

**Ninth Annual  
WILLEM C. VIS (EAST)  
INTERNATIONAL COMMERCIAL ARBITRATION MOOT**

**Hong Kong SAR**

**October 2011 - March 2012**

**Oral Arguments  
19<sup>th</sup> to 25<sup>th</sup> March 2012**

**THE RULES**



**Organized by:**

**The Vis East Moot Foundation Limited**

# **INTRODUCTION**

## **I. The Willem C. Vis (East) International Commercial Arbitration Moot**

1. The Willem C. Vis (East) International Commercial Arbitration Moot is an annual competition of teams representing law schools throughout the world (the "Moot"). In the Eighth Annual Moot in 2010-2011, over 720 students from 85 law school teams from 22 different countries participated. The Vis East Moot was judged by 250 lawyers and professors from around the world.

2. **Goals.** The Moot is intended to stimulate the study of international commercial law, especially the legal texts prepared by the United Nations Commission on International Trade Law (UNCITRAL), and the use of international commercial arbitration to resolve international commercial disputes. The international nature of the Moot is intended to lead participants to interpret the texts of international commercial law in the light of different legal systems and to develop an expertise in advocating a position before an arbitral panel composed of arbitrators from different legal systems. An active social program at the time of the oral hearings in Hong Kong promotes friendships that can last long after the Moot itself is over.

3. The Willem C. Vis International Commercial Arbitration Moot is designed as a multi-faceted educational program in the form of a competition. It is not intended to be a competition with incidental educational benefits. The rules and procedures in the Moot should be interpreted in the light of that goal.

## **II. Organization of the Willem C. Vis (East) International Commercial Arbitration Moot**

4. **Organizer, Co-sponsors, Supporters.** The Moot is organized by the Vis East Moot Foundation Limited, co-sponsored by the Chartered Institute of Arbitrators East Asia Branch, and hosted by City University of Hong Kong.

Supporting organizations include:

- ArbitralWomen
- Chartered Institute of Arbitrators (Head Office, London)
- CIETAC
- HKIAC
- ICC Court of Arbitration
- International Chamber of Commerce
- Korean Commercial Arbitration Board
- Lawasia
- MAA
- Star Alliance
- Swiss Arbitration Association
- Swiss Chambers Association
- UNCITRAL

5. The Moot consists of the preparation of a memorandum for claimant, a memorandum for respondent and oral hearings.

6. **Venue.** The oral hearings will be held in Hong Kong SAR, China, at City University of Hong Kong at Kowloon Tong, and at the Hong Kong Productivity Council across the street. The general rounds will take place from Tuesday through Friday, 20<sup>th</sup> – 23<sup>rd</sup> March 2012. The elimination rounds will take place on Saturday, 24<sup>th</sup> March 2012, with the final round on Sunday, 25<sup>th</sup> March 2012.

7. The first event during the oral hearings is the Official Opening and Welcome Reception on Monday evening, 19<sup>th</sup> March 2012.

8. **Language.** The Moot will be conducted in English.

9. **Willem C. Vis (East) International Commercial Arbitration Moot.** The Vis East Moot, which takes place in Hong Kong is a sister moot to the Willem C. Vis International Commercial Arbitration Moot. The Vis East uses the same Problem and the rules are essentially the same as the rules for the Vienna Vis Moot. Nevertheless, they are two separate moots with separate registration, including registration fee, and separate winners. The Hong Kong Moot is not a regional elimination moot for the Vienna Moot. A law school can register for the Hong Kong Moot, the Vienna Moot, or both. While students can be on both teams, certain rules govern eligibility to participate in the oral arguments and in the memoranda to be submitted. See paragraphs 27, 34 and 74, below. Those interested in the Vis Moot in Vienna should visit its web site: <http://www.cisg.law.pace.edu/vis.html>.

## **RULES**

### **I. Registration**

10. Registration for the Vis East opens at *12:00 Noon Hong Kong time on Monday 19 September 2011*. Registration in the Moot is a three-step process consisting of submission of the provisional Team Registration Form (“TRF”) and, once a team receives a confirmed place, payment of the registration fee and submission of the memorandum for claimant. Although the provisional TRFs *may* be accepted until 2<sup>nd</sup> December 2011, submission prior to distribution of the Problem on 7<sup>th</sup> October 2011 is desirable. Because of the *limited number of teams* participating in the Vis East Moot, schools who wish to participate should submit their Team Registration Form at the *earliest possible date*. However, a school should not register unless it is certain it will participate. A school that registers for the Vis East Moot and receives a confirmed place, and then drops out before paying the fee will be barred from competing in future Vis East Moots.

11. Receipt of the provisional Team Registration Form will be acknowledged to the team contact person(s). Teams who are granted a place will receive an Official Confirmation Number and Invitation letter with payment instructions. Teams who are not granted a place will be invited to join the Wait List, and will receive a place if a confirmed team drops out before the date for submission of the memorandum for the Claimant. .

12. **Registration fee.** The registration fee for the ninth Moot is US\$1,000 or HK\$7,800. A small additional charge is payable for bank transfers to cover the inevitable expense of Hong Kong-end bank charges.

The registration fee must be paid by 2<sup>nd</sup> December 2011 in order to compete in the Moot, unless the Director of the Vis East Moot has specifically agreed to a later date. Payment of the registration fee may be made by local cheque in Hong Kong Dollars, by PayPal on-line transfer, or by bank transfer to:

Account Number: HSBC 817 365901 001  
Name: Vis East Moot Foundation Ltd  
Bank: HSBC, 1 Queen's Road Central, Hong Kong  
Swift Code: HSBC-HK-HHH-KH

All transfer fees must be paid by the transferor. **Any amount less than US\$1,000 or HK\$7,800 credited to the account will be collected in cash at the oral arguments.** The transfer *must* also indicate the Official Confirmation Number and the name of the university for which the registration fee has been paid in order for the account of the participating university to be credited.

13. The registration fee includes an invitation to the Welcome reception for team members, coaches and accompanying persons on Monday, 19<sup>th</sup> March 2012. It also includes tickets for the awards banquet on Sunday, 25<sup>th</sup> March 2012, following the Final Round of hearings. Tickets will be available for team members who register in Hong Kong, to a maximum of four team members, plus one for an accompanying team coach. The tickets must be presented for admission to the banquet. Lost tickets will not be replaced. Additional team members and accompanying persons are also invited, but will be asked to pay for the actual cost of the meal, HK\$600.

14. The registration fee of a team whose registration is withdrawn *prior to 15<sup>th</sup> November 2011* will be refunded in full except for deduction of an administration fee of HK\$500 and any applicable bank charges. After 15 November, no refund is possible.

15. A team that submits its memorandum for claimant will be paired with two other teams for the exchange of memoranda, as described in Part IV below, and will be scheduled to meet those two teams in the first two oral arguments, as described in Part V below. Withdrawal after submission of the memorandum for claimant affects adversely at least the two teams paired for the exchange of memoranda and the first two oral arguments. Therefore, teams that have submitted the memorandum for claimant are expected to participate in the entire Moot, including the oral arguments. The registration fee will not be refunded nor will any unpaid fees be waived for teams withdrawing after submission of the memorandum for claimant.

16. **Team Registration Form (TRF).** The TRF includes space for the name and address of the contact person. All communications concerning the Moot will automatically be sent by e-mail to that person. It is that person's responsibility to distribute all relevant material to the team. The names of additional recipients of messages concerning the Moot may be submitted for inclusion on the e-mail mailing list. The postal address given for the contact person must be one that will be valid in April 2012 for any certificates or other material to be sent to the team after the Moot. Any changes in the data on the registration form should be sent by e-mail to the Moot Administration at [info@cisgmoot.org](mailto:info@cisgmoot.org).

17. Communications between the team and the Moot administration through anyone other than the designated persons are at the risk of the team.

## **II. The Problem**

18. **Subject Matter.** The Problem in the Ninth (2011-2012) Moot involves a controversy arising out of an international sale of goods subject to the United Nations Convention on Contracts for the International Sale of Goods (CISG).

19. **Dispute Settlement.** The controversy is before an arbitral tribunal pursuant to the Arbitration Rules of the China International and Trade Arbitration Commission (CIETAC). The parties have agreed that the arbitration will be held in Vindobona, Danubia. Danubia has enacted the UNCITRAL Model Law on International Commercial Arbitration (Model Law) with the 2006 amendments. Danubia, Equatoriana, Mediterraneo and Oceania, the four states that are, or may be, involved are party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

20. **The Arbitration.** By the time the Ninth Moot begins, the claimant has filed its request for arbitration, the respondent has filed its statement of defense and the arbitral tribunal has been appointed. The Problem will consist of the statements of claim and defense with their exhibits, any orders of the arbitral tribunal issued prior to the date on which the Problem is distributed, and the clarifications described below. The Moot involves writing memoranda and oral argument in support of the positions of the claimant and respondent.

21. **Distribution.** The Problem will be distributed on Friday, 7<sup>th</sup> October 2011, by posting on the Moot's Web site and on the Vis East website. The URLs for the Moots are: <http://www.cisg.law.pace.edu/vis.html> and <http://www.cisgmoot.org> respectively.

22. **Facts.** The facts in the dispute that is the subject matter of the Moot are given in the Problem. Facts alleged in the statement of claim and statement of defense including the exhibits to those statements, as well as in the clarifications, are taken to be correct unless there is a contradiction between them. No additional facts may be introduced into the Moot unless they are a logical and necessary extension of the given facts or are publicly available true facts. By way of example:

(a) The subject matter of the dispute in the Fourth Moot was men's suits. It was legitimate to assume that the suits were made of cloth. It was not legitimate to assume that they were, or should have been, made of pure wool. If a team intended to base an argument on the material out of which the suits were made, the team should have requested a clarification of the Problem. By way of an additional example, a team may wish to base an argument on the apparent intention or state of mind of a person who sent a communication of some sort. It would rarely be possible on the basis of that which is given in the Problem to state as a fact that the person had a particular intention or state of mind. However, it would be legitimate to suggest that on the basis of the facts given the Arbitral Tribunal could (or even should) conclude that the desired intention or state of mind was present;

(b) The subject matter of the dispute in the Twelfth Moot was cocoa beans. The real, and extreme, price movements of cocoa beans during the period in question were given and were relevant to the dispute. Since the price movements in the Moot Problem were real, the reasons for those price movements were also real and were publicly available. It was permissible to refer to those reasons in the memoranda, if they were considered to be relevant. It would also have been permissible to refer to any such facts in oral argument, but only if they had been referred to in the memorandum of either party to that argument or if they were so well known that they should have been known to the other party as a result of reasonable research.

23. Statements of fact alleged by a team that do not qualify under paragraph 22 are not true. Therefore, basing an argument on any such alleged facts will be considered to be in breach of the rules of the Moot and to be professionally unethical. Arbitrators will enforce this rule strictly in both the memorandum and oral arguments and will evaluate the team's efforts accordingly.

24. **Clarifications.** Requests for clarification of the Problem should be sent to the dedicated address: [clarify@cisgmoot.org](mailto:clarify@cisgmoot.org), at the Moot administration, which directs them automatically to Professor Eric Bergsten in Vienna for response, prior to midnight (24:00 Vienna time) Thursday, 26<sup>th</sup> October 2011. Requests for clarification should be limited to matters that would appear to have legal significance in the context of the Problem. A request for clarification must include a short explanation of the expected significance of the clarification. Any request that does not contain such an explanation may be ignored.

25. Clarifications issued by the Moot administration in the form of a Procedural Order from the Arbitral Tribunal will be distributed to all registered teams by e-mail within a week to ten days and will be posted on the Moot website. Teams are responsible for making sure that they have received the clarifications even if they were not registered at the date of their distribution. Clarifications issued in the name of the Arbitral Tribunal become part of the Problem.

### **III. Teams**

26. **Composition.** Teams may come either from a law school or from another university or post-university level institution that includes law as part of its program of study. Each participating law school or other institution may enter one team. A team is composed of two or more students registered at the institution. Students may be registered either for a first degree or for an advanced degree and need not be from the country in which the institution is located. There is no maximum limit on the number of students who may be members of the team. No student who has been licensed to practice law is eligible to participate except with written permission of the Director of the Vis East Moot. Students at bar preparation institutions who are simultaneously working in a law office must request a determination as to their eligibility to participate in the Moot. Eligibility to participate in the Moot is determined as of 9<sup>th</sup> December 2011.

27. **Teams may include former participants.** Students who have participated in a Round of 64 in a previous Vienna Moot remain eligible to participate in the oral arguments. However, students who have participated in an argument in an elimination Round of 32 (16 in Hong Kong) in a previous Moot, whether in Vienna or Hong Kong, may not participate in the oral arguments. If a team qualifies for a Round of 32 or later (16 or later in Hong Kong) and does not participate, all

members of that team are disqualified from participation in any future Moot in Vienna or Hong Kong. Although a student may be a member of both the team that participates in Hong Kong and the team that participates in Vienna, no student may argue orally in both Moots in the same year.

28. **List of team members.** The list of team members ("Team List") must be submitted at the time the memorandum for claimant is submitted. The names must be submitted on the form that will be made available. Certificates of participation for participating team members will be prepared from the lists submitted to the Moot administration. Therefore, the certificates of participation will show the names of the team members exactly as they have been submitted on the Team List. The Team List may also include team coaches who wish to receive a certificate of participation. Members of the team may be dropped or added at any time, but any changes in the Team List must be specifically communicated to the Moot administration at [info@cisgmoot.org](mailto:info@cisgmoot.org).

29. **Participation.** All members of the team may participate in preparation of the memoranda for claimant and respondent.

30. In each of the oral hearings two members of the team will present the argument. Other members of the team may not aid them during the argument in any way. Different members of the team may participate in the different hearings. Therefore, between two and eight members may participate in the oral hearings. However, to be eligible for the Neil Kaplan Award for best individual oralist, a participant must have argued at least once for the claimant and once for the respondent. The average score per argument will be calculated and the award will be determined on that basis.

#### **IV. Written Memoranda**

31. **Memoranda.** Each team must submit a memorandum in support of the claimant's position to the Moot administration by e-mail by midnight, i.e. 24:00, Thursday, 8 December 2011. The deadline is measured at the team's location. Each claimant memorandum will be sent to one of the other teams by e-mail by 15 December 2011, or as soon after as is possible. Submission of the memorandum for claimant is an integral part of the registration procedure. Therefore, teams that fail to submit the memorandum by 8 December 2011 will be considered not to have completed registration for the Moot and will not be able to compete.

32. Each team will prepare a memorandum in support of the respondent's position in response to the memorandum in support of the claimant's position that was sent to it. The Vis East administration will determine to which team a memorandum in support of the claimant's position will be sent. The memorandum for respondent must be submitted by midnight (24:00) Thursday, 19 January 2012. Teams that fail to submit the memorandum for respondent by that time will be considered to have withdrawn from the Moot at that time.

33. The memorandum for respondent must be responsive to the arguments made in the memorandum for claimant. Nevertheless, the memorandum for claimant to which a memorandum for respondent is to be prepared may not have made all of the arguments that the team preparing the memorandum for respondent believes should have been made. The team preparing the memorandum for respondent may deal with those issues. Such additional arguments (arguments

in response to arguments not made by your opponent) would not normally be made in a real arbitration. However, they may be appropriate in the Moot. If such arguments are made, they must be identified in an appropriate manner so that the jury judging the memoranda and the arbitrators hearing the oral arguments will be able to consider them separately. At the same time care should be taken to present a coherent argument for the respondent and not just a series of somewhat disjointed responses to the claimant's argument.

**34. Certificate of Choice.** A law school that participates in both the Vienna and the Hong Kong Moots is encouraged to submit separate memoranda to the two Moots. However, if the same memoranda are submitted to both Moots, it can be entered into the competition for best memorandum in only one of them. Therefore, when submitting the memorandum for the claimant, all law schools that participate in both the Vienna and Hong Kong must indicate to the administrators of both Moots in a Certificate of Choice attached to their Memorandum whether the same or separate memoranda have been submitted. If the same memorandum has been submitted to both Moots, the Certificate of Choice must indicate in which competition the memorandum is to be considered for the award for best memorandum. Since the memorandum for respondent must be responsive to the memorandum for claimant sent to the team, the memoranda for respondent in the two Moots are unlikely to be the same. However, if the same memorandum for claimant has been submitted to both Moots, unless the administrators of both Moots have been notified otherwise, it will be assumed that the respondent memoranda are so similar that they must be considered to be the same, and the respondent memorandum will be considered in the same Moot as that chosen for the claimant's memorandum of that team.

**35. Plagiarism.** Any memorandum that includes text from any source, whether the source was in hard copy or on the web, must set out that text in quotation marks and give the citation to the source. Failure to give a proper citation constitutes plagiarism. Any memorandum that violates this rule will automatically not be considered for any award.

**36. Formatting requirements.** The formatting provisions listed in paragraphs 37, 38, 39, 42 and 43 are required to be followed. No memorandum that violates these provisions will be considered for award or honorable mention.

**37.** Paragraphs must be numbered and references to statements in either one's own memorandum or, in the case of the memorandum for respondent, to statements in the opponent's memorandum for claimant must be to the paragraph number.

**38.** The memoranda are intended to be of practical use to the arbitrators in deciding the dispute. They are not intended to be scholarly dissertations on the relevant law. Therefore, citations in the memorandum should be limited to those that advance the argument being made. The List of Authorities must reference *to each paragraph* in the memorandum where the case or doctrinal authority is cited. The use of *passim* in place of specific paragraph numbers is not sufficient.

**39.** Citations must be in the text of the memorandum and not in footnotes or endnotes. Citations in the text should be in a shortened form. The full citation should be given in a List of Authorities.

40. The List of Authorities should be in a form that is intelligible to all who will read the memorandum. That includes the members of the other teams, the arbitrators in the oral hearings and the members of the jury who will judge the written phase of the Moot. Most of the readers of the memorandum will be from other countries. Account should be taken that the style of citation of judicial decisions or articles in legal journals that is common in one country may not be intelligible to participants in the Moot (or in an arbitration) from other countries. Therefore, deviation from the standard style of citation in your country may be appropriate and desirable.

41. Care should be taken in the use of legal doctrines and terminology (including Latin maxims) common in some legal systems that are not found in the CISG, Model Law, New York Convention or the relevant arbitration rules and that may not be known to teams or arbitrators from other legal systems. Similarly, care should be taken to write in a formal English style that would be appropriate for submission to a court or arbitral tribunal. In particular, slang or contractions (aren't, didn't) should not be used. This tends to be a mistake made by non-Anglophone teams that may have been taught not to be too formal when speaking English.

42. Memoranda may be no longer than thirty-five (35) 8½ x 11 inch or A4 typed pages, including any statement of facts, argument or discussion and any conclusion. Cover pages, tables of contents, indices, lists of authorities or other material that does not consist of facts, argument, discussion or conclusions may be in addition.

43. No type style smaller than 12 point may be used, including in quotations or other non-argument parts of the memorandum. The memorandum should be typed at 1½ line-spacing. All margins must be at least one inch or 2.5 cm.

44. The name of the team and whether the memorandum is for the claimant or for the respondent must appear prominently on the outside cover page so that it can easily be read without opening the memorandum.

45. **No Memorandum Revision.** A memorandum may not be revised once it has been submitted, whether for missing pages, typographical or grammatical errors or for other problems, including those caused by faulty computer software. Sufficient time should be left prior to submission to verify the text to be submitted.

46. **Scoring of Memoranda.** A jury will score the memoranda on the basis of the quality of the analysis, persuasiveness of argument, thoroughness of research, clarity of the writing and adherence to the elements of style set out above. The jury will take into account whether arguments are based on facts not found in the Problem or clarifications and that are not logical and necessary extensions of the given facts. When judging the memorandum for respondent, evaluators will consider whether it is responsive to the arguments raised by the claimant.

47. The memoranda for claimant and for respondent will each be judged in two rounds. In the first round the members of the jury will each receive four memoranda. They will be asked to rank them in order of merit. In recent years each memorandum has been submitted to approximately four readers. On the basis of the results from the first round of judging, the top-ranked memoranda will be selected for submission to a separate jury for determination of the winners of the awards for best memorandum in each category.

48. **Format for Submission of Memoranda.** The memorandum must be submitted in PDF as a single computer file so that the memorandum can be printed complete with cover page. Care should be taken that the PDF file does not exceed one megabyte. Memoranda that exceed one megabyte will be returned with a request that they be reconverted to a smaller file. In addition, at the same time the memorandum for claimant is sent, the names of the members of the team with e-mail addresses must be submitted by email on the form that will be provided.

49. **Place for Submission of Memoranda.** Memoranda must be submitted by email to: [info@cisgmoot.org](mailto:info@cisgmoot.org).

50. **Memoranda Due Dates.** The dates on which memoranda are due are as follows:

Memorandum for claimant: Thursday, 8 December 2011  
Memorandum for respondent: Thursday, 19 January 2012

51. Successful submission of the memoranda will be acknowledged.

52. The designated contact person(s) for each team will receive by e-mail the memorandum for claimant of another team, to which a memorandum for respondent must be prepared. The memorandum will be sent within a week, or as soon after as is possible. If none of the contact person(s) will be available at the e-mail address given during that period, a substitute person or address must be notified to the Moot administration prior to 1 December 2011.

53. On 26 January 2011, or as soon thereafter as possible, the designated contact person(s) will receive by e-mail the memorandum for respondent prepared in reply to its memorandum for claimant as well as the memoranda of the other teams against which it will argue in its third and fourth oral hearings.

54. Teams that enter the elimination rounds will NOT receive the memoranda of the teams against which they are to argue in those rounds.

55. **Copyright.** Memoranda once submitted shall be the property of the Vis East Moot Foundation and may be copyrighted by the Foundation.

56. **Exchange of memoranda.** Teams may exchange memoranda after the memorandum for respondent has been submitted, but not prior to that time.

## **V. Oral Hearings**

57. **Venue.** The oral hearings will be held primarily at the Faculty of Law of City University of Hong Kong, 83 Tat Chee Avenue, Kowloon Tong with additional hearings at the Hong Kong Productivity Council across the street.

58. **General Rounds.** Each team will argue four times in the general rounds, twice as claimant and twice as respondent. In its first two oral hearings, each team will argue once as claimant and

once as respondent. The respondent will be the team that prepared the memorandum for respondent in opposition to the memorandum for claimant that was sent to it. In its third and fourth oral hearings the teams will argue against teams with which they were not paired for the purpose of preparing written memoranda.

59. The general rounds will be scheduled so that, in principle, each team will argue once per day, Tuesday through Friday. If it is not possible to schedule in this manner, a team may be scheduled to argue twice on the same day with no argument on one of the three other days of the general rounds.

60. **Duration of Oral Presentation.** The oral presentation of each team is, in principle, thirty (30) minutes. The team should allocate equitably the time available to the two individual advocates. However, the arbitral tribunal may exceed the time limits stated so long as neither team is allowed more than forty-five (45) minutes to present its argument, including the time necessary to answer the questions of the tribunal. It will be the responsibility of the tribunal to ensure that the teams are treated fairly.

61. **Arguments.** Claimants and respondents in their first hearing should expect to rely on the arguments given in their written memoranda or to be prepared to justify why that position has been abandoned. In subsequent hearings arbitrators may be less demanding on this score as it is expected that teams will improve their arguments during the Moot.

62. **Questions by Arbitrators.** The arbitrators are requested to act during the oral hearings the way they would in a real arbitration. There are significant differences in style dependent both on individual personalities and on perceptions of the role of an arbitrator (or judge) in oral argument. Some arbitrators, or arbitral tribunals, may interrupt a presentation with persistent or even aggressive questioning. Other arbitrators, or arbitral tribunals, may listen to an entire argument without asking any questions. Therefore, teams should be prepared for both styles of oral presentation.

63. **Order of presentation.** Some panels of arbitrators will ask one team to present its argument on all of the issues before the other team is permitted to present its argument. Other panels of arbitrators will ask both teams to argue one issue first before they both argue in respect of a second issue. Normally the party who has raised the issue will argue first. Therefore, normally the claimant would argue first, if it is to present its arguments on all of the issues before the respondent is permitted to argue. However, if the respondent has raised an objection to the jurisdiction of the Arbitral Tribunal or other such defense, the panel would normally ask it to present its arguments on that issue before the claimant responds to it.

64. The arbitrators will decide whether rebuttal arguments will be permitted. Whether or not rebuttal will be allowed can be expected to change from one argument to the next.

65. **Exhibits.** No exhibits may be used during the oral arguments that do not come directly from the Problem. Exhibits that are designed to clarify time sequences or other such matters may be used, but only if the arbitrators and the opposing team are in agreement. For technical reasons the exhibits may not consist of overhead or Power Point projections or require the use of a stand.

66. **Scoring.** Each arbitrator will score each of the orators on a scale of 25 to 50. The scores of the two orators will be added to constitute the team score for that argument. Therefore, each team could score a maximum of 100 points per arbitrator per argument, or a theoretical maximum of 1200 points for the four arguments. Arbitrators will score the oral arguments without knowledge of the results of earlier arguments. Some arbitrators will have participated in evaluating the memoranda of teams whose oral arguments they later hear. Although they will be aware of their own evaluation of the memoranda, they will be without knowledge of the evaluations given by other arbitrators.

67. **First Elimination (Eighth) Round.** After the general rounds, the scores of each team for its oral presentation in the four arguments will be totaled. The sixteen teams that have obtained the highest composite scores will meet in the first round, at 9:00 am on Saturday 24 March 2012. If there is a tie for 16th place, the decision as to which team will enter the elimination rounds will be determined by lot. The teams will be paired so that the first and sixteenth, second and fifteenth, etc. will argue against one another. Ranking of a team in the General Rounds will not be divulged until after the close of the Moot and then only to the team concerned.

68. **Quarter-Final Round.** The eight winners of the Round of 16 will meet in the Quarter-Final Round on Saturday 24 March 2012 at 12:00 noon

69. **Semi-Final Round.** The four winners of the Quarter-final Round will meet in the Semi-final Round on Saturday 24 March 2012 at 3:00 pm.

70. **Final Round.** The two winners of the Semi-final Round will meet in the Final Round on Sunday morning 25 March 2012 at 10:00 am.

71. **Determination as to which team is claimant and which is respondent.** If the two teams in any of the elimination rounds, including the final round, argued against one another in the general rounds, they will argue for the opposite party in the elimination round. If they did not argue against one another in the general rounds, in the first elimination round the determination as to which team will be claimant and which will be respondent will be determined by lot. In the following rounds, when one of the two teams in the preceding round was claimant and the other was respondent, they will argue for the opposite party for which they argued in that preceding round. If both teams argued for the claimant or both argued for the respondent in the preceding round, the decision as to which team will be claimant and which will be respondent will be determined by lot.

72. **Winning Team.** The winning team of the oral phase of the Moot is the team that wins the final round.

## **VI. Assistance**

73. **Written Memoranda Certificate.** Although the students should do all the research and writing of the memoranda themselves - without assistance from anyone who is not a student member of the team - faculty advisors, coaches and others may help identify the issues, comment on the persuasiveness of the arguments the students have made in drafts and, when necessary, suggest

other arguments the students might consider. However, the final product must be that of the students, not of their advisors. A certificate by the person whose name appears on the registration form stating that no person other than a student team member has participated in the writing of the memorandum must be attached to each of the claimant's and respondent's memoranda.

74. **Oral Hearings.** There is no restriction on the amount of coaching that a team may receive in preparation for the oral hearings. It is expected and encouraged that teams will have practice arguments, whether against other members of the team or against other teams that will participate in the Moot. Many pre-Moot events are scheduled throughout the world. Teams are encouraged to participate in one or more of the pre-Moots, if they find it feasible to do so. The only restriction is that no team should have a practice argument against a team it is scheduled to meet in either the Vienna or Hong Kong Moot.

75. In each oral hearing two members of the team will present the argument. No communication with other members of the team who may be present at the hearing is permitted.

76. **Scouting.** One purpose of the Moot is to develop the art of advocacy in international commercial arbitration proceedings. Observance of the performance of other participants is one way to develop that art. Therefore, attendance of team members at the arguments of other teams is permitted, except that **no team, or friends or relatives of members of a team, is permitted to attend arguments of other teams against which it is scheduled to argue at a later time in the general rounds.** This rule extends to the viewing of arguments in practice arguments (including pre-Moots), but it does *not* apply to arguments between the same teams in both Hong Kong and Vienna, since the conflict arises out of scheduling by the two Moots. This rule will be applied even if attendance at an argument was inadvertent. Violation of this rule will disqualify a team from participation in the elimination rounds. See also paragraph 56 on exchange of memoranda.

77. **Filming of arguments.** Filming of arguments is permitted if done with the agreement of the other team and the arbitrators. Filming must be done in such a way as not to disturb the argument.

## **VII. Awards**

78. The awards given in the Vis East Moot are:

- **Eric Bergsten Award** for Best Written Memorandum for Claimant;
- **Fali Nariman Award** for Best Written Memorandum for Respondent;
- **Neil Kaplan Award** for Best Individual Oralist in the general rounds, for the individual advocate with the highest average score during these rounds. To be eligible for this award a participant must have argued at least once for the claimant and once for the respondent.
- **David Hunter Award** for the Law School Team Prevailing in Oral Arguments. This award will be made to the winning team in the final round of the oral hearings.
- **The Pan Asian Award**, for the team that wins the Pan Asian Round
- **The Spirit of the Moot Award**, for the team which has had to overcome the most obstacles in order to participate.

79. Certificates will be prepared for all members of teams that win an award or honorable mention in one of the team categories as well as for those who receive an award or honorable mention for best individual oralist. The certificates should be collected at the Gala Lunch which follows the Final Round. Certificates not collected at the Gala Lunch will be sent by ordinary post approximately one month after the close of the Moot to the person whose postal address was given on the registration form.

### **VIII. Interpretation of the Rules**

80. Requests. For interpretation of these rules, requests may be addressed to Vis East Director Louise Barrington. All interpretations, as well as any waivers, consents, or other decisions are at the discretion of the Vis East Foundation in its administration of the Moot.

### **IX. Contact Details**

81. All communications in regard to the Moot should be addressed to:  
Ms Louise Barrington, at: [info@cisgmoot.org](mailto:info@cisgmoot.org) or by telephone to: (852) 6409 0356. Postal communications are not recommended, but if necessary should be sent to:

Louise Barrington  
Director, Vis East Moot Foundation Ltd  
9A Sunrise, Parkridge Village  
Discovery Bay, Hong Kong SAR

The only material modification to the Rules between the Eighth and Ninth Vis East Moots is the addition of the Pan Asian Award. Other changes involve dates, inconsequential editing and clarifications of previous rules in paragraphs 22, 38 and 76.

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