



ASIA ADR  
WEEK 2024



# SUPERNOVA

IGNITING THE TRANSFORMATION OF ADR

17<sup>th</sup> - 19<sup>th</sup> October 2024

Bangunan Sulaiman, AIAC

Hybrid Event (Virtual & In-Person)

Like the explosive energy of a supernova, alternative dispute resolution (ADR) illuminates the vast expanse of conflicts. Just as stars navigate us through the cosmos, ADR practitioners steer through disputes and offer pathways towards creative resolutions that transcend borders and boundaries.

Join us as we explore the brilliance of ADR, where innovative solutions light the way to harmony and understanding, and ignite a transformation that will elevate ADR to new heights in line with the spirit of AIAC's reform initiatives.

## GENERAL ADMISSION

Full Conference*	RM 1,650
Day 1 & 2	RM 1,150
Day 3 (Construction Day)	RM 650
Virtual Pass	RM 600
Student (Undergraduate)	RM 300
Gala Dinner (per person)	RM 350
Gala Dinner (10 pax)	RM 3,000

\* Complimentary Gala Dinner for Full Conference Pass



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# PROGRAMME

## DAY 1 (THURSDAY, 17<sup>TH</sup> OCTOBER 2024)

09:00 - 10:00	Registration
10:00 - 10:05	<b>Start of Conference</b>
10:05 - 10:10	<b>Opening Remarks</b>
10:10 - 10:25	<b>Special Address</b>
10:25 - 10:40	<b>Official Launch of the Asia ADR Week 2024 - "SUPERNOVA: Igniting the Transformation of ADR"</b>
10:40 - 11:10	<b>Keynote Address</b>
11:10 - 11:30	Networking Break

**11:30 - 13:00      Session 1 - Prepare for Takeoff: Institutional Courts of Arbitration and the Way Forward**

Institutional Courts of Arbitration play a crucial role in contemporary dispute resolution – offering tailored procedural structures and expert oversight which enhance the efficiency and legitimacy of arbitration proceedings.

This session provides a comprehensive discussion on the pivotal functions of arbitral institutions and their institutional courts, as well as their role in administering arbitrations, setting standards, and fostering development within the field. It aims to explore the evolving landscape of arbitration amidst global challenges and opportunities, emphasising their adaptability and innovation in addressing complex disputes. Furthermore, it will examine their forward-looking strategies to enhance effectiveness, including harmonising procedural rules, promoting diversity among arbitrators, and leveraging technology to streamline processes with the goal of optimising dispute resolution mechanisms in an increasingly interconnected world.

13:00 - 14:00      Lunch



14:00 - 15:30

**Session 2 - In or Out of the (Arbitration) Orbit? Exploring Jurisdictional Issues in Intellectual Property Disputes**

Intellectual property (IP), such as patents, trademarks, copyright, trade secrets and domain names, is highly transferable within and across international boundaries, and frequently gives rise to cross-border disputes. IP rights are typically conferred and regulated by individual states, with national legal frameworks varying in their treatment of whether these disputes are arbitrable, and if so, to what extent.

This session seeks to address the array of jurisdictional issues arising from IP rights amenable to arbitration, discuss distinct challenges encountered in arbitrating these rights, and provide illustrations of how different jurisdictions deal with jurisdictional issues in arbitration of intellectual property disputes.

15:30 - 15:45

Networking Break

15:45 - 17:15

**Session 3 - To ASEAN And Beyond: Assessing a Potential Paradigm Shift in Investment Disputes**

The United Nations Commission on International Trade Law (UNCITRAL) Working Group III has taken transformative initiatives to revitalise the landscape of investment arbitration. These reforms include the establishment of a multilateral framework for the settlement of investment disputes, the adoption of procedural rules enhancing transparency and inclusivity, and the exploration of potential appellate mechanisms.

This session evaluates the impact on the efficacy, fairness, and legitimacy of the investment arbitration regime as a whole – with a particular focus on the ASEAN Region.

17:15 - 18:30

**Session 4 (Fireside Chat) - In a Galaxy Far, Far, Away: Charting a Course for Arbitration in Outer Space and Aviation**

As humanity continues to explore the cosmos, the need for regulatory frameworks for potential disputes becomes increasingly evident. The legal landscape in both outer space activities and aviation is emerging together with their own unique challenges and opportunities.

The speakers will discuss the feasibility and desirability of utilising arbitration as a mechanism for resolving disputes in these realms, and explores the applicability of arbitration in addressing issues such as liability for space debris, commercial space ventures, and air travel incidents beyond the Earth's atmosphere. This session further addresses the role of arbitral institutions, the emerging concept of specialised courts of space, procedural challenges, and the potential for tailored arbitration rules and specialised courts to accommodate the distinct characteristics of these disputes.

19:00 onwards

**Welcome Reception**



## DAY 2 (FRIDAY, 18<sup>TH</sup> OCTOBER 2024)

08:30 - 09:30 Registration

09:30 - 11:00 **Session 1 - A Small Step and a Giant Leap: Unpacking the Malaysian Legal Reforms in Arbitration and Adjudication**

In this session, we will delve into the significant developments brought about by the amendments to Malaysia's Arbitration Act and the Construction Industry Payment and Adjudication Act, exploring their impact on the landscape of dispute resolution.

The expert panel will discuss both Acts' innovations and explain how these changes address longstanding stakeholder concerns. In addition, the speakers will outline the expected practical implications of the amendments on dispute resolution practice, in line with the goals of increased transparency, accessibility and consistency.

The panel will also offer insights into the collaborative efforts of stakeholders in developing and implementing the suite of AIAC rules. By understanding the collective impact of these changes, we can appreciate the innovative strides being made toward a future marked by greater consistency and cooperation in dispute resolution.

11:00 - 11:30 Networking Break

11:30 - 13:00 **Session 2 - All Systems Go! Arbitration Tactics for ESG Conflicts**

Join us for an insightful panel discussion where leading practitioners will delve into the critical intersection of Environmental, Social, and Governance (ESG) priorities and international arbitration. As ESG factors increasingly reshape corporate strategy and stakeholder expectations, understanding their impact on regulations, corporate risk management, and future disputes is essential.

The panel will explore scenarios where ESG factors spark conflicts, including disputes over environmental compliance. Insights will be provided on how arbitration can effectively address the unique challenges posed by ESG-driven disputes in a fast-evolving regulatory landscape propelled by social concerns.

13:00 - 14:30 Lunch



14:30 - 16:00

### **Session 3 - Star-Studded or Star-Crossed? Complex Mediation in High-Stakes Disputes**

This panel offers a journey through the intricacies of mediating high-conflict and complex cases, exploring effective strategies for handling the unique challenges these cases present, particularly involving highly technical fields such as energy, finance and corporate disputes. The seasoned panellists will offer insights into advanced techniques for managing complexity, including detailed technical analysis, expert testimony integration, and precise evaluation of specialised evidence.

The discussion will cover practical approaches to streamline the mediation process, mitigate tensions, and facilitate resolution - emphasising the importance of technical accuracy and expert collaboration. Our expert panel will guide us through a universe where balancing parties' interests along with issues of high technical complexity is the key to a safe landing.

16:00 - 17:30

### **Session 4 (Debates)**

#### **Debate 1 - Flying Too Close to the Sun? The Extent and Limitations of Arbitrators' Discretionary Powers**

Defining the role of arbitrators in modern arbitration is crucial in enhancing the efficiency of arbitration proceedings and managing costs. This includes exploring the inherent powers of arbitrators and developing strategies to mitigate due process concerns.

**House A:** This house believes that Arbitrators should take an active role in procedural matters and develop mechanisms to safeguard the arbitral process.

**House B:** This house believes that arbitration is mainly a party-driven task and that Arbitrators may rely on parties' collaboration to improve the overall effectiveness of arbitration.

#### **Debate 2 - Worlds Apart: The Line between Efficiency and Autonomy**

The decision to consolidate arbitration proceedings involves a delicate balance between the desire for efficiency and the need to preserve the autonomy and fairness of the arbitration process. This debate invites participants to weigh the benefits of streamlined, cost-effective dispute resolution against the potential drawbacks of diminished party autonomy and procedural complexities.

As arbitration continues to evolve, finding the right balance will be crucial to maintaining its effectiveness and integrity as a preferred method of alternative dispute resolution.



**House A:** This House believes that consolidation enhances efficiency, reduces costs, and ensures consistent outcomes.

**House B:** This House contends that consolidation can compromise the autonomy of the parties involved, potentially leading to fairness and due process concerns.

19:45 onwards **Gala Dinner**

## DAY 3 (SATURDAY, 19<sup>TH</sup> OCTOBER 2024)

08:30 - 09:30 Registration

09:30 - 11:00 **Session 1 - Averting the Armageddon: Dispute Avoidance in Construction Contracts**

This session will delve into innovative strategies for avoiding disputes in the construction sector. It will provide insights on how to foster a cooperative environment among construction stakeholders and provide context to the benefits of emphasising open communication, joint risk management, and shared project goals.

The panel will expand on the effective use of collaborative contracts, FIDIC standards, and dispute boards to prevent conflicts and enhance project success. Furthermore, the speakers will offer expertise on how these mechanisms facilitate early problem-solving and proactive issue resolution, reducing the risk of disputes before they arise.

11:00 - 11:30 Networking Break

11:30 - 13:00 **Session 2 - A Space Cadet's Guide to Discovery: The Future of Document Management in Construction Disputes**

Dive into the critical topic of managing documentary evidence in construction disputes, with a sharp focus on leveraging technological advancements. This session will explore cutting-edge tools and strategies for creating, collecting, organising, and preserving documents to ensure that representatives are well-prepared for any potential conflicts. Discover how the latest tools can streamline the handling of extensive documentation in construction disputes.

Our panel will discuss how these advancements improve efficiency and reduce the risk of errors and lost information. Learn how these tools assist in organising and preserving digital documents to contribute to dispute avoidance and streamline dispute resolution.

13:00 - 14:00 Lunch



14:00 - 15:30 **Session 3 - Across the Universe: Exploring Adjudication in Construction Disputes Beyond Borders**

This session will explore the complexities of adjudication in construction disputes, with a focus on the relevance of a Model Law on Adjudication. Participants will gain insights into the functioning of adjudication mechanisms in international contexts, the importance of uniformity in procedures through the adoption of a Model Law on Statutory Adjudication, and the challenges involved in enforcing adjudication decisions across borders.

The expert panel of speakers will also discuss the practical strategies for managing these disputes, including tips for drafting contracts, and the use of model clauses for adjudication.

15:30 - 16:00 **Networking Break**

16:00 - 17:30 **Session 4 (Debates)**

**Debate 1 - When Stars Align: Mediation as a Complement to Adjudication**

It is argued that mediation, as a form of ADR, offers a less adversarial and more collaborative approach, fostering mutually beneficial outcomes for both parties. Mandating mediation alongside adjudication may lead to a more holistic process which addresses both legal and relational aspects of disputes. However, this begs the question of the autonomy of parties to choose the most suitable dispute resolution method for their specific circumstances.

**House A:** This House believes that mediation should be mandated as a complement to adjudication in CIPAA for resolving construction disputes.

**House B:** This House believes that while mediation can be beneficial in certain cases, imposing it as a mandatory step may impede the efficiency of dispute resolution processes.

**Debate 2 - Over the Moon or Just Overpriced? The Increase of Adjudication Costs**

Costs follow the event – but in this debate, the event is the entire adjudication proceedings. While the financial repercussions of resorting to this statutory mechanism has greatly increased over the years, it remains to be seen whether these changes pose a substantial threat to the fairness and efficiency of the adjudication proceedings.

**House A:** This House believes that the changes in the cost of adjudication under CIPAA has a detrimental impact on the fair and efficient resolution of construction disputes.

**House B:** This House believes that while the cost of adjudication under CIPAA may have increased in recent years, this does not necessarily detract from its fairness or efficiency as a dispute resolution mechanism.

18:00 onwards **Closing Reception**

