# Syllabus for International Arbitration: Practical Skills (LAW 279M)

## Karl Bayer

#### Fall 2011

<u>Course</u> Description	This course teaches the principles of effective client representation in international arbitration. Through some traditional (and not so traditional) teaching methods students will learn substantive law and practical written and oral advocacy techniques and practice with detailed real world problems.
<u>Course</u> <u>Meetings</u>	This class will meet on Wednesdays from 3:30-5:30pm in room TNH 3.115. Individual coaching and practice time will also be an essential part of this course.
<u>Required</u> <u>Texts</u>	The Art of Advocacy in International Arbitration ( <b>Bishop, D. &amp; Kehoe, E</b> . eds., JurisNet 2 <sup>nd</sup> ed. 2010)
	Huber, P. / Mullis, A., The CISG: A new text book for students and practitioners, Sellier: München (2007).
	Also, please see the Course Bibliography.
<u>Professor's</u> Contact info	karl@karlbayer.com Office Phone: 512-345-8537 Office Hours: 9a.m5p.m. Assistant: Alyson Chaky, email: alyson@karlbayer.com
<u>Attendance</u> <u>Policy</u>	Each student will be allowed one non-excused absence and one excused absence. Any other absence will result in an F grade absent an emergency.
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**<u>Grades</u>** Grades will be based on class participation, writing assignments and presentations of oral arguments (see chart below). There is no mid-term or final exam.

Class participation $+$ HW $=$ 20%		
	Class Participation	10%
	HW assignments	10%
Written Advocacy grade = 45%		
	Outline	15%
	Draft 1	10%
	Draft 2	5%
	Final Draft	15%
Oral Advocacy grade = 35%		
	Oral argument 1	5%
	Oral argument 2	5%
	Oral argument 3	10%
	Oral argument 4	15%

### Weekly Homework Assignment

In addition to what is specifically assigned, each week students will post to their own blog and post comments on every other students' blog.

#### **Classroom Electronics**

We will use all sorts of hard and software outside the class. During class, however, notes will be taken by hand.

## **Notices**

#### Disabilities

Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for Students with Disabilities, 471-6259, <u>http://www.utexas.edu/diversity/ddce/ssd/.</u>

#### **Religious Holidays**

By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

Class	Calendar	&	<b>Assignments</b>

Date	Class	Assignments due for the NEXT
		class
		Reading:
		Art of Advocacy in Int'l
		Arbitration
		Chp 1: Cultural Difference in
		Advocacy in International Arbitration
		(8 pgs)
		Chp 4: Psychological Dynamics in International Arbitration Advocacy (52 pgs)
		HW #1:
		Write a 2-page story about a
		particular major conflict in your life
		and how you and the other parties
		involved resolved it.

Set up your own blog and send me a link. I recommend using Wordpress or Blogger as the blogging platform.August 24 (I will be out of town for the first class)Lecture: Intro to Syllabus and HousekeepingEmail written story and link to karl@karlbayer.com by beginning of class on August 24 <sup>th</sup> .August 24 (I will be out of town for the first class)Lecture: Intro to Syllabus and HousekeepingEmail written story and link to karl@karlbayer.com by beginning of class.August 24 (I will be out of town for the first class)Lecture: Intro to Syllabus and HousekeepingReading: Redfern & Hunter Introduction to International Arbitration 23 <sup>rd</sup> class has been rescheduled for November 21 <sup>st</sup> .Reading: Redfern & Hunter Introduction to International Arbitration 23 <sup>rd</sup> class has been rescheduled for November 21 <sup>st</sup> .Reading: Redfern & Hunter Introduce the Vis MootCheng - The November 23 <sup>rd</sup> class has been rour of the CISG database and environmental Law, will be my substitute. Andy Martinez - Tutorial on video recording in ROOM 3.310 at 4:30pm - Format DVD,HW#2: Prepare a 10-minute oral presentation on the same personal story of dispute resolution.CLASS 1Nord file - Our of relevant library and online materials. - Meet at circulation desk at 5:00pmRoom 3.310 will be reserved from 9am-5:20pm on August 31 for that purpose.Nould that day not be convenient, please contact Marla Massin to reserve an advocacy room for yourself on a different day (mmassin@law.utexas.edu).Should that day not be convenient, please contact Marla Massin to reserve an advocacy room for yourself on a different day (mmassin@law			
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	August 31	Lecture: Introduction to International	Reading:
Commercial Arbitration Redfern & Hunter		Commercial Arbitration	
CLASS 2 On law governing the arbitration, set	CLASS 2		On law governing the arbitration, set
Activity: aside, and the NY Convention para		Activity:	aside, and the NY Convention para
"Getting to know you" 3.34-3.87, 10.01-10.91, 11.01-11.120		-	3.34-3.87, 10.01-10.91, 11.01-11.120

	Video record your 10-minute story presentations in room 3.310 if you have not done so. Turn in your DVDs at the end of class.	(97 pgs.) HW# 3: By next class, schedule a time between September 14-21 to meet individually with me for at least an hour. Contact my assistant Alyson Chaky to schedule meeting.
September 7 CLASS 3	Lecture: The interrelation of NY Convention, National Arbitration Laws (ML) and Institutional Rules	<b>Reading</b> : <b>The CISG: A New Textbook for</b> <b>students and practitioners</b> pgs 1-40
	Groups A and B will be assigned as will Claimant and Respondent.	<ul> <li>HW#4: Using a hypothetical dispute found on BB under Arbitration Exercise, prepare a 10-minute oral argument regarding the procedural matters of the dispute. Look to the important articles of the NY Convention, the UNCITRAL Model Law for support.</li> <li>GROUP A will present on September 14 GROUP B will present on September 21</li> </ul>
September 14 CLASS 4	Lecture: CISG (30min) With a focus on some of the key articles: 7, 8, 9, 14-19, 25, 29, 35, 37- 40, 46-51, 63, 64, 66-73, 77, 79	Reading: Art of Advocacy in Int'l Arbitration Chp 14: Opening Statements (27 pgs) Chp 19: Closing Arguments (6 pgs) HW#4:
	Activity (1.5hr): <b>GROUP A will present oral</b> <b>arguments in class from HW #3</b> (Working through the arbitration legal instruments, <i>e.g.</i> , the NY Convention, The UNCITRAL Model Law, and institutional rules) <b>in Room 3.310</b>	<b>GROUP B</b> will present their 10min oral argument on the procedural issues on <b>September 21</b> .
September 21 CLASS 5	Lecture: The Five Types of Legal Argument (30min) GROUP B will present oral arguments in class from HW #3	Reading: Speed Read all of The Five Types of Legal Argument

	(Working through the arbitration legal instruments, <i>e.g.</i> , the NY Convention, The UNCITRAL Model Law, and institutional rules) <b>in Room 3.310</b>	<ul> <li>Art of Advocacy in Int'l Arbitration</li> <li>Chp 22: The US Perspective and Practice of Advocacy (44 pgs)</li> <li>HW#5:</li> <li>Using a hypothetical dispute found on BB under CISG exercise, prepare a 10-minute oral argument regarding the merits of the case using the relevant articles of the CISG.</li> <li>GROUP A will present on September 28.</li> <li>GROUP B will present on October 5.</li> </ul>
September 28 CLASS 6	Lecture: Oral Advocacy (30min) <u>Activity (1.5hr)</u> : <b>GROUP A will present oral</b> <b>arguments in class from HW #4</b> (Arguments on the merits using the CISG) <b>in Room 3.310.</b>	Reading: Research in International Commercial Arbitration: Special Skills, Special Sources, by Stacie Strong (39 pgs.) on BB.Art of Advocacy in Int'l Arbitration Chp 8: Effective Written Advocacy (14 pgs)Chp 9: Pleadings, Memorials, and Post-Hearing Briefs (26 pgs)HW #5: GROUP B will present their 10min oral argument on the CISG issues on October 5.
October 5 CLASS 7	Lecture: Written Advocacy (30min) Talk about the different parts of the brief (table of authorities, statement of fact, summary of arguments, request for relief)	Reading: Get the Vis problem from the Vis website (http://www.cisg.law.pace.edu/cisg/m oot/mootlist.html#18) and read it twice.
	<u>Activity (1.5hr)</u> : GROUP B will present oral	<b>The Vis Book</b> Chp 3 The Road to Vindobona: Preparing for the Moot (17pgs)

	arguments in class from HW #4 (Arguments on the merits using the CISG) in Room 3.310.	Look at the Vis Rules (on BB) for their brief requirements. HW#6: Put together a timeline chart of both procedural and merits issues. Turn in Timeline before next class via email. Timeline chart headings: Date, Type of Document (Witness statement, exhibit, letter from chamber, etc.), quoted relevant text.
October 7 (Friday)	Moot Problem comes out	
October 12	Lecture: Breakdown of the problem	Research
CLASS 8	In class, come up with "theme" for claimant and respondent. Brainstorm on arguments for both sides with Professor Rau	HW#7: Prepare graded questions for Guest Speaker(s) regarding the moot problem.
		Rough Outlines due by October 19 <sup>th</sup> via email. Prepare 5 written questions for the guest speaker on October 19 <sup>th</sup> . Email them to me and post them to your blog by October 17 <sup>th</sup> .
October 19 (I will be out of	Rough outlines due (this will determine oral argument groups. See	Claimant & Respondent detailed outline due
town)	below chart for example of division)	HW#8:
CLASS 9	<u>GUEST SPEAKER:</u> Lecture topic: Arbitration topic related to Vis problem	Set up a time to meet with me individually to discuss Rough outline. Contact Alyson Chaky to set up meeting
	<u>Activity:</u> Talk to Guest Speaker(s) and ask questions about the lecture and problems you're having with the Moot Problem.	Turn in clarification questions by email by <b>next class October 26th</b>
October 26 CLASS 10	Claimant & Respondent annotated outline with table of authorities due (via email)	Prepare 1 <sup>st</sup> oral argument with partner 1 (bring your DVD-R)

	Lecture: Outline of Proof	HW#9:
		Do Outline of Proof for Respondent.
	Activity:	
	In class, walk through Outline of	
	Proof for Claimant together on the white board. Refine the Claimant's	
	argument and find the holes that may	
	need more research.	
	Talk about request for clarification	
October 27	Deadline for requests for	
November 2	<i>clarification</i> Lecture: Feedback and Discussion	1 <sup>st</sup> draft of briefs due
November 2	Lecture. Feedback and Discussion	1 drait of briefs due
CLASS 11	- Feedback on outlines from attorneys	2 <sup>nd</sup> oral argument with partner 2
	and professors.	(Bring DVD-R)
		HW#10:
		<b>Set up a time to meet with me</b> <b>individually</b> to discuss 1 <sup>st</sup> oral
		argument and address individual
		styling. Contact my assistant Alyson
		Chaky to schedule meeting.
November 9	1 <sup>st</sup> Draft of Briefs due at beginning of	3 <sup>rd</sup> oral argument with partner 3.
	class <u>including summary of</u>	(Bring DVD-R)
CLASS 12	arguments and statement of facts (via	11XX/ # 11
	email)	HW # 11 Text me your main arguments for
	$2^{nd}$ oral argument (with partner 2) as	your oral argument by Tuesday Nov
	RESPONDENT (10min) in ROOM	13.
	3.310 (from 3:30-5:30)	15.
November 16	Give students feedback on the 1 <sup>st</sup> draft of Brief.	2 <sup>nd</sup> Draft of Briefs due.
CLASS 13	Because of time constraints this may	Reading:
	have to be done by email	Art of Advocacy in Int'l
	, ř	Arbitration
	3rd oral argument (with partner 3) as	Chp 20: The British Perspective and
	CLAIMANT (10 min) in ROOM 3.310 (from 3:30-5:30)	Practice of Advocacy (26 pgs).
		Chp 23: The Asian Perspective and
		Practice of Advocacy (18 pgs).
		Hw#12:
		Come up with a storyboard
	1	conte up men a beer jobar a

		framing your story. Due at the
		beginning of the next class.
November 23	2 <sup>nd</sup> Draft of Briefs due at beginning	Final Drafts of Briefs due.
	of class including summary of	
CLASS 14	arguments and statement of facts (via	4 <sup>th</sup> Oral Argument with partner 4
	email)	(Bring DVD-R)
Moved to 21st		
	Email students feedback on the 2nd	
	draft of Claimant's Brief because	HW # 12:
	Final Draft is due the next class.	<i>Everyone text me a rebuttal response.</i>
	Students read their classmates	
	portions of the brief and choose which	
	ones will be sent to the Vis.	
November 30	Claimant's Brief Final Draft due at	
LAST DAY	the beginning of class including	
OF CLASS	summary of arguments and statement	
	of facts (via email)	
CLASS 15		
	4 <sup>th</sup> oral argument (with partner 4) as	
	RESPONDENT (10min) in ROOM	
	3.310 (from 3:30-5:30)	
December 8	Claimant's Brief is due to the VIS	
	, v	

## Partner Breakdown Example

CLAIMANT Procedural Team	Student 1	RESPONDENT Merits Team
	Student 2	
	Student 3	
	Student 4	
	Student 5	
	Student 6	
CLAIMANT Merits Team	Student 7	RESPONDENT Procedural
	Student 8	Team
	Student 9	
	Student 10	
	Student 11	
	Student 12	

	GROUP A	GROUP B
Oral Argument 1	Student 1 & Student 7	Student 4 & Student 10
	Student 2 & Student 8	Student 5 & Student 11
	Student 3 & Student 9	Student 6 & Student 12

Oral Argument 2	Student 1 & Student 8	Student 4 & Student 11
	Student 2 & Student 9	Student 5 & Student 12
	Student 3 & Student 7	Student 6 & Student 10
Oral Argument 3	Student 1 & Student 9	Student 4 & Student 12
	Student 2 & Student 7	Student 5 & Student 10
	Student 3 & Student 8	Student 6 & Student 11

## After-Class List of Vis related happenings:

- 1. Claimant's Brief due December 8
- 2. Writing Respondent's Brief over the winter break
- 3. Respondent's Brief due January 19
- 4. Try-outs for the Vis oralist team February\_\_\_\_\_
- 5. MAA Welcoming Party March 29
- 6. Official Welcome and reception March 30
- 7. General Rounds of arguments March 31 April 3
- 8. Awards Banquet April 5