions extracted from common international arbitration practice.

Availability of privilege in international arbitration

Like all arbitration regimes worldwide, the Arbitration Act 1996 ("Act") is silent on the existence and treatment of issues of privilege. Section 34 only provides that subject to the right of the parties to agree, the tribunal shall decide all procedural and evidential matters including "*whether any and if so which documents or classes of documents should be disclosed between and produced by the parties and at what stage*" and "whether any and if so what questions should be put to and answered by the respective parties and when and in what form this should be done". Under the terms of Section 34, unless the parties reach an agreement, tribunals have full discretion to decide all issues of privilege including its availability in arbitral proceedings.

As a result, parties intending to resist claims of privilege might try to argue that by entering into an arbitration agreement, parties have waived their right to privilege or that privilege is a matter of procedure only and therefore only applies in the context of litigation and not in international arbitration. However, parties running these arguments are unlikely to convince experienced arbitrators. Section 43(4) of the Act suggests that tribunals should give effect to privilege assertions. This provision states that "*a person shall not be compelled by virtue of this section to produce any document or other material evidence which he could not be compelled to produce in legal proceedings*." While Section 43(4) concerns the assistance of the court in relation to oral testimony and production of documents by witnesses rather than by parties, one may argue that its rule ought to be applied equally to parties. More importantly, as a matter of practice it is usually accepted that privilege is available in arbitral proceedings and that an agreement to arbitrate does not amount to a waiver of the right to claim privilege.

Arbitration rules

Most of the leading arbitration rules, such as the arbitration rules of the LCIA, ICC, SCC and WIPO do not provide guidance

on privilege. As a result, unless they can reach an agreement, parties are left in the hands of the tribunal. A few sets of rules do make reference to privilege and in particular, legal professional privilege.

The International Arbitration Rules of the International Centre for Dispute Resolution (ICDR Rules) provide in their Article 20(6) that the tribunal "*shall take into account applicable principles of legal privilege, such as those involving the confidentiality of communication between a lawyer and a client*". Similarly, Rule 12.2 of the International Institute for Conflict Prevention and Resolution Rules for Non-Administered Arbitration states that: "*[t]he Tribunal is not required to apply the rules of evidence used in judicial proceedings, provided, however that the Tribunal shall apply the lawyer-client privilege and the work product immunity. The Tribunal shall determine the applicability of any privilege or immunity and the admissibility, relevance, materiality and weight of the evidence offered.*" Finally, Article 38 of the Zurich Rules of Arbitration states inter alia that: "*a witness may…refuse testimony which would infringe official or professional secrecy protected by criminal law, unless the witness has been freed of its secrecy obligations*". The traditionally restricted disclosure and the nature of privilege in civil law jurisdictions may explain the slightly more limited scope of this last provision.

Moreover, Article 9(2)(b) of the IBA Rules on the Taking of Evidence in International Commercial Arbitration ("IBA Rules on Evidence") – which are now commonly used as guidelines by international tribunals – states that arbitrators shall, at the request of a party or on their own motion, exclude from evidence or production any document, statement or oral testimony or inspection for any of the listed reasons, which include "*legal impediment or privilege under the legal or ethical rules determined by the tribunal to be applicable*". The same list further includes grounds such as commercial or technical confidentiality as well as special political or institutional sensitivity, particularly relevant in Bilateral Investment Treaty arbitrations. If agreed upon, Article 9(2) should alleviate the concerns of parties engaged in arbitral proceedings at least with regard to their ability to claim good faith privilege assertions with a view to resist disclosure of documents or information.

Law governing privilege and the tribunal's discretion

In practice, in instances where privilege claimed is recognised under all the relevant legal systems, arbitrators might not be required to determine the law applicable to privilege assertions. However, considerations pertaining to conflict of law issues may prove inevitable for parties coming from divergent legal cultures; not least because rules as to the existence, nature and scope of privilege as well as exceptions and waiver vary considerably from one jurisdiction to another. By way of example, while generally considered as a rule of disclosure or evidence in common law countries, the lawyer-client privilege in contrast may be treated as a professional conduct duty or "professional secret" in civil law countries. Equally, depending on the jurisdiction, privilege may or may not cover communications between an in-house counsel and the client. Without prejudice communications and settlement discussions can also be treated very differently depending on the relevant legal system.

The general rule to ascertain the law applicable to a particular question in international arbitration is to ask oneself whether it is a matter of substance or procedure and apply accordingly either the substantive law chosen by the contract or the relevant conflict of law rule, or the *lex arbitri* (usually law of the place of arbitration). Such reasoning, however, proves inadequate in respect of privilege.

First, whether privilege is a matter of procedure or substance is unclear and again varies according to different jurisdictions. Under English law, privilege is usually considered as being substantive, although some ambiguity remains. Lord Scott stated in the landmark English case of *Three Rivers* that *"there has been some debate as to whether* [the right to legal advice privilege] *is a procedural right or a substantive right. In my respectful opinion the debate is sterile. Legal advice privilege is both*". In the United States, the courts address privilege as an issue of substantive law, at least as regards US diversity cases. The position is less clear in civil law jurisdictions, where issues of admissibility and weight of evidence are sometimes distinguished from the collection of evidence with the former being substantive and the latter procedural.

Second, in addition to the law governing the dispute and the *lex arbitri*, further privilege rules need to be considered as possibly applicable to issues of privilege. Depending on the privilege claimed, the law of the jurisdiction where the communication was made, the law of the jurisdiction where the information is located, the law of the judicial forum where enforcement of any order or award will be sought, may be relevant. Further, with regard to lawyer-client privilege, the law of the jurisdiction where the lawyer giving the legal advice is admitted and the law of the jurisdiction where the client receiving the advice is based may play a part in the analysis.

In practice, tribunals tend to apply the relevant choice of law rules or simply the "closest connection" or "centre of gravity" test in order to determine the law applicable to privilege to avoid making the substantive v procedural analysis. Several elements such as the nature of the evidence and the place where the document was created are relevant to the nexus between the evidence sought to be disclosed and the privilege regime(s). For example, arbitrators will usually recognise a strong link between communications made as part of a mediation and the jurisdiction where the mediation took place, or between communication between a lawyer and his client and the jurisdiction where he is admitted to practice.

In addition to the level of connection with one or more legal systems, tribunals are generally inclined to take into consideration factors such as principles of due process and the impact of their decision on the enforceability of their award. Arbitral due process encompasses principles of justice, fairness and equality of arms. These principles imposed on arbitral tribunals are enshrined in several institutional rules as well as national arbitration laws. By way of example, section 33 of the English Arbitration Act 1996 provides that the tribunal shall: (a) *act fairly and impartially as between the parties giving each party a reasonable opportunity of putting his case and dealing with that of his opponent; and* (b) *adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters failing to be determined.* More specific to privilege and other considerations of confidentiality, Sub-section (g) of Article 9(2) of the IBA Rules on Evidence judiciously adds "*considerations of fairness or equality of the parties that the arbitral tribunal determines to be compelling*" as a further ground to exclude materials from evidence.

In the context of privilege, equality of arms implies that rules are evenly applied to all parties; whereas fairness will be relevant to the arbitrating parties' expectations of privilege to information and documents. For instance, a panel sitting in Paris would probably apply English rules of privilege to documents recording an English solicitor's advice in respect of previous litigation held in England. In this example, to apply the privilege rules of the *lex arbitri* could result in a document having to be made available for inspection, despite the disclosing party's expectations that they would have been privileged and that therefore their communication was safe.

In order to overcome difficulties inherent in conflict of law issues, tribunals have also explored alternatives based on the common denominator of the parties' respective privilege regimes. One consists of applying to all parties without distinction a fictive privilege resulting from the combination of protections from which each party would benefit under the law of their own jurisdiction. This so-called "most favoured nation rule" or "most-protective privilege rule" which is recommended in the ICDR Guidelines for Arbitrators Concerning

Exchange of Information certainly enables a greater level of predictability and equality. Its application might however result in a privilege the scope of which goes beyond the regimes of the parties' legal systems, which would presumably limit the access to relevant evidence and hence arguably jeopardise the achievement of justice and the effectiveness of the arbitral proceedings. On the other hand, the "least favoured nation rule" also ensures that parties are treated equally but its application may require the disclosure of materials that would have been protected by privilege in the disclosing party's legal system. Again, this risks a challenge or refusal to enforce the arbitral award on that basis (although the authors have found no record of such a challenge).

Decision on privilege

The tribunal's decision on privilege entails evaluating the relevant evidence and law presented by the parties, who are generally required to prove the existence and application of the privilege claimed. In practice this means that the tribunal will determine the privilege scope and possible exceptions, and provide a ruling on the privilege to apply to each circumstance.

Once the tribunal's decision on privilege has been issued, questions as to the enforceability and challenge of such decision may arise. The tribunal's ruling will typically take the form of an order, of which enforcement is not covered by mechanisms applicable to arbitral awards. Arbitral tribunals lack power to force a party to produce documents and an order on privilege which is not complied with voluntarily, is only enforceable through a competent national court. In England, Section 41(5) of the Act empowers tribunals to make peremptory orders to disclose documents if, without showing sufficient cause, the relevant party fails to comply with the order or directions of the tribunal. Pursuant to Section 42 of the same act, and upon application by a party or the tribunal, the court can then make an order requiring a party to comply with such peremptory order. In the absence of recourse to court, a party's failure to produce documents can only result in adverse inferences drawn by the tribunal.

Furthermore, an order, unlike a partial award, can not be challenged in the court of the place of arbitration. As a result, unless a party can convince the court of the arbitration seat that it should intervene in support of the arbitral proceedings, a party facing an unsatisfactory decision on privilege will have to wait until the final award is delivered to attempt to set it aside on the basis of grounds available in the relevant jurisdiction. These include serious irregularity within the meaning of section 68 of the Act, public policy or misconduct in refusing to hear evidence pertinent and material to the controversy.

Alternatively, in matters where a decision on privilege would affect the outcome of the case, parties may attempt to obtain a partial award embodying the tribunal's ruling on privilege. On the basis that privilege is usually deemed as a substantive issue under English law, the requesting party may argue that the privilege issue should be dealt with as preliminary issue and determined in a partial award within the meaning of section 47 of the Act. A partial award on privilege could then be enforced through the New York Convention 1958 (if applicable) and challenged as any arbitral award.

Conclusion

If predictability is impossible, parties should seek advice and decide if the flexibility offered in international arbitration is better balanced with the option to agree rules such as the IBA Rules on Evidence, or other more unequivocal rules. Exceptions and waivers can be agreed or sought out at an early stage and some degree of protection can thus be secured.

(Author: Jane Player is the partner of Bird & Bird LLP, London and the Joint Head of the International Dispute Resolution Group. Claire Morel de Westgaver is an Associate with Bird & Bird's Dispute Resolution Group.)

* * *

We hate some persons because we do not know them;
and we will not know them because we hate them.

* * *

New Arbitration Law – Hong Kong

A new Arbitration law will come into effect on 1 June 2011 in Hong Kong. The new law seeks to unify domestic and international arbitrations by establishing a unitary regime that is closely based on the UNCITRAL Model Law. Parties will be able to opt a number of clauses of the Act when drafting their arbitration agreements. Under the old law, these provisions applied only to domestic arbitrations; if chosen, they will now apply to any arbitration seated in Hong Kong.

Proposed Arbitration Act amendments on Ship Arrest – Malaysia

Previously, settled law and existing legislation in Malaysia did not permit the arrest of a vessel in admiralty proceedings to secure a claim in arbitration. A bill to amend the Arbitration Act 2005 has been tabled in Parliament, which, once passed, will be known as the Arbitration (Amendment) Act 2010. This bill seeks to amend the 2005 Act to empower a Malaysian court that exercises admiralty jurisdiction to order the retention of vessels or the provision of security pending the determination of arbitration proceedings related to admiralty disputes.

Consultative Session for Women on Gender Sensitization in field of Alternative Dispute Resolution – Pakistan

The 1st Consultative Session for Women on Gender Sensitization in the field of Alternate Dispute Resolution took place in Karachi on March 25, 2011. The workshop was organized by IFC Pakistan ADR Project with presence of Karachi Centre for Dispute Resolution (KCDR). The specific aims of the consultative session were to share lessons and benefits of alternate dispute resolution for discussion. Gender specialists from New World Concepts highlighted problems faced by women entrepreneurs and women litigants in resolving disputes in courts and detailed how mediation can provide a much better option to women in settlement of disputes. The advantages of ADR for women were highlighted as well as the reality that Gender can have a significant impact upon the quality and choice of dispute resolution services.

Certificate in Dispute Management (CDM)

CDM is a distance learning course of IIAM, valid for six months from the date of enrolment. You can enroll at any time of year and you study entirely at your own pace, submitting your assignments when you are ready. Your tutor will be available to mark your assignments and give feedback on your progress for a period of six months from the date of enrolment. You will be sent four 'reading and study assignments' with your course materials, and these form an essential part of your distance learning course. They are designed to help you to work through the course manual and understand the concepts. The course will provide a good basic knowledge of ADR – Negotiation, Mediation & Arbitration – in theory and practice. On successfully completing the assignments included in the course a certificate will be awarded.

For more details on CDM, mail to training@arbitrationindia.com