

Nineteenth Annual

WILLEM C. VIS EAST INTERNATIONAL COMMERCIAL ARBITRATION MOOT

&

Third Virtual Vis East

(2021-2022)

Hong Kong

**Oral Arguments:
27 March 2022 – 3 April 2022**

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 (the "**Vis East Moot**") is the sister competition to the Willem C. Vis International Commercial Arbitration Moot ("**Vis Vienna Moot**") (collectively "**Vis Moots**"). The Vis Moots are annual law school competitions comprised of teams from schools throughout the world. They are one of the largest known law school competitions and gathering of international arbitration and trade law professionals worldwide. The Eighteenth Vis East Moot, which took place from 2020-2021, consisted of teams from 147 schools representing 37 different jurisdictions. Almost 1,300 students participated and approximately 400 academics, lawyers, and professionals took part in judging the oral arguments and/or ranking written submissions.
2. **Goals.** The Vis East Moot is intended to stimulate the study of international commercial law, in particular the legal texts prepared by the United Nations Commission on International Trade Law ("**UNCITRAL**"), as well as the use of international commercial arbitration to resolve international commercial disputes. The international nature of the Vis East Moot is intended to give participants the opportunity to interpret the legal aspects of international commercial law under various 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 programme at the time of the oral hearings, whether in-person in Hong Kong or virtually, promotes friendships that can last long after the Vis East Moot itself is over.
3. The Vis East Moot is designed to be a multi-faceted educational program in the form of a moot court competition to promote the goals set out in paragraph 2 above. It is not intended to be a competition designed to provide educational benefits outside such goals. The rules and procedures in the Vis East Moot should be interpreted in the light of these goals.

II. Organisation of the Willem C. Vis East International Commercial Arbitration Moot

4. **Organiser, Co-sponsors, Supporters.** The Moot is organised by the Vis East Moot Foundation Limited ("**VEMF**").
5. The organization of the Vis East Moot is carried out by the Vis East Administration, which is comprised of:
 - Ms. Louise Barrington, Director
 - Ms. Sherlin Tung, Deputy Director
 - Ms. Lynn Thorburn, General Manager
 - Ms. Maricel Somerville, Sponsorship and Administrative Manager
6. The Vis East Moot is comprised of written memoranda and oral arguments. Specifically, teams are expected to prepare and submit a memorandum for claimant, a memorandum for

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respondent, and participate in oral hearings during the week of oral arguments for both claimant and respondent.

7. **Venue.** In light of the COVID-19 Pandemic, the oral hearings for the Nineteenth Vis East Moot will be held virtually from Hong Kong and **not** as in-person hearings. The general rounds will take place from Monday, 28 March 2022, through Thursday, 31 March 2022. The elimination rounds will take place on Friday, 1 April 2022 and Saturday, 2 April 2022. The final round will be held on Sunday, 3 April 2022. Depending on the development of the COVID-19 Pandemic and travel restrictions, the Nineteenth Vis East Moot **may** operate in a hybrid format with certain events such as the Welcome Ceremony, Awards Banquet, and various social networking events taking place in-person in Hong Kong. More details will be available in due course.
8. **Language.** The Vis East Moot is conducted in English.
9. **Willem C. Vis International Commercial Arbitration Moot Vienna.** The Vis East Moot is the sister competition to the Vis Vienna Moot. Both competitions use the same problem. Each set of rules are generally the same. Nevertheless, the Vis Vienna Moot and the Vis East Moot are two separate competitions. Each competition requires its own registration and registration fees. Each competition has its own winner. The Vis East Moot is **not** a regional elimination round for the Vis Vienna Moot. A school can register for the Vis East Moot, the Vis Vienna Moot, or both. While students can be on teams for both competitions, specific rules govern the eligibility for students to participate in the oral arguments and for written memoranda. These rules can be found, for example, in paragraphs 32 to 37, below. For more information on the Vis Vienna Moot, please visit its website: www.vismoot.org.
10. **Pre-Moot Competitions.** There are a number of Pre-Moot Competitions organised by various entities in order to help teams prepare for the Vis East Moot's oral hearings. These events are separate and independent from the Vis East Moot and are **not** officially associated with the Vis Moots or the VEMF. While participation in such Pre-Moot Competitions are encouraged, it is not a requirement for students in order to participate in the Vis East Moot. When participating in Pre-Moot Competitions, teams must always remain fully aware of, and ensure compliance with, these Rules. In particular, it is the responsibility of the teams to ensure compliance with paragraph 87 of these Rules with respect to Scouting. No team shall practice with, plead against, or watch a team that it is scheduled to meet in the general rounds of the Vis East Moot.

III. PRIVACY AND DATA REGULATION

11. The Vis East Moot and the VEMF are fully compliant with the data privacy laws in Hong Kong. Such data privacy laws are governed by the Personal Data (Privacy) Ordinance (Cap. 486) and can be found [HERE](#).
12. The Vis East Moot is an educational event. In order to properly operate the Vis East Moot and for statistical purposes, some personal data will need to be collected. By agreeing to participate in the Vis East Moot, including any of the associated events, you agree to the VEMF collecting necessary personal data in order for the Vis East Moot to be fully operational. This includes publication of photos for the Vis East Moot website and materials.

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13. The VEMF will not disclose any personal data to third parties unless specific permission has been obtained. If you have concerns or queries about the way your data is being used, whether by the VEMF or other participants, please contact the Vis East Moot administration via email: info@cisgmoot.org.

IV. RULES

14. These Rules govern the Nineteenth Vis East Moot and Third Virtual Vis East. The Rules are reviewed annually and are subject to change.

15. These Rules supersede all previous versions. Reliance on any past rules or practice is not an excuse for the failure to comply with these Rules for the Nineteenth Vis East Moot and Third Virtual Vis East.

I. Registration

16. Registration for the Vis East Moot opens at **12:00 p.m. (Hong Kong Time)** on **Friday, 24 September 2021**.

17. Registration in the Moot is a three-step process:

- i. Submitting a fully completed Application Form ("**Application**") on the Vis East Moot website with proof of payment of a HK\$ 1,500 deposit. The deposit is **non-refundable** if the Application is accepted.
- ii. Following confirmation by the Vis East Administration of a successful Application, payment of the complete registration fee within the deadline provided by the Vis East Administration.
- iii. Submission of the memorandum for claimant.

18. The deadline for submitting the Application is **25 November 2021**. Nevertheless, early submission of a completed Application is highly recommended. The Vis East Moot can only accept a limited number of teams. Once all of the spaces have been allocated, no further Applications will be accepted.

19. Applications should only be submitted if a school is certain it will participate in the Vis East Moot. Schools that drop out following a confirmed Application before the full registration fee is paid will be barred from competing in future Vis East Moots unless the Vis East Administration provides otherwise.

20. Teams will receive an acknowledgement of their submitted Applications online and via email to the authorized contact information as set out in the Application. Notification of confirmed, waitlisted, and denied Applications will be made via email with further instructions, including how to create a team profile ("**Team Account**") for accepted Applications.

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21. Registration Fee and Payment. The registration fee for the Nineteenth Vis East Moot and Third Virtual Vis East shall be: (a) HK\$ 5,000 for virtual participation; and (b) HK\$ 8,888 for hybrid participation. All approved Applications must pay the balance of HK\$ 5,000 within the deadline provided by the Vis East Administration. Should a hybrid event take place, approved Applications who have registered for the hybrid competition and remain able to take part in the hybrid competition will be required to pay the outstanding balance of HK\$ 3,888 within the deadline provided by the Vis East Administration.

- i. Payment details and instructions can be found on your Team Account on the Vis East Moot website.
 - a. Payment can be remitted via bank transfer, Paypal, and other means as set out on the Vis East Moot website.
 - b. All charges associated with payment (*i.e.* bank charges, credit card fees) shall be borne by the teams.
 - c. Payments must expressly reference the name of the school associated with such payment.
- ii. Any credited amounts from participation in previous Vis East Moots will be deducted from the outstanding balance of the registration fee due if the credited amounts have not already been applied to the 18th Vis East Moot. Details of the amounts credited and due will be available on the Team Account.
- iii. Subject to paragraph 19 above, teams with confirmed Applications who withdraw prior to 10 December 2021 will be refunded the balance of the registration fee (minus the non-refundable deposit and applicable charges). No refunds will be offered after 10 December 2021.
- iv. The registration fee covers the Vis East Moot competition and Vis East Moot sponsored events (unless otherwise advised).

22. Team Accounts. Teams whose Applications have been approved will need to create a Team Account on the Vis East Website. The teams are responsible for ensuring that all information, including contact information, is kept up-to-date in the Team Account. All communications concerning the Moot will be sent through the Team Account along with a copy by e-mail to the registered email(s) in the Team Account. All documentation issued by the Vis East Moot will be issued in accordance with the information contained in the Team Accounts. Please note that the Vis East Moot will send official communications regarding the Nineteenth Vis East Moot through July 2021. The Vis East Moot will also send communications for future events to the contact information listed in the Team Accounts unless the teams expressly request that no further communications be sent. The team is responsible for ensuring that access to, and communications from, the Team Account is compliant with all relevant laws and regulations. The teams also assume the risk of the Team Account.

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23. **Refusal or Cancellations of Registrations.** The Vis East Administration and VEMF reserves the right to refuse or cancel the registration of any team. Such refusal or cancellation is in the absolute discretion of the Vis East Administration and/or the VEMF. Factors that may be taken into consideration include the geographical base of the team, conduct of the teams (individual members, coaches, institution), and violations of the Rules.

II. The Problem

24. **Subject Matter.** The Problem for the Vis East Moot involves a controversy arising out of an international sale of goods transaction that is subject to the United Nations Convention on Contracts for the International Sale of Goods Act ("**CISG**").

25. **Dispute Settlement.** The controversy is before an arbitral tribunal pursuant to the arbitration rules of the Asian International Arbitration Centre ("**AIAC Rules**"). 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 all parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "**New York Convention**").

26. **The Arbitration.** By the time the Problem for the Vis Moots are released, the claimant will have filed its request for arbitration, the respondent will have filed its statement of defense as well as an additional request, and the arbitral tribunal will have 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 arguments in support of the positions of the claimant and the respondent.

27. **Distribution.** The Problem will be released on Friday, 8 October 2021 on the Vis Vienna Moot's website (www.vismoot.org). The problem will be available on the Vis East Moot website shortly thereafter.

28. **Facts.** The facts of the dispute that is the subject matter of the Vis Moots are provided 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 Vis East Moot unless they are logical and necessary extensions of the given facts or are publicly available true facts.

For example:

- a. The subject matter of the dispute in the Fourth Vis Vienna 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

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argument on the material out of which the suits were made, the team should have requested a clarification of the Problem.

Another example:

- b. 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.

As another example:

- c. The subject matter of the dispute in the Twelfth Vis Vienna 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 Vis 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.
29. Statements of fact alleged by a team that do not qualify under paragraph 28 above are not true. Therefore, basing an argument on any such alleged facts will be considered to be a breach of the Rules and professionally unethical. Arbitrators will enforce this rule strictly in both the memorandum and oral arguments and will evaluate the team's efforts accordingly.
30. **Clarifications.** Requests for clarification of the Problem must be submitted via the Team Account (unless otherwise advised) before **5:30 a.m. (Hong Kong Time)** on **Saturday, 30 October 2021**. Requests for clarification should be limited to matters that 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.
31. Clarifications issued by the Vis Moot Directors will take the form of a Procedural Order from the Arbitral Tribunal and becomes a part of the Problem. They will be distributed to all registered teams through the Team Accounts and will be posted on the Vis East Moot website shortly thereafter. Every team is responsible for making sure that its members have read the entire Problem, including the clarifications, even if a team was not yet registered at the date of distribution.

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III. Teams

32. **Composition.** Teams may come either from a law school or from another higher education institution that includes law as part of its programme of study. Each participating law school or other institution may enter one team to the Vis East Moot. 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. A maximum of eight students may compete in the oral arguments.
33. No student who has been licensed to practice law or has practical experience in law or arbitration is eligible to participate except with permission of the Vis East Administration. Students at bar preparation institutions who are simultaneously working professionally in law or arbitration must submit a formal request for determination as to their eligibility to participate in the Vis East Moot. Eligibility will be determined as of 9 December 2021.
34. Teams may include former participants subject to the limitations set out in these Rules. Any team member who has participated as an oralist in an elimination round hearing in a previous Vis Moot (virtual and in-person) cannot participate as an oralist in the Nineteenth Vis East Moot. For the avoidance of doubt, a team member who has NOT participated as an oralist in an elimination round hearing in any previous Vis Moot (virtual and in-person) can be an oralist in the Nineteenth Vis East Moot. Participation as an oralist in the elimination rounds of any virtual Vis Moot does not exclude the participation of that individual as an oralist in any future in-person hearings of the Vis East Moot, provided that all other requirements are met. To be clear, elimination round hearings are the rounds of 64 (in Vienna), 32, 16, etc. If a team qualifies for a Round of 64 (32 in Hong Kong) or later and does not participate in the elimination rounds, all members of the relevant team are disqualified from participation in any future Vis Moot except with the written permission of the Vis East Administration. Although a student may be a member of both Vis Moot teams (Hong Kong and Vienna), no student may argue orally in both Vis Moots in the same year.
35. **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 in accordance with the instructions set out in the Team Accounts. Members of a team may be dropped after the submission of the claimant's memorandum but cannot be added following this deadline. Any change in the composition of the team must be updated in the Team Account. Changes to the team cannot occur later than **28 February 2022** except with the written permission of the Vis East Administration.
36. **Certificates of participation.** Certificates for participating team members will be prepared from the final list of team members as registered in the Team Account. The certificates of participation will show the names of the team members exactly as they have been registered with the Team Account. It is the teams' responsibility to ensure proper and accurate spelling and presentation of names.
37. 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

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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 oral advocate, 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

38. All members of the team (other than coaches) may participate in the preparation of the memoranda for claimant and respondent.
39. Each team must submit a memorandum in support of the claimant's position to the Vis East Moot Administration through the Team Account by **Thursday, 9 December 2021**. Thereafter, each team's claimant's memorandum will be sent to at least one of the other teams through the Team Account within a timeframe designated by the Vis East Moot Administration. Teams that fail to submit the memorandum by the deadline, will be deemed to have not completed registration for the Vis East Moot and will not be able to compete in the Nineteenth Vis East Moot.
40. Each team will prepare a memorandum in support of the respondent's position in response to the claimant's memorandum that it received from the Vis East Moot Administration. Each team must submit a memorandum in support of the respondent's position to the Vis East Moot Administration through the Team Account by **Thursday, 27 January 2022**. Teams that fail to submit the memorandum for respondent within the deadline will be deemed to have withdrawn from the Vis East Moot and will not be able to compete in the Nineteenth Vis East Moot.
41. It is absolutely essential that the memorandum for respondent is responsive to all the arguments made in the memorandum for claimant as the arbitrators judging the memoranda will be, to a large degree, evaluating it based on how well it refutes the arguments raised by the claimant. However, the respondent's memorandum should also address issues believes should be raised even if such argument was not raised in the claimant's memorandum. In such situation, the respondent should indicate that the specific argument was not explicitly raised by the Claimant [e.g., "*although this issue was not raised by the Claimant, Claimant could 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.
42. Teams that participate in both Vis Moots are encouraged to submit separate memoranda to each of the competitions. However, should a team decide to submit the same memoranda to both Vis Moots, the memoranda can only be considered for an award in one of the competitions. Accordingly, for teams who are participating in both Vis Moots, when submitting the memorandum for the claimant, the team must indicate: (i) whether they submitting the same memorandum to both Vis Moots; and (ii) if they are submitting the same memorandum, which competition it wishes the memorandum to be considered for an award. As the memorandum for respondent must be responsive to the memorandum for claimant sent to the team, the memoranda for respondent in both Vis Moots should not be the same.

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V. Formatting Requirements

43. The formatting requirements set out in paragraphs 44, 45, 46, 47, 49, 50, and 51 are mandatory. Memoranda that do not comply with such provisions will be disqualified and not considered for an award or honourable mention.
44. Paragraphs must be numbered. References to statements in either one's own memorandum or to statements in the respondent memorandum to which a team is responding, must also be to made the paragraph number.
45. 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 each paragraph in the memorandum where the authority is cited. The use of "passim" in place of specific paragraph numbers is not sufficient.
46. 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 List of Authorities should contain full citations.
47. The List of Authorities should be in a form that is understandable to all who will read the memorandum. That includes the members of the other teams, the arbitrators in the oral hearings, and arbitrators who are tasked with reviewing and assessing the written memoranda. Most of the audience will be from other countries. As such, the type of citation used for judicial decisions or articles in legal journals that is common in one country may not be common to the audience. The type of citation used in the written memoranda should be easily comprehensible to any audience.
48. Care should be taken in the use of legal doctrines and terminology (including Latin maxims) that are 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, teams should be careful to write their memoranda in a style that would be appropriate for a court or arbitral tribunal.
49. The length of each memoranda should be no more than thirty-five (35) pages. This is inclusive of any statement of facts, argument or discussion, and any conclusion. Cover pages, tables of contents, indices, lists of authorities or other materials that do not consist of facts, argument, discussion or conclusions are excluded from the page limit. A page refers to size 8 ½ x 11 inches or A4.
50. The font used for the written memoranda must not be smaller than size 12. This includes quotations or other non-argument in the body of the memoranda. The line spacing for written memoranda shall be 1½. All margins must be at least one inch or 2.5 cm on each side.
51. The cover page of the written memoranda must clearly set out name of the team and whether the memorandum is for the claimant or for the respondent so such information is clear to the reader without having to open the memorandum.

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VI. Submission of Memoranda

52. The memorandum must be submitted in searchable PDF form where it can be printed fully (inclusive with cover page) in one single document. The document should not exceed 1 MB as it may not be uploaded to the Team Account. Errors with uploading of the memoranda due to size restrictions are not valid excuses for late submissions.

53. **Place for Submission of Memoranda.** Memoranda must be submitted via the Team Account.

54. **Memoranda Due Dates.**

The due dates for memoranda submissions are as follows:

Memorandum for claimant: Thursday, 9 December 2021

Memorandum for respondent: Thursday, 27 January 2022

Successful submission of the memoranda will be acknowledged in the Team Account.

55. **Memorandum Revision.** Written memoranda may be uploaded to the Team Account as many times as a team likes prior to the submission deadline. The last version submitted by the submission deadline will be deemed the final version submitted by the team. The final memoranda 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. Unless otherwise advised, teams will be able to access the claimant memorandum to which they are to submit a respondent's memorandum to through their Team Account. The claimant's memorandum to which a team is responding to will be available in approximately one week after the deadline for submission of the claimant's memorandum. Teams will be notified when the memorandum of their opposing team is available.

57. Teams will be provided with the memoranda of the other teams against which they will compete against the oral arguments after pairings for the General Rounds have been completed.

58. Teams in the elimination rounds will not be provided with the memoranda of the teams they are pleading against.

59. **Copyright.** Memoranda once submitted (in physical and/or digital form) shall be the property of the VEMF. By submitting written memoranda, teams grant the VEMF a non-exclusive license of the copyright in the memoranda. The memoranda authors acknowledge and consent to the VEMF using the memoranda for, amongst other purposes, research and teaching relating to the substance and activities of the Vis East Moot. Should this situation occur, the VEMF

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confirms that the memoranda will be used in an anonymized fashion unless prior approval is obtained. The winning memoranda and runners-up may be published, including the names of the school and winning team members, on the Vis East Moot website after the Final Argument has taken place.

60. **Exchange of memoranda.** Teams may exchange memoranda only after the deadline for submission of respondent's memorandum.

VII. Scoring of Memoranda

61. Memoranda will be scored based on the quality of the analysis, persuasiveness of argument, thoroughness of research, clarity of the writing, and adherence to these Rules. Factors that will be taken into account include 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. For respondent's memorandum, factors that will be considered include whether it is responsive to the arguments raised by the claimant.
62. The written memoranda will be judged in two rounds. In the first round, each arbitrator will receive at least four memoranda. The memoranda will be ranked in order of merit. In recent years, each memorandum has been submitted to approximately four readers. While arbitrators are encouraged to provide constructive feedback to the teams, they are not required to do so. Following the first round of ranking, approximately one quarter of the memoranda with the highest rankings will be selected for submission to a new group of arbitrators for determination of the winners of the awards for best memorandum in each category.
63. **Plagiarism.** Any memorandum that includes exact or paraphrased 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 be automatically disqualified. A team found to have plagiarized may be disqualified from the Moot.

VIII. Oral Hearings

64. **Venue.** As indicated above in paragraph 7, the Nineteenth Vis East Moot will hold all oral hearings virtually, in Hong Kong, using a videoconferencing platform. Details of the selection of the platform and specific rules for the conduct of the remote hearing will be communicated at a date prior to the hearings.
65. **General Rounds.** Each team will plead four times in the general rounds, twice as claimant and twice as respondent.
66. The general rounds will be scheduled so that, in principle, each team will argue once per day, Monday through Thursday. 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.

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67. **Duration of Oral Argument.** The allocated time for each team's oral argument is, in principle, thirty (30) minutes. The team should allocate equitably the time available to the two oralists. However, the arbitral tribunal may extend the time limits stated as long as no team is allowed more than forty-five (45) minutes in total to present their argument, including the time necessary to answer the questions of the tribunal. It is the tribunal's responsibility to ensure the teams are treated fairly.
68. **Arguments.** Teams are not restricted to the arguments in their written memoranda. However, teams in the general rounds should expect to rely on the arguments given in their written memoranda or be prepared to justify why that position has changed. As written submissions are not exchanged or circulated for the Elimination Rounds, teams should not expect to rely on such arguments.
69. **Questions by Arbitrators.** During oral arguments, the arbitrators are requested to act the way they would act in a real arbitration, taking into account that the Vis East Moot is an educational exercise. There are significant differences in styles of arbitrators, depending on individual personalities and perceptions of the role of an arbitrator (or judge) in an 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 all scenarios.
70. **Order of presentation.** There is no set way of how issues should be plead. Some arbitral tribunals may ask one team to present its argument on all of the issues before the other team is permitted to present its argument. Other arbitral tribunals may 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 the objecting party to present its arguments on that issue before the other party responds to it.
71. The arbitrators will decide whether rebuttal and surrebuttals 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 agree. Where a team believes the opposing team is using an exhibit in violation of the Rules, it must raise an objection to the arbitral tribunal during the hearing. The arbitral tribunal has the power to determine whether the exhibit complies with the requirements of the Rules. For technical reasons, exhibits may not consist of overhead or powerpoint projections or require the use of a stand.
73. **Scoring.** Each arbitrator will score each of the oral advocates on a scale of 50 to 100. The scores of the two oral advocates will be added together to constitute the team score for that oral hearing. Each team can score a maximum of 200 points per arbitrator per oral hearing. Theoretically, a team can score a maximum of 2,400 points for the four general rounds. Arbitrators will score the oral arguments without knowledge of the results of earlier arguments.

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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.

74. An arbitrator retains the absolute discretion to decide individual scores given to an oral advocate. There is no requirement that the arbitral tribunal agrees on the scores. However, the arbitral tribunal may, and are encouraged to, discuss scoring at the end of a hearing and prior to submitting the scores to the Vis East Moot Administration. Appendix 1 to these Rules sets out key elements of the arbitrator guidelines that will be provided to arbitrators for the oral arguments.
75. Where the Vis East Administration notices what appears to be a considerable discrepancy in scoring, an attempt will be made to seek confirmation regarding those scores. The arbitrator whose score varies considerably will be invited to confirm or amend the score given. A considerable discrepancy is defined as a variance of 15 points.
76. In the event that an arbitrator fails to submit a score, or where a moot has proceeded with only two arbitrators, the missing score will be the average of the scores provided by those arbitrators who have submitted scores.
77. **First Elimination (Sixteenth) Round ("Round of 32")**. After the general rounds, the scores of each team for its oral presentation in the four oral arguments will be totalled. The thirty-two teams that have obtained the highest total scores will meet in the First Elimination Round. If there is a tie for 32nd place, the decision as to who will enter the elimination round will be determined by lot. The teams will be paired so that the first and thirty-second, second and thirty-first, etc., will argue against one another. Ranking of a team in the General Rounds will not be revealed until after the close of the Vis East Moot and then only to the team concerned. The first half of the Round of 32 will take place at 9:00 am on Friday, 1 April 2022. The second half of the Round of 32 will take place at 11:00 am on Friday, 1 April 2022.
- If the number of teams participating is less than 100, there will be no Round of 32. The first elimination round will be the Round of 16, with timing adjusted accordingly.
78. **Second Elimination (Eighth) Round ("Round of 16")**. The sixteen winners of the Rounds of 32 will meet in the Second Elimination Round on Friday, 1 April 2022.
79. **Quarter-Finals ("Round of 8")**. The eight winners of the Round of 16 will meet in the Quarter-Finals on Saturday, 2 April 2022.
80. **Semi-Finals**. The four winners of the Quarter-Finals will meet in the Semi-Finals on Saturday, 2 April 2022.
81. **Final Round**. The two winners of the Semi-Finals will meet in the Final Round on Sunday, 3 April 2022.

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82. **Determination as to which team is claimant and which is respondent.** If the two teams in any elimination round, 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.

83. **Winning Team.** The winning team of the oral arguments of the Vis East Moot is the team that prevails in the final round.

IX. Assistance.

84. **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. However, the final product must be that of the students, not of their advisors. A certificate by the contact 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 each memorandum is submitted.

85. **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 Competitions 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 or argue in a Pre-Moot Competition against a team it is scheduled to meet in either Vis Moots.

86. In each oral hearing, two members of a team will present the argument. No communication with other members of the team who are not pleading may take place during the oral arguments.

87. **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, coach, friend or relative of a team member 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-Moot Competitions), but it does not apply to arguments between the same teams in both Vis Moots, since the conflict arises out of scheduling by the two Moots and thus is not within the control of the teams. This rule will be applied even if attendance at an

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argument was inadvertent. Violation of this rule will immediately disqualify a team from participation in the elimination rounds. See also paragraph 57 on exchange of memoranda.

88. Filming or recording of arguments. Filming or recording of arguments is permitted only with the prior agreement of the other team and the arbitrators. Videographers must conduct themselves so as not to disturb the argument, and the Tribunal may at any time require that filming cease.

X. Awards

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

- **Eric Bergsten Award** for the Law School Team Prevailing in Oral Arguments.

This award will be given to the winning team in the final round of the oral hearings.

- **David Hunter Award** for Best Written Memorandum for Claimant.
- **Fali Nariman Award** for Best Written Memorandum for Respondent.
- **Neil Kaplan Award** for Best Individual Oral advocate in the general rounds.

This is awarded to the individual advocate with the highest average score during the general rounds. To be eligible for this award a student must have argued at least once for the claimant and once for the respondent.

- **The Colin J. Wall Spirit of the Moot Award** for the team which has had to overcome the most obstacles in order to participate.

90. Certificates will be prepared for all members of teams that win an award or honourable mention in one of the team categories as well as for those who receive an award or honourable mention for best individual oral advocate. The certificates will reflect the information of the relevant team members exactly how it has been submitted in the Team Account. Certificates will be sent electronically to the contact information on file with the Team Account.

XI. Interpretation of the Rules

91. **Requests.** For interpretation of these rules, requests may be addressed to the Vis East Administration. All interpretations, as well as any waivers, consents, or other decisions are at the sole discretion of the Vis East Moot Administration in its administration of the Vis East Moot.

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XII. Contact Details

92. All communications with regard to the Vis East Moot should be sent by email to the Vis East Moot Administration (with info@cisgmoot.org in cc):

| | |
|------------------------|--|
| Ms. Louise Barrington | louise@cisgmoot.org |
| Ms. Sherlin Tung | sherlin@cisgmoot.org |
| Ms. Lynn Thorburn | lynn@cisgmoot.org |
| Ms. Maricel Somerville | maricel@cisgmoot.org |

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Appendix 1: Arriving at a score in the Oral Arguments

Each arbitrator is expected to make an individual decision as to the score to be awarded to each oral advocate. Nevertheless, a widely divergent score, whether higher or lower than the others, raises questions as to the criteria used by the arbitrator in question. Arbitrators therefore are encouraged to confer with one another with a view to having scores that are within the same range, or are otherwise within 10 points.

The range of points are as follow:

| | |
|----------|-------------------|
| 50 – 59 | Needs Improvement |
| 60 – 74 | Good |
| 75 – 90 | Very Good |
| 91 – 100 | Excellent |

Criteria to take into consideration:

- 1) Organization and Preparation
 - Does counsel introduce himself/herself and co-counsel, state whom s/he 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/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/her client?
 - Does counsel present arguments which are legally tenable?
- 3) Handling Questions
 - Does counsel answer questions directly and use the opportunity to turn the question to his/her client's advantage?
- 4) 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?

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