### SUBJECT DETAILS

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<td><strong>e-mail</strong></td>
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| **Office**                  | *Herbert Smith Freehills Spain LLP*  
|                             | Calle de Velázquez, 63  
|                             | 28001, Madrid  
|                             | Spain |
| **Tutoring Schedule**       | Upon request from students |

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<td><strong>Telephone</strong></td>
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| **Office**                  | *Cuatrecasas, Gonçalves Pereira*  
|                             | Almagro, 9  
|                             | Madrid 28010  
|                             | Spain |
| **Tutoring Schedule**       | Upon request from students |

**PART I**
SUBJECT DETAILS

SPECIFIC DATA ON THE SUBJECT

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<td>Dispute resolution is instrumental to the functioning of international business and must be managed accordingly by businesses. In choosing a particular method of dispute resolution, the main variables are cost, time, effectiveness and commercial considerations. International commercial arbitration is one of the available alternatives. A range of variables should be examined when including arbitration in a business’ dispute resolution strategy. The course explores the main aspects of commercial arbitration that are relevant to the choice of arbitration as a method of dispute resolution.</td>
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COMPETENCES TO BE IMPROVED IN Parts 1 or 2

**Generic competences**

**Instrumental**

GC 2: Ability to communicate orally and in writing
GC 4: Problem-solving skills
GC 5: Decision-making skills
GC 6: Team work skills
GC 12: Ability to apply theoretical knowledge into practice

**Specific competences of the subject**

**Conceptual (knowing)**

SC 9 - Ability to assess pre-contentious (or preventive) strategies in the context of international business at the moment of contract formation and negotiation with business partners.
SC 10 - Ability to assess strategies before arbitral tribunals in matters related to international trade.

THEMATIC AREA AND CONTENT

**AREA 1: ARBITRATION FRAMEWORK**

**Theme 1: INTRODUCTION**

1.1 ADR and different dispute resolution mechanisms
1.2 Concept of arbitration
1.3 Pros and cons of arbitration
1.4 Ad-hoc and institutional arbitration
## Theme 2: LAW APPLICABLE TO ARBITRATION

### 2.1 Rules applicable to arbitration: lex arbitri, institutional arbitration rules and substantive law

### 2.2 UNCITRAL Model Law

### 2.3 Examples: England, Spain and other jurisdictions

## Theme 3: INTERNATIONAL ARBITRATION RULES AND TRIBUNAL’S PROCEDURAL POWERS

### 3.1 UNCITRAL Arbitration Rules

### 3.2 Institutional arbitration rules
- ICC
- LCIA
- CAM

### 3.3 Arbitration soft law (e.g. IBA Rules)

### 3.4 Tribunal’s procedural orders

## AREA 2: COMMERCIAL ARBITRATION PRACTICE

### Theme 1: ARBITRATION CLAUSE, FORUM AND PROCEDURAL RULES

### 1.1 Arbitration agreement

### 1.2 Forum, venue and law of the seat

### 1.3 Procedural rules

### 1.4 Multi-party arbitration

### Theme 2: ARBITRATORS

### 2.1 Number of Arbitrators: sole arbitrator or tribunal

### 2.2 Impartiality and independence of arbitrators

### 2.3 Party-appointed arbitrators and president/chairman

### 2.4 Challenge of arbitrators

### 2.5 Decision-making process

### Theme 3: KEY PROCEDURAL ISSUES

### 3.1 Appointment of arbitrators

### 3.2 Kompetenz-Kompetenz principle

### 3.3 Submissions of the parties

### 3.4 Taking of evidence

### 3.5 Award: types and content

### 3.6 Challenge/annulment of awards

### 3.7 Objection to enforcement

### 3.8 Role of public policy

### Theme 4: ENFORCEMENT OF ARBITRATION AWARDS

### 4.1 Domestic enforcement

### 4.2 International enforcement: NY Convention
# BIBLIOGRAPHY AND RESOURCES

## Basic Bibliography

### Text books

- *Redfern and Hunter on International Arbitration* (5th edition)
  This is available in print and online (Georgetown Law Only) with most of the materials in the print version reproduced. To access the online version once you are in KluwerArbitration.com, click on the "Books" tab and then scroll down to select "Redfern and Hunter on International Arbitration, Blackaby, Partasides, et al. (2009)." This is the newest edition of this seminal commentary; it covers from the drafting of the arbitration agreement to the enforcement of arbitral awards. This updated edition includes a more in-depth analysis of investment treaty arbitration and international arbitration. This edition also has more information on the law and practice of international arbitration in the United States, Latin America, China and India, along with its coverage of the U.K. and EU.

## Chapters of books

## Articles

**Spain Arbitration Review**

## Websites

- [www.kluwerarbitration.com](http://www.kluwerarbitration.com)
- [www.iccwbo.org/court](http://www.iccwbo.org/court)
- [www.lcia.org](http://www.lcia.org)
- [www.clubarbitraje.com](http://www.clubarbitraje.com)
- [www.arbitramadrid.com/web/corte/home/](http://www.arbitramadrid.com/web/corte/home/)

## Notes

## Other material

- UNCITRAL Model Law
- UNCITRAL Arbitration Rules
- IBA Guidelines on Conflict of Interest in International Arbitration
- IBA Rules on the Taking of Evidence in International Arbitration
- IBA Guidelines on Party Representation in International Arbitration
- NY Convention
- International Law Association Recommendation on Public Policy
- ICC Rules
- LCIA Rules
### TEACHING METHODOLOGY

**General methodological aspects of the subject**

**Contact hours methodology: Activities**
- Lectures (5 hours)
- Cases (5 hours, including 2.5 for individual exam)

**Independent study methodology: Activities**
- Preparation of the cases
- Reading materials

### SUMMARY OF STUDENT WORK HOURS

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### Evaluation Activities

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| Individual work       | GC 2: Ability to communicate orally and in writing  
GC 4: Problem-solving skills  
GC 5: Decision-making skills  
GC 12: Ability to apply theoretical knowledge into practice | Knowledge of students will be assessed by oral questions about the materials and cases discussed in class.  
1. Participation in class (5%).  
2. Practical case study in class (15%). |
| Evaluation: class test | GC 2: Ability to communicate orally and in writing  
GC 4: Problem-solving skills  
GC 5: Decision-making skills  
GC 6: Team work skills  
GC 12: Ability to apply theoretical knowledge into practice | Students will review and analyse cases. Their ability to understand the main principles of arbitration will be tested in order to assess their understanding of the key issues discussed in class and their ability to apply theoretical knowledge into practice.  
1. Potential benefits of *ad hoc* arbitration vs institutional arbitration (4%).  
2. Challenge of arbitrators and choice of counsel (4%).  
3. Tribunal's jurisdiction (4%).  
4. Application of the lex arbitri and substantive laws (4%).  
5. Challenges to validity of proceedings and awards (4%). |
| Evaluation: exam (final) | GC 2: Ability to communicate orally and in writing  
GC 4: Problem-solving skills  
GC 5: Decision-making skills  
SC 10 - Ability to structure a claim or defense before an arbitral tribunal | Students will solve mini case studies on the main issues discussed in the lectures. Understanding of main concepts and ability to apply theoretical knowledge into practice will be assessed. |
| Attendance             |                      |            |

### Part II

#### Data on the subject

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<td>Education in the adjudication of international disputes involving a sovereign State through alternative dispute resolution mechanisms</td>
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### COMPETENCES TO BE IMPROVED

**What skills you’ll gain from this class:**

- Familiarisation with general international law (particularly, responsibility of States for internationally wrongful acts) and international investment law from both theoretical and practical viewpoints

### THEMATIC AREA AND CONTENT

**AREA 1: Introduction**

- **Theme 1: Introduction to international investment arbitration**
  - 1.1 Evolution and concept of investment arbitration
  - 1.2 Standards of protection and causes of action in investment arbitration

**AREA 2: Development of an investment arbitration proceeding**

- **Theme 1: Investment Arbitration Regimes: Consent**
  - 1.1 Investment arbitration under treaties and investment laws
  - 1.2 Contractual investment arbitration
  - 1.3 ICSID
  - 1.4 Other international fora (PCA, SCC, ICC, UNCITRAL, LCIA)

- **Theme 2: Arbitration procedure**
  - 2.1 Institution of proceeding: forum selection and pre-requisites
  - 2.2 Jurisdictional objections and defences
  - 2.3 Remedies (types of claims)
  - 2.4 Procedural issues: proceeding, written and oral phases, fact and expert witnesses
  - 2.5 Governing law

- **Theme 3: Substantive standards of protection**
  - 3.1 Fair and equitable treatment and full protection and security
  - 3.2 Expropriation
3.3 Non-discrimination
3.4 Other standards: national treatment, most-favoured-nation treatment

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<td>4.1 Methods of valuation</td>
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<td>4.2 Specific issues</td>
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AREA 3: Awards and Post-Award Remedies

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<td>1.1 Jurisprudence: the role of precedent in investment arbitration</td>
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<td>2.1 Revision and interpretation of investment awards</td>
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<td>2.3 Enforcement and execution of awards</td>
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**BIBLIOGRAPHY AND RESOURCES**

**Basic Bibliography**

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<th>Text books (non-exhaustive)</th>
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<tbody>
<tr>
<td>Horn, Norbert (Editor), <em>Arbitrating Foreign Investment Disputes</em>, 2004</td>
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<tr>
<td>Newcombe, Andrew / Paradell, Lluís, <em>Law and Practice of Investment Treaties</em>, 2009</td>
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<td>Reinisch, August, <em>Standards of Investment Protection</em>, 2008</td>
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<tr>
<td>Salacuse, Jeswald W., <em>The Law of Investment Treaties</em>, 2010</td>
</tr>
<tr>
<td>Tietje, Christian (Editor), <em>International Investment Protection and Arbitration</em>, 2008</td>
</tr>
<tr>
<td>Weiler, Todd (Editor), <em>International Investment Law and Arbitration</em>, 2005</td>
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<tr>
<td>Yannaca-Small, Katia, <em>Arbitration under International Investment Agreements</em>, 2010</td>
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<tr>
<th>Chapters of books (non-exhaustive)</th>
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**Articles (non-exhaustive)**

- Rueda García, José Ángel, "Provisional Measures in Investment Arbitration: Recent Experiences in Oil Arbitrations Against the Republic of Ecuador", Transnational Dispute Management, Vol. 6, Issue 1, March 2009, at [www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)

**Websites (free access unless otherwise stated)**

- International Centre for Settlement of Investment Disputes (ICSID): [https://icsid.worldbank.org](https://icsid.worldbank.org)
- Permanent Court of Arbitration (PCA): [www.pca-cpa.org](http://www.pca-cpa.org)
- Arbitration Institute of the Stockholm Chamber of Commerce (SCC): [www.sccinstitute.com](http://www.sccinstitute.com)
- International Court of Arbitration of the International Chamber of Commerce (ICC): [www.iccwbo.org](http://www.iccwbo.org)
- London Court of International Arbitration (LCIA): [www.lcia.org](http://www.lcia.org)
- International Court of Justice (ICJ): [www.icj-cij.org](http://www.icj-cij.org)
- Investment Treaty Arbitration: [www.italaw.com](http://www.italaw.com)
- NAFTA Claims: [www.naftaclaims.com](http://www.naftaclaims.com)
- Investment Claim (payment access): [www.investmentclaims.com](http://www.investmentclaims.com)
- Transnational Dispute Management (payment access): [www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)

**Notes**

To be indicated during the course

**Other materials**

To be indicated during the course, particularly case law

---

**TEACHING METHODOLOGY**

**General methodological aspects of the subject**

**Contact hours methodology: Activities**

1 hour pre and/or after each class-session

**Independent study methodology: Activities**

Reading materials and self-preparation of answers to questions

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**SUMMARY OF STUDENT WORK HOURS**
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GC 5: Decision-making skills
GC 12: Ability to apply theoretical knowledge into practice

SC 9 - Being able to design pre-contentious (or preventive) strategies that are appropriate for the protection of proper international business development at EU level

SC 10 - Being able to design strategies and adversarial proceedings before national courts, community courts and / or alternative dispute resolution bodies in matters related to international trade (as well as their coordination)