

**Learner Unit Achievement Checklist**

**SEG Awards Level 7 Diploma in International Arbitration Law & Practice**

**610/4318/7**

###### SEG Awards Level 7 Diploma in International Arbitration Law & Practice

## Centre Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Learner Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notes to learners – this checklist is to be completed, to show that you have met all the mandatory and required optional units for the qualification.

**R/651/1944 Law of Arbitration - Mandatory Unit**

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| Assessment Criteria | Evidence (Brief description/title) | Portfolio Reference | Date Completed | Comment |
| **1.1** Explain the history and purpose of UNCITRAL including the various instruments promulgated by the Commission i.e. United Nations Convention on Recognition and Enforcement of Foreign Arbitral Award (“NY Convention 1958”), UNCITRAL Model Law on International Commercial Arbitration (“UNCITRAL Model Law”) and UNCITRAL Rules of Arbitration**1.2** Explain the function and purpose of UNCITRAL Model Law and its contribution towards the harmonisation and unification of laws in the sphere of international arbitration |  |  |  |  |
| **2.1** Explain the differences and relationship between UNCITRAL Model Law and national arbitration law**2.2** Explain the difference between arbitration law and arbitration rules (UNCITRAL Model Law versus UNCITRAL Rules of Arbitration)**2.3** Explain the differences between institutional and ad hoc arbitration through the understanding of arbitration law and arbitration procedural rules |  |  |  |  |
| **3.1** Understand the interaction of different legal systems in arbitration: applicable law, law governing the arbitration agreement and arbitration law**3.2** Understand the supervisory role of national courts in arbitration including the limitation in intervening in arbitral proceedings**3.3** Explain the difference between a juridical seat and a physical place of hearing including advice on the evidentiary place of hearing versus a juridical seat including the right to a physical hearing in international arbitration |  |  |  |  |
| **4.1** Understand the difference between an arbitration clause and submission to arbitration**4.2** Understand the formal and substantive aspects of arbitration agreements including the separability of arbitration agreements and identify ineffective or defective arbitration agreements (“Pathological arbitration clauses”)**4.3** Understand the formal and substantive aspects of arbitration agreements therefore draft an effective arbitration clause |  |  |  |  |
| **5.1** Explain the concept of ISDS (Investor-State Dispute Settlement) system arising from international investment treaties**5.2** Explain the procedural aspects of investment treaty arbitration e.g. arbitration under ICSID, UNCITRAL Rules of Arbitration and UNCITRAL Rules on Transparency in Treaty-based Investor-State arbitration |  |  |  |  |
| **6.1** Identify the nature of commercial transactions and deals including the arbitrability of disputes arising from thereon**6.2** Advise on the suitable type of effective arbitration clause (ad hoc or institutional) including which institutional rules would be appropriate for each nature of commercial transactions (e.g. private contract, investment agreement under investment treaty) |  |  |  |  |

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| **TUTOR COMMENTS:****Name: Signature: Date:**  |

If chosen for sampling, Internal/External Moderators must complete the following:

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| EXTERNAL MODERATOR COMMENTS:**Name: Signature: Date:**  |

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**T/651/1912 Arbitration Practice and Procedure - Mandatory Unit**

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| Assessment Criteria | Evidence (Brief description/title) | Portfolio Reference | Date Completed | Comment |
| **1.1** Understand the process of selecting, appointing of arbitrator and constituting an arbitral tribunal based on the arbitration rules or law under the arbitration agreement based on the applicable arbitration legal or procedural framework including the doctrine of “party autonomy”**1.2** Identify issues arising relating to impartiality and independence of arbitrator (e.g. IBA Guidelines on Conflicts of Interest in Arbitration) challenge and removal of an arbitrator |  |  |  |  |
| **2.1** Understand the rights and duties of an arbitrator, including “kompetenz” in terms of jurisdiction and authority**2.2** Understand the powers of the tribunal under the procedural rules, arbitration law and other connected legal systems to an arbitral proceeding |  |  |  |  |
| **3.1** Understand the concept of the rule of law, due process paranoia, “guerrilla tactic” and “fair opportunity of presenting case” in arbitration**3.2** Explain the framework for taking of evidence of international arbitration based on the applicable arbitral rules and international practice (i.e. IBA) the conduct of party representatives and other ethical issues relating to the conduct of arbitration |  |  |  |  |
| **4.1** Identify the seat of arbitration, and the governing law of the contract applicable to the dispute and understand how an action is time-barred**4.2** Be able to draw up a checklist of pre-arbitration steps to be taken including time frame i.e. selection of arbitration, expert witness, and case strategy as per the applicable procedural framework**4.3** Understand what the notice of arbitration is, the response to the notice of arbitration, the time frame for the appointment of the arbitrator and the initial response**4.4** Understand the purpose and structure of Term of Reference (TOR) and Procedural Order (PO)**4.5** Understand the various written statements (claims, defence, counterclaim, rejoinder, etc) purpose, format and content provisional measures, evidence and discovery process including using a “Scott Schedule” |  |  |  |  |
| **5.1** Analyse dispute from the perspectives of claim, counter-claim and defence examine the chronology of a dispute, types of evidence and construction of the case**5.2** Explain the roles of expert and factual witnesses in oral hearings including cross-examination and re-examination (including the merits and demerits of direct examination) |  |  |  |  |
| **6.1** Understand the structure of a typical arbitration hearing case management conference, preliminary hearing, if any (on jurisdiction), bifurcation of proceedings**6.2** Understand the structure and framework of an evidentiary hearing (including online or documents-only hearing with reference also to the UNCITRAL Notes on Organizing Arbitral Proceedings) including the modern usage of electronic aids (e.g. e-discovery, e-hearing and transcription**6.3** Explain the difference between civil law and common law approach to arbitration including the appropriate case strategy |  |  |  |  |

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**Y/651/1913 Arbitration Awards and Award Writing - Mandatory Unit**

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| Assessment Criteria | Evidence (Brief description/title) | Portfolio Reference | Date Completed | Comment |
| **1.1** Understand the required format for arbitration awards, requirements for reasoned awards and other requirements according to the law of the arbitral seat to produce an award that is cogent, complete, final and binding**1.2** Adhere to applicable procedural rules and terms of reference of the arbitration to ensure compliance to avoid the tribunal being ultra vires and dispose of all the issues submitted before the arbitration**1.3** Understand the essential components of the arbitral award such as the factual background of the disputes, jurisdiction of the tribunal, procedural aspects, and governing law in interpreting the contractual terms and obligations |  |  |  |  |
| **2.1** Understand how claims, counterclaims and defence including the conduct of the parties impact how the tribunal awards costs**2.2** Understand how “costs follow the event” work and how the tribunal apportions costs to the parties including costs of arbitration, including its applicability when arbitrating in different jurisdictions (civil and common law) |  |  |  |  |
| **3.1** Understand the difference between setting aside and challenging enforcement of arbitral awards therefore the timeline compliance to exercise its rights**3.2** Apply the understanding of the grounds and procedures in setting aside arbitral awards under national arbitration laws**3.3** Understand the provision to enforce and challenge the enforcement of arbitration awards under the New York Convention 1958 and national arbitration laws |  |  |  |  |
| **4.1** Understand how to analyse a dispute by evaluating the parties’ case through written submissions, oral submissions, expert opinions and evidence**4.2** Evaluate the parties’ case based on the term of reference of the arbitration, therefore, to adjudicate on all the matters before the tribunal and arrive at a final decision |  |  |  |  |
| **5.1** Understand the purpose of different types of arbitral awards (Interim award, award on jurisdiction, partial award, award by consent, final award, correction award and interpretation award)**5.2** Apply the decision-making knowledge and drafting technique of the appropriate award according to the terms of reference of the arbitration |  |  |  |  |
| **6.1** Can understand how to use legal principles, factual evidence, technical reports, expert opinions and precedents in arriving at a decision**6.2** Can apply the justification and persuasive reasonings in support of decisions that will be awarded and thus included in an award |  |  |  |  |

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