



Twenty Fourth Annual Willem C. Vis International Commercial Arbitration Moot

April 7-13, 2017

THE RULES

Vienna, Austria
2016/2017

Oral Hearings
April 7-13, 2017

INTRODUCTION

I. The Willem C. Vis International Commercial Arbitration Moot

1. The Willem C. Vis International Commercial Arbitration Moot (the "Moot") is an annual competition of teams representing law schools throughout the world. In the Twenty Third Annual Moot in 2015-2016, 311 law school teams from 67 jurisdictions participated. Around 2000 students were members of the teams. The participating teams and their memoranda were judged by around 900 lawyers and professors from around the world. These numbers are even larger when accumulated with the Willem C. Vis (East) International Commercial Arbitration Moot, which is a sister moot taking place in Hong Kong each year.
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 Vienna is organized by the Moot Alumni Association with the aim of promoting friendships that can last long after the Moot itself is over.
3. The Moot is designed to be an **educational programme** with many facets 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 International Commercial Arbitration Moot

4. Organizer, Co-sponsors, Supporters. The Moot is organized by the "Association for the Organisation and Promotion of the Willem C. Vis International Commercial Arbitration Moot" ("Association"). The Association has delegated the conduct of the Moot to appointed directors.

The appointed Directors of the Moot are:

Prof. Dr. Christopher Kee
Prof. Dr. Stefan Kröll, LL.M.
Mag. Patrizia Netal

The institutional members of the Association are:

Austrian Arbitration Association
Austrian Federal Economic Chamber
Queen Mary (University of London)
Moot Alumni Association (MAA)
Pace University
United Nations Commission on International Trade Law (Secretary of UNCITRAL)
University of Stockholm
University of Vienna

The Moot is co-sponsored by:

Arbitration Institute of the Finland Chamber of Commerce (FAI)
Arbitration Institute of the Stockholm Chamber of Commerce (SCC)
Australian Centre for International Commercial Arbitration (ACICA)
Center of Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM/CCBC)
CEPANI
Chartered Institute of Arbitrators (CIArb)
Chinese European Arbitration Centre, Hamburg (CEAC)
Court of Arbitration at the Confederation of Lewiatan
German Institution of Arbitration (DIS)
Hong Kong International Arbitration Centre (HKIAC)
International Chamber of Commerce (ICC)
International Centre for Dispute Resolution (AAA)
JAMS
Kuala Lumpur Regional Centre for Arbitration (KLRCA)
London Court of International Arbitration (LCIA)
Singapore International Arbitration Centre (SIAC)
Swiss Chambers' Arbitration Institution
Vienna International Arbitral Centre (VIAC)

United Nations Commission on International Trade Law (UNCITRAL)
Moot Alumni Association
UNIDROIT

It also receives support from the Vienna Convention Bureau and several publishers.

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 Vienna, Austria, at the Faculty of Law (Juridicum) of the University of Vienna, at an additional Faculty Building of the University of Vienna (Schenkenstraße), and at the offices of nearby law firms. The general rounds will take place on Saturday through Tuesday, April 8-11, 2017. The elimination rounds will take place on Tuesday evening, April 11, and on Wednesday and Thursday, 12 and 13 April culminating with the final round on Thursday, April 13, 2017.
7. The first events during the oral hearings are a welcoming party for student participants organised by the Moot Alumni Association on Thursday evening, April 6, 2017, and the official opening with reception on Friday evening, April 7, 2017.
8. **Language.** The Moot will be conducted in English.

9. Willem C. Vis (East) International Commercial Arbitration Moot. The Vis Moot (East) that takes place in Hong Kong is a sister moot to the Willem C. Vis International Commercial Arbitration Moot. The Vis Moot (East) uses the Vis Moot Problem and the rules are essentially the same as the rules below for the Vis Moot that takes place in Vienna. 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 Vis 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 32, 43 and 83, below. Those interested in the Vis Moot (East) should visit its web site, www.cisgmoot.org.

RULES

10. These Rules are the rules for the Twenty Fourth Willem C. Vis International Commercial Arbitration Moot. The rules of the Moot are reviewed annually and are subject to change from moot to moot. Reliance on any past rules or practice will not in itself be an acceptable excuse for the failure to comply with the rules of the current Moot.

III. Registration

11. Registration in the Moot is a three step process consisting of completion of the registration form, payment of the registration fee and submission of the memorandum for claimant. Although registrations will be accepted until November 30, 2016, completion of the registration form prior to distribution of the Problem on October 7, 2017 is strongly encouraged.
12. Receipt of the registration form and payment of the registration fee will be acknowledged to the team contact person(s). Receipt of the memorandum for claimant and for respondent will also be acknowledged.
13. **Registration fee.** The registration fee for the Twenty Fourth Moot is €700 (seven hundred Euro).

The registration fee must be paid by December 9, 2016 in order to compete in the Moot, unless a Director of the Moot has specifically agreed to a later date.

Payment of the registration fee of €700 can be made by bank transfer according to the following banking details:

Name of Bank: UniCredit Bank Austria AG
Address Bank: Schottengasse 6-8, A-1010 Vienna, Austria
Name of account holder: Verein Vis Moot

International routing code (BIC or SWIFT code): BKAUATWW
International account number (IBAN): AT73 1200 0515 8917 5901

The Association's postal address details are:
Schimmelgasse 16/16
1030 Vienna
Austria



Payment can also be made via the PayPal facility on the moot website.

Irrespective of the payment method chosen, all transfer fees must be paid by the transferor. Any amount less than €700 credited to the account will be collected in cash at the oral arguments. The transfer must also indicate 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.

14. The registration fee includes an invitation to an opening reception for all team members, coaches and accompanying persons on Friday, April 7, 2017. It also includes tickets for the awards banquet on Thursday, April 13, 2017, following the Final Round of hearings. Tickets will be available for team members who register in Vienna, to a maximum of four team members, and 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, €60. Prepayment of any additional tickets is possible and preferred. Payment can be made to the same account noted in paragraph 13 above. Please ensure that the name of the university and the purpose of the payment are clearly indicated. All transfer fees must be paid by the transferor.

15. The registration fee of a team whose registration is withdrawn prior to December 8, 2016, i.e. the day the memorandum for claimant is due, will be refunded in full, less any bank charges incurred.
16. A team that submits its memorandum for claimant will be paired with two other teams for the exchange of memoranda, as described in the Part entitled “Memoranda” below, and will be scheduled to meet those two teams in two of the oral arguments, as described in the Part entitled “Oral Hearings” below. Withdrawal after submission of the memorandum for claimant affects adversely at least the two teams paired for the exchange of memoranda and two of the 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 unpaid fees be waived for teams withdrawing after submission of the memorandum for claimant.
17. **Registration form.** The registration form includes space for the name and address of the contact person. All communications concerning the Moot will be posted in the Team account and sent by e-mail to the nominated contact person. It is that person’s responsibility to distribute all relevant material to the team. There is the opportunity to include a second email address for contact purposes. Teams are responsible for ensuring that the contact person information contained in the team account is kept up to date.
18. The invoice address given at the point of team registration is the address that will be used for the Registration Fee invoice. It is **NOT** possible to later change the address due to tax reasons once the invoice has been issued, and so it is very important that this is considered prior to registration.
19. **Refusal or Cancellation of Registration.** The Association reserves the right to refuse or cancel the registration of any team, and such refusal or cancellation is in the absolute discretion of the Directors deciding jointly. When exercising their discretion the Directors will have regard to, but are not limited to, the past conduct of teams from that institution (for example any unjustified last minute cancellations, any past violations of any rules of the competition, or promptness of the payment of the registration fee).

20. Communications between the team and the Moot administration other than through the Team account are at the risk of the team.

IV. The Problem

21. **Subject Matter.** The Problem in the Twenty Fourth (2016-2017) 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).
22. **Dispute Settlement.** The controversy is before an arbitral tribunal pursuant to the Rules of the Center of Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC). 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).
23. **The Arbitration.** By the time the Twenty Fourth Moot begins, the claimant has filed its request for arbitration, the respondent has filed its answer to the request of arbitration as well as an additional request and the arbitral tribunal has been appointed. The Problem will consist of the request for arbitration, the answer to it and the additional request 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.
24. **Distribution.** The Problem will be distributed on Friday, October 7, 2016, by posting on the Moot's Website. The URL for the Moot is www.vismoot.org.
25. **Facts.** The facts in the dispute that is the subject matter of the Moot are given in the Problem. Facts alleged in the request for arbitration, the answer to it and the additional request with the answer to it including the exhibits to those submissions, 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.

26. Statements of fact alleged by a team that do not qualify under paragraph 25 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.
27. **Clarifications.** Requests for clarification of the Problem must be submitted via the team account prior to midnight (24:00 **Vienna time**) Thursday, October 27, 2016. 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. Details of how to submit clarifications will be provided to teams in the Team accounts.
28. It is only the Vis Moot administration which issues clarifications, and as such any team participating in both the Vis Moot and the Vis (East) Moot competitions should only submit clarifications to the Vis Moot via their team account.
29. Clarifications issued by the Moot administration in the form of a Procedural Order from the Arbitral Tribunal will be distributed to all registered teams through the team accounts 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 as yet. Clarifications issued in the name of the Arbitral Tribunal become part of the Problem.

V. Teams

30. **Composition.** Teams may come either from a law school or from another higher education 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 (including PhDs) 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.
31. No student who has been licensed to practice law is eligible to participate except with permission of a Director of the 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 December 8, 2016.
32. Teams may include former participants. Students who have participated as an oralist in an argument in any elimination round hearing in a previous Moot, whether in Vienna or Hong Kong, cannot be an oralist in this Moot; although they can be a member of the team. For the avoidance of any ambiguity, elimination round hearings are the rounds of 64, 32, etc. If a team qualifies for a Round of 64 or later and does not participate, all members of the 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.

33. **List of team members.** The list of team members must be finalised at the time the memorandum for claimant is submitted. The names are to be submitted as directed in the Team accounts. Members of the team may be dropped but not added without special permission. **Any changes in the composition of the team must be specifically communicated to the Moot administration until March 15, 2017 at the latest.**
34. **Certificates of participation.** Certificates for participating team members will be prepared from the team lists submitted. The certificates of participation will show the names of the team members exactly as they have been submitted. It is therefore incumbent on Teams to ensure that names are spelt and presented correctly. There will be a charge associated with the production of any certificate that needs to be subsequently revised due to the submission of an incorrect name.
35. Certificates for participating team members will be available for collection at the oral hearings. It is important that these are collected at that time, as the team will bear any costs of later sending those certificates if that cost could have been avoided by collection at the moot.
36. **Coaches Letters of Recognition.** Letters of Recognition for participating team coaches will be prepared from the names of coaches submitted in the Team accounts. The Letters of Recognition will show the names of the coaches exactly as they have been submitted. It is therefore incumbent on teams to ensure that names and titles are spelt and presented correctly. Letters of Recognition will be distributed directly to the email address for the coach that must be supplied when providing the coach's name.
37. Teams are required to provide a postal address to which any certificates (for participation or awards – see paragraph 88 below) can be sent in May 2017.
38. **Participation.** All members of the team may participate in preparation of the memoranda for claimant and respondent.
39. 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 Martin Domke 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.

WRITTEN MEMORANDA

VI. Memoranda

40. Each team must submit a memorandum in support of the claimant's position to the Moot administration by midnight (**24:00 Vienna time**) Thursday (evening), December 8, 2016. The memorandum is submitted through the Moot website. Each claimant memorandum will be made available to one of the other teams through the website as soon as possible after the submission date. Submission of the memorandum for claimant is an integral part of the registration procedure. Therefore, teams that fail to submit the memorandum by the end of the day, December 8, 2016, will be considered not to have completed registration for the Moot and will not be able to compete.
41. 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 made available to it. The Moot administration will determine which team's memorandum for claimant will be made available to which other team. The memorandum for respondent must be submitted by midnight (**24:00 Vienna time**) Thursday (evening), January 26, 2017. Teams that fail to submit the memorandum for respondent by that time will be considered to have withdrawn from the Moot at that time.
42. It is absolutely essential that the memorandum for respondent be responsive to all the arguments made in the memorandum for claimant as the jury judging the memoranda will be evaluating it based to a large degree on how well it refutes the arguments raised by the Claimant. However, as 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, it should also address such issues, indicating that the specific argument was not explicitly raised by the Claimant [e.g., "although not raised by this Claimant, a claimant might have argued/contended/asserted"] In doing so, care should be taken to present a coherent argument for the respondent and not a series of possibly disjointed responses to the claimant's argument.
43. A law school that participates in both the Vis Moot and Vis (East) Moot is encouraged to submit separate memoranda to the two Moots. However, if the same memoranda (with different covers) are submitted to both Moots, they 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 Vis Moot and the Vis (East) Moot must indicate to the administrators of both Moots (for the Vis Moot via the facility in the team account) whether the same or separate memoranda have been submitted. If the same memorandum has been submitted to both Moots, the message must indicate in which competition the memorandum should 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.

VII. Formatting of Memoranda

44. The formatting provisions listed in paragraphs 45, 46, 47, 50, and 51 are required to be followed. No memorandum that violates these provisions will be considered for award or honorable mention.
45. 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.

46. 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.
47. 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.
48. 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.
49. 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 using English.
50. 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.
51. 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.
52. 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.

VIII. Submission of Memoranda

53. The memorandum must be submitted in searchable 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, as these may not be accepted by the upload facility in the team account. This is not an excuse for late submission.

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 finalised in the Team account.

54. **Place for Submission of Memoranda.** The memoranda are to be submitted via the Team account.



The dates on which memoranda are due in Vienna are as follows:

Memorandum for claimant: Thursday, December 8, 2016

Memorandum for respondent: Thursday, January 26, 2017

Successful submission of the memoranda will be acknowledged in the team account.

55. **Memorandum Revision.** The uploaded memorandum can be resubmitted as many times as a Team likes prior to the submission deadline. However, the version submitted at the time of the submission deadline will be the version officially submitted. The officially submitted version may not be revised, including for missing pages, typographical or grammatical errors or for problems caused by faulty computer software. Sufficient time should be left prior to the submission deadline to verify the text to be submitted.
56. A team will have access through the Team's account on the Moot website to the memorandum for claimant of another team, to which a memorandum for respondent must be prepared. The memorandum will be available within a week, or as soon after as is possible. All teams will be notified when the memorandum of their opponent is available.
57. As soon as possible after the memoranda for respondent have been submitted, the memorandum for respondent prepared in reply to the memorandum for claimant as well as the memoranda of the other teams against which a team will argue in its third and fourth oral arguments will be made available.
58. Teams that enter the elimination rounds will NOT be furnished with the memoranda of the teams against which they are to argue in those rounds.
59. **Copyright.** Memoranda once submitted (in physical and digital form) shall be the property of the Association. By submitting the Memoranda, Team members grant the Association a non-exclusive licence of the copyright in the Memoranda. The Association will acknowledge that the Team members are the Authorship of the Memoranda.
60. **Exchange of memoranda.** Teams may exchange memoranda after the memorandum for respondent has been submitted, but not prior to that time.

IX. Scoring of Memoranda

61. 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, account will be taken whether it is responsive to the arguments raised by the claimant.
62. 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, approximately one-fourth of the memoranda will be selected for submission to a separate jury for determination of the winners of the awards for best memorandum in each category.

63. **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. Plagiarism is a serious matter. Teams have withdrawn from the competition because of allegations of plagiarism in the past. Any memorandum that violates this rule will automatically not be considered for any award.

ORAL HEARINGS

64. **Venue.** The oral hearings will be held primarily at the Faculty of Law (Juridicum) of the University of Vienna, Schottenbastei 10-16, A-1010 Vienna, at an additional Faculty Building of the University of Vienna (Schenkenstraße), and with additional hearings at offices of nearby law firms.
65. **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. Where possible 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. The logistics of the competition mean that it is not always possible to schedule a team's moots in this order.
66. The general rounds will be scheduled so that, in principle, each team will argue once per day, Saturday through Tuesday. 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.
67. **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.
68. **Arguments.** Teams are not restricted to the arguments in their written memoranda. 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 issue as it is expected that teams will improve their arguments during the Moot.
69. **Questions by Arbitrators.** The arbitrators are requested to act during the oral hearings the way they would in a real arbitration taking into account that this is an educational exercise. 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.
70. **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.

71. 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.
72. **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.
73. **Scoring. There has been an important change to the scale to be used by arbitrators when scoring in the oral hearings.** Each arbitrator will score each of the orators on a scale of 50 to 100. 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 200 points per arbitrator per argument, or a theoretical maximum of 2400 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.

The individual score given to an orator by an arbitrator is entirely within the discretion of that arbitrator. There is no requirement that the arbitral panel agree scores. However, the arbitral panels may, and are strongly encouraged to, discuss scoring at the end of a hearing and prior to submitting the scores to the Moot administration.

Appendix 2 to these Rules sets out key elements of the arbitrator guidance that will be provided to arbitrators at the oral hearings. Save for the difference in the scale to be used the criteria described in Appendix 2 are the same that have been traditionally given to arbitrators in past moots.

74. **First Elimination Round.** After the general rounds, the scores of each team for its oral presentation in the four arguments will be totalled. The sixty-four teams that have obtained the highest composite scores will meet in the first round. Thirty-two of the teams will meet Tuesday evening, April 11, 2017, at 20:00 after the announcement of the qualifying teams. The remaining thirty-two teams will meet Wednesday morning, April 12, 2017, at 8:00. If there is a tie for 64th 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 sixty-fourth, second and sixty- third, 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.
75. **Second Elimination Round.** The winners of the first elimination round will meet in the Round of 32 Wednesday morning, April 12, 2017, at 11:00.
76. **Third Elimination Round.** (Round of 16) The winners of the Second Elimination Round will meet in the Round of 16 Wednesday afternoon, April 12, 2017 at 14:00.

77. **Quarter-Final Round.** The eight winners of the Round of 16 will meet in the Quarter-Final Round late Wednesday afternoon, April 12, 2017 at 17:30.
78. **Semi-Final Round.** The four winners of the Quarter-final Round will meet in the Semi-Final Round Thursday morning, April 13, 2017 at 9:00.
79. **Final Round.** The two winners of the Semi-final Round will meet in the Final Round Thursday afternoon, April 13, 2017 at 13:00.
80. **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.
81. **Winning Team.** The winning team of the oral phase of the Moot is the team that wins the final round.

ASSISTANCE

82. **Written Memoranda.** 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 employing. However, the final product must be that of the students - not their advisors. A statement 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 submitted via the team account at the time the memorandum is submitted.
83. **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 them, if they find it feasible to do so. The only restriction is upon knowledge of the pairings of the teams that no team should have a practice argument against a team it is scheduled to meet in either the Vienna or Hong Kong Moot.
84. 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.
85. 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 if the team schedule has already been sent to teams), 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. Violation of this rule will disqualify a team from participation in the elimination rounds. This rule will be applied even if attendance at an argument was inadvertent. See also paragraph 60 on exchange of memoranda.

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

AWARDS

87. The awards given in the Moot are:
- Pieter Sanders Award for Best Written Memorandum for Claimant.
 - Werner Melis Award for Best Written Memorandum for Respondent.
 - Martin Domke Award for Best Individual Oralist.
This award for the general rounds will be won by 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.
 - Eric E. Bergsten Award for Best Team Orals.
This award will be made to the winning team in the final round of the oral hearings.
 - Michael L. Sher Award for the Spirit of the Willem C. Vis Moot
This award is distributed on the basis of votes of all teams (and arbitrators).
88. Certificates will be prepared for all members of teams that win an award or honorable mention in one of the three team categories as well as for those who receive an award or honorable mention for best individual oralist. The certificates of participation will show the names of the team members **exactly** as they have been submitted. It is therefore incumbent on Teams to ensure that names are spelt and presented correctly. The certificates will be sent up to two months after the close of the Moot to the person whose postal address was given for this purpose as directed in the Team account as per paragraph 37 above.

INTERPRETATION OF THE RULES

89. **Requests.** For interpretation of these rules, requests may be addressed to the Directors of the Moot. All interpretations, as well as any waivers, consents, or other decisions are at the discretion of the Directors in their conduct of the Moot.

CONTACT DETAILS

90. All communications in regarding the Moot should be sent by email to:

Directors of the Moot

Prof. Dr. Christopher Kee
christopher.kee@vismoot.org

Prof. Dr. Stefan Kröll, LL.M.
stefan.kroell@vismoot.org

Mag. Patrizia Netal
patrizia.netal@vismoot.org

APPENDIX 1

ADDENDUM FOR TWENTY FOURTH WILLEM C VIS INTERNATIONAL COMMERCIAL ARBITRATION MOOT

Participants are advised to familiarize themselves with all the rules as they have now been published.

There has been a significant change to the scoring system to be used by arbitrators in the oral hearings. Arbitrators will now be asked to allocate a score out of 100 for each individual oralist. Appendix 2 to these Rules sets out key elements of the arbitrator guidance that will be provided to arbitrators at the oral hearings.

There has also been a significant change to the awards given at the Moot. The award for the winning team in the final round of the oral hearings is now named the Eric E Bergsten award.

Attention is drawn in particular to rules:

- 18 (Registration Fee invoice address)
- 32 (last year's change to past participation eligibility rule will now be enforced)
- 54 (Respondent memorandum due on a **Thursday** not a Tuesday as in the last year)
- 73 (Scoring in oral hearings)
- 87 (The award previously known as the Frédéric Eisemann award is henceforth known as the Eric E Bergsten award)

APPENDIX 2

Arriving at a score in the oral hearings

Each arbitrator is expected to make an individual decision as to the score to be awarded. Nevertheless, a widely divergent score, whether higher or lower than the others, raises questions as to the criteria used by the arbitrator in question. As such arbitrators are encouraged to confer with a view to having scores that are within the same band ((50 – 59 = needed improvement); (60 -74 = good); (75 - 90 = very good); (91 - 100 = excellent)) or otherwise generally within 10 marks.

Criteria to be regarded in the evaluation of the oralists are:

1) Organization and Preparation

- Does counsel introduce himself or herself and co-counsel, state whom he or she is representing, introduce the issues and relevant facts clearly, have a strong opening, present the arguments in an effective sequence, and present a persuasive and generalized conclusion?
- Is counsel clearly prepared and familiar with the authorities on which his or her arguments rely? If rebuttal is used, is it used effectively?

2) Knowledge of the facts and the law

- Does counsel know the facts and the relevant law thoroughly? Is counsel able to relate the facts to the law so as to make a strong case for his or her client?
- Does counsel present arguments which are logically plausible and legally tenable. (Please recall though that you are not assessing the success or otherwise of the legal argument itself).

3) Presentation

- Is counsel's presentation appropriately paced, free of mannerisms and loud enough?
- Does counsel use inflection to avoid monotone delivery, make eye contact with the arbitrators and balance due deference with a forceful and professional argument? Is counsel poised and tactful under pressure? Most importantly, is counsel's presentation convincing and persuasive, regardless of the merits of the case?

4) Handling Questions

- Does counsel answer questions directly and use the opportunity to turn the question to his or her client's advantage?