

Twenty-First Annual

WILLEM C. VIS EAST INTERNATIONAL COMMERCIAL ARBITRATION MOOT

(2023-2024)

Hong Kong

Oral Arguments:

In Person 10 – 17 March 2024

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 competitions comprised of teams representing law schools throughout the world. Together, the Vis Moots are the largest known law school competitions and gathering of international arbitration and trade law professionals worldwide. At the time of oral arguments, 111 law schools representing 31 jurisdictions took part in the Twentieth Vis East Moot. More than 600 students and coaches competed in front of international arbitrators comprised of over 325 professionals worldwide in both the written and oral portions of the competition. These numbers are even larger (over 2,800 students and 1,500 professionals) when accumulated with the Vis Vienna Moot, which takes place in Vienna each year after the Vis East Moot. In addition, there are numerous pre-moots taking place in various countries around the world.
2. **Goals.** The Vis East Moot is intended to stimulate the study of international commercial law and the legal texts prepared by the United Nations Commission on International Trade Law ("**UNCITRAL**"), particularly the Convention on the International Sale of Goods ("**CISG**"). The Vis Moots focus on the use of international commercial arbitration to resolve international commercial disputes. The international nature of the Vis East Moot is intended to lead participants to interpret the texts of international commercial law in the light of different legal systems and to develop expertise in advocating a position before an arbitral panel composed of arbitrators from different legal systems. An active social and professional programme organized by the Moot Alumni Association ("**MAA**") during the week of the oral hearings aims to promote friendships that last long after the Vis East Moot itself is over.
3. The Vis East Moot is designed to be a **multi-faceted educational programme** 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 with incidental educational benefits. 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 Vis East Moot is organized by the Vis East Moot Foundation Limited ("**VEMF**").
5. The organization of the Vis East Moot is carried out by the Vis East Administration.

The Vis East Administration is comprised of the following team:

Ms. Louise Barrington, Director
Ms. Sherlin Tung, Deputy Director
Ms. Maricel Somerville, Sponsorship & Administration Manager

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6. The Vis East Moot consists of written memoranda and oral arguments. Specifically, all teams are expected to prepare and submit a memorandum for claimant, a memorandum for respondent, and participate in oral hearings during the week of oral arguments for both claimant and respondent.
7. **Venue.** The oral hearings will be held in Hong Kong S.A.R. The general rounds and elimination rounds will take place at the West Wing of Justice Place in Central. The general rounds are scheduled from Monday through Thursday, 11 – 14 March 2024 (Hong Kong Time). The elimination rounds are scheduled from Friday to Saturday, 15 – 16 March 2024. The Final Round will take place at the JW Marriott Hotel in Admiralty at 9am (Hong Kong Time) on Sunday, 17 March 2024.
8. **Language.** The Moot will be 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 competition has its own set of rules, which 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 eligibility for students to participate in the oral arguments and for written memoranda. These rules are in paragraphs 34 to 37 below. For more information about the Vis Vienna Moot, please visit its website: www.vismoot.org.
10. **Pre-moot competitions.** Several pre-moot competitions are organized by various entities around the world in order to help teams prepare for the Vis Vienna and Vis East Moot oral hearings. These events are separate and independent from the Vis East Moot and Vis Vienna Moot and are not officially associated with either. While participation in pre-moot competitions is encouraged, it is not a requirement for students in order to participate in the Vis East Moot or Vis Vienna Moot. When participating in pre-moot competitions, teams must always remain fully aware of, and ensure compliance with, the Vis East Moot Rules. In particular, it is the responsibility of the teams to ensure compliance with paragraph 96 of these Rules with respect to Scouting. No team or its coaches or advisors shall practice with, plead against, or watch a team that it is scheduled to meet in the general rounds of the Vis East Moot.

PRIVACY AND DATA REGULATION

11. The Vis East Moot and the VEMF comply fully with the data privacy laws in Hong Kong. These 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 operate the Vis East Moot appropriately and for statistical purposes, the Vis East Administration collects personal data from the students and arbitrators. 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, social media, and promotional materials.
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 Administration via email: info@cisgmoot.org.

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RULES

14. These Rules govern the Twenty-First Willem C. Vis East International Commercial Arbitration Moot. The rules of the Vis East Moot are reviewed annually and are subject to change from year to year. Reliance on any past rules or practice is not an excuse for failure to comply with these Rules.

III. Registration

15. Registration for the Vis East Moot opens at **12:00pm noon (Hong Kong Time) on Friday, 29 September 2023.**
16. Registration in the Moot is a three-step process:
- Submitting a fully completed Application Form ("**Application**") on the Vis East Moot website. Applications will only be deemed complete if they are accompanied by full payment of the HK\$ 1,500 deposit (inclusive of any related fees) or proof of such payment. The deposit is non-refundable once the Application is accepted.
 - Following confirmation by the Vis East Administration of a successful Application, payment of the **complete** registration fee (inclusive of any related fees) is due by **23:59 (Hong Kong Time) on Thursday, 7 December 2023.**
 - Submission of the memorandum for claimant within the deadline provided, *i.e.* by **23:59 (Hong Kong Time) on Thursday, 7 December 2023.**
17. Determination of a team's Application will be sent to the authorized team contact person(s) as listed in the Application. Notification of confirmed, waitlisted, and denied Applications will be made via email. For accepted Applications, the email will provide further instructions, including how to create a team profile ("**Team Account**"). Payment of the registration fee will be acknowledged in the Team Account under the **Financials** section, which will state the exact amount received. The Financials section will generate up to date invoices. Receipt of the memorandum for claimant and for respondent will also be acknowledged on the Team Account.
18. The deadline for submitting the Application is **23:59 (Hong Kong Time) on Thursday, 23 November 2023.** However, early submission of a completed Application is highly recommended as the Vis East Moot can accept only a limited number of teams. Once all spaces have been allocated, no further Applications will be accepted. Furthermore, teams who register before the release of the Problem (*i.e.* 6 October 2023) will be certain to receive all relevant and most up to date Vis East Moot information.
19. Applications should be submitted once a school is certain it will participate in the Vis East Moot. Schools that withdraw from the Vis East Moot after their Application is accepted but before the full registration fee is paid will forfeit the initial HK1500 deposit and, at the sole discretion of the Vis East Administration, may be barred from competing in future Vis East Moots. This also applies to schools who fail to complete the various deadlines after their Application has been accepted or schools who submit late withdrawals.
20. **Registration Fee and Payment.** The registration fee for the Twenty-First Vis East Moot will be: (a) HK\$ 10,000 for teams comprised of 4 – 8 team members; and (b) HK\$ 9,500 for teams comprised of 2 – 3 team members. For teams who will have more than 8 team members taking part physically in the Vis East Competition in Hong Kong, or teams who have more than 8 team members who wish to receive certificates of participation, an additional registration fee of HK\$ 1,500 per team member in excess of eight (8) will be charged. All approved Applications must pay the outstanding balance of the relevant

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Registration Fee by **23:59 (Hong Kong Time)** on **Thursday, 7 December 2023**.

- a. Payment details and instructions on how to remit payment and the amount owed can be found on your Team Account on the Vis East Moot website. Teams are responsible for ensuring that they maintain an updated list of Team Members and must keep the Vis East Moot Administration apprised of additional team members prior to their arrival in Hong Kong.
 - i. Payment can be remitted by bank transfer, Paypal, and Credit Card.
 - ii. All charges associated with payment (*i.e.* bank charges, PayPal handling fees, credit card fees) is the responsibility of the Teams. Fees vary depending on the method of payment chosen by the teams. The Teams are solely responsible for determining the costs of the fees and ensuring that the Vis East Administration receives full payment.
 - iii. Payments must expressly reference the name of the school associated with such payment. To ensure speedier processing, and ensure that each team receives credit for payments sent, teams are encouraged to provide proof of payment to the Vis East Moot Administration.
 - b. Any remaining credits from participation in previous Vis East Moots will be deducted from the outstanding balance of the team's registration fee for the Twenty-First Vis East Moot. Any outstanding balance from participation in previous Vis East Moots will be added to the amount owed by the Teams for the Twenty-First Vis East Moot. Details of the credits available or balance owed can be found in the Financials section of the Team Account. For queries in relation to a Team's finances for the Vis East Moot, please contact the Vis East Administration by email at info@cisgmoot.org and ensure that you indicate "TEAM FINANCIALS" in the subject line.
 - c. Subject to paragraph 19 above, teams with confirmed Applications who withdraw on or before 7 December 2023 will receive a refund of the balance of the registration fee (minus the non-refundable deposit and any applicable charges). No refunds will be provided after 7 December 2023.
 - d. The Registration Fee covers the Vis East Moot Competition and Vis East Moot sponsored events (unless otherwise advised).
21. A team that submits its memorandum for claimant will be paired with another team for the exchange of memoranda, as described in the part entitled "Memoranda" below, and will be scheduled to meet such team in the general rounds of oral arguments, as described in the part entitled "Oral Hearings" below. Withdrawal after submission of the memorandum for claimant affects adversely at least the team that has been paired with the withdrawing team for the exchange of memoranda and the relevant oral arguments. Therefore, every team that has submitted the memorandum for claimant is 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. Any such withdrawal may result in that team's being barred from competing in future competitions as set out in paragraph 19 above.
22. **Team Accounts.** Teams whose Applications have been approved will need to create a Team Account on the Vis East website. Teams (not the Vis East Moot Administration) are responsible for ensuring that all information, including contact information, is kept up-to-date in the Team Account. All communications concerning the Vis East Moot will be sent using the information provided in the Team Account, whether directly to the Team Account and/or by email to the registered email(s) in the Team Account. All documentation issued by the Vis East Moot will also be issued in accordance with the information contained in

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the Team Accounts. Please note that the Vis East Moot will send official communications regarding the Twenty-First Vis East Moot through July 2024 using the contact information in the Team Accounts. The Vis East Moot will also send communications for future events using the contact information listed in the Team Accounts unless the teams expressly request that no further communications be sent.

23. Every team is responsible for ensuring that access to, and communications from, the Team Account comply with all relevant laws and regulations. Teams are also responsible for ensuring that the team contacts are kept up to date, and that the information is promptly distributed to every team member and coach, as the case may be. Teams must also ensure that their contact email address remains current and monitored until 31 July 2024. Any problems with the Team Account must be promptly notified to the Vis East Administration at info@cisgmoot.org with "TEAM ACCOUNT ISSUE" in the subject line.
24. **Refusal or Cancellation of Registration.** The Vis East Administration and VEMF reserve 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. Factors that may be taken into consideration include the conduct of the teams, including individual members, coaches, institution (e.g. unjustified last-minute cancellations, delay in or lack of payment, etc.) and any violations (past or current) of the Rules.

IV. The Problem

25. **Subject Matter.** The Problem in the Twenty-First (2023-2024) Vis East 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**").
26. **Dispute Settlement.** The controversy is before an arbitral tribunal pursuant to the arbitration rules of the International Court of Arbitration of the International Chamber of Commerce ("**ICC 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**").
27. **The Arbitration.** By the time the Twenty-First Vis East Moot begins, the claimant has filed its request for arbitration, the respondent has filed its statement of defense as well as an additional request and the arbitral tribunal has been appointed. The Problem will consist of the statements of claim and defense 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 Vis East Moot involves writing memoranda and oral arguments in support of the positions of the claimant and respondent.
28. **Distribution.** The Problem will be distributed on **Friday, 6 October 2023 (Central European Time)**, by posting on the Vis East Moot's website (www.cisgmoot.org). The Problem will also be released on the Vis Moot Website (www.vismoot.org).
29. **Facts.** The facts in the dispute that is the subject matter of the Vis East Moot are given in the Problem. Facts alleged in the statement of claim and statement of defence 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 a logical and necessary extension of the given facts or are publicly available true facts.

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By way of example:

- a. The subject matter of the dispute in the Fourth Vis 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. 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.
 - c. The subject matter of the dispute in the Twelfth Vis Moot / Second Vis East 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.
30. Statements of fact alleged by a team that do not qualify under paragraph 29 are not true. Therefore, basing an argument on any such alleged facts will be considered to be in breach of these Rules 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.
 31. **Clarifications.** Requests for clarification of the Problem must be submitted via the Team Account under the Clarifications section (which can be found on the top right corner and clicking on MENU) by **5:59am (Hong Kong Time) on Saturday, 28 October 2023**. 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.
 32. As the case is written by the Vis Moot Directors, only they issue clarifications. Thus, to facilitate the process, any team participating in **both** the Vis Moot and the Vis (East) Moot competitions should submit one set of clarifications to the Vis Moot, via their team account. For teams only participating in the Vis East Moot, submissions made on your Team Account within the deadline will be sent to the Vis Vienna directors for their attention.
 33. Clarifications issued by the Vis Moot Directors will be in the form of a Procedural Order from the Arbitral Tribunal will be made available on the Vis Vienna and Vis East Moot websites within a week (10) days from the submission of Clarifications. Teams who have registered for the Vis Vienna Moot will also receive the Clarifications through their team accounts. All teams who compete in the Vis East Moot are responsible for making sure that they have reviewed the Clarifications, even if they were not yet registered as of the

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date of the release of the Clarifications. Clarifications issued in the name of the Arbitral Tribunal become part of the Problem.

Copyright. All problems and materials created as part of the Vis Moot competitions are copyrighted and any re-use requires permission of the Vis Vienna Moot Directors. Permission for educational use will not be unreasonably withheld. Authorship must always be attributed. Commercial use is prohibited.

V. Teams

34. **Composition.** Teams may come either from a law school or from another higher educational institution that includes law as part of its program of study. Each participating law school or other institution may only 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 nationals of 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, subject to the registration fee requirements set out in paragraph 20 above. A maximum of eight (8) students from any school or institution may compete in the Vis East Moot oral arguments.
35. No student who has been licensed to practice law or has practical experience in law or arbitration is eligible to participate except with the express permission of the Vis East Moot Administration. 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 Vis East Moot. In order to request eligibility, a full CV needs to be sent to info@cisgmoot.org. Eligibility to participate in the Vis East Moot is determined as of 7 December 2023.
36. Teams may include former Moot participants, subject to the limitations set out in these Rules. An individual student who has participated as an oralist in an argument in any elimination round hearing in a previous in person Vis Moot, whether in Vienna or Hong Kong, can be a member of the team but cannot be an oralist in this Vis East Moot. For the avoidance of any ambiguity, elimination round hearings are the rounds of 32, 16, etc. for the Vis East Moot, and 64, 32, etc. for the Vis Vienna Moot. Participation in any round of a Virtual Vis East Moot or Virtual Vis Moot (17th, 18th, 19th Virtual Vis East Moots / 27th, 28th and 29th Virtual Vis Vienna Moots) does not exclude participation in any round of this Twenty-First Vis East Moot, subject to the other limitations set out in these Rules.
37. If a team qualifies for a Round of 32 or later and does not participate, all members of the team are disqualified from participation in any future Vis Moot Competition 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 take part in oral arguments in both Moots in the same year. Exemption from this Rule may be granted to individuals by the Vis East Administration in exceptional circumstances and must be obtained before the submission of the claimant's memorandum.
38. **List of team members.** The list of team members must be finalised at the time the memorandum for claimant is submitted, *i.e.* by **23:59 (Hong Kong Time) on Thursday 7 December 2023**. The names are to be submitted as instructed in the Team Account. Members of a team may be dropped after the submission of the claimant's memorandum. However, members of a team **cannot** be added after this deadline unless the Team has demonstrated extraordinary circumstances and has received a written exemption from the Vis East Administration. Any change in the composition of the team must be updated in the Team Account **and specifically communicated to the Vis East Moot Administration no later than 21 February 2024**.
39. **Certificates of participation.** Certificates for participating team members will be prepared

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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 submitted on the Team Account. It is therefore the team's responsibility to ensure proper and accurate spelling and presentation of names in the Team Account and to ensure any error is immediately corrected. Certificates will be issued electronically in PDF after the week of oral arguments so that teams can print hard copies as needed. Certificates must be downloaded by **15 July 2024**.

40. **Coaches' Letters of Recognition.** Letters of Recognition for participating team coaches will be prepared from the names of the coaches submitted with the Team Lists in the Team Accounts. The Letters of Recognition will show the names of the coaches exactly as they have been submitted. It is therefore the team's responsibility to ensure proper and accurate spelling and presentation of names in the Team Account and to ensure any error is immediately corrected. Certificates will be issued electronically in PDF after the week of oral arguments so that teams can print hard copies as needed. Certificates must be downloaded by **15 July 2024**.
41. **Participation.** All student members of the team may participate in preparation of the memoranda for claimant and respondent.
42. In each session of the oral arguments, two members of the team will present a party's argument (*i.e.* claimant or respondent). No other member of the team may aid the oral advocates during the oral argument in any way. Different members of the team may participate in the different hearings during the General Rounds. However, only members of the team who participated in the General Rounds are eligible to plead in the elimination rounds. Therefore, between two and eight members may participate in the oral hearings. To be eligible for the Neil Kaplan Award for best individual oralist, a participant must have argued at least once for the claimant and once for the respondent in the General Rounds. The average score per argument will be calculated and the award will be determined on that basis.

WRITTEN MEMORANDA

VI. Memoranda

43. All student members of the team may participate in the preparation of the written memoranda.
44. Each team must submit a memorandum in support of the claimant's position to the Vis East Moot Administration by uploading the document through their Team Account by **23:59 (Hong Kong Time) on Thursday, 7 December 2023**. During the document upload process, a time stamp will be added to your submission. A team may upload multiple versions to their Team Account. The final upload before the deadline will be deemed the team's final submission. Submissions made after the deadline will **not** be included in the memoranda competition and teams who fail to submit a claimant's memorandum within the deadline will be deemed to have not completed registration for the Vis East Moot and will not be able to compete in the Twenty-First Vis East Moot.
45. There may be extenuating circumstances that require the system to re-open the ability for submission of claimant's memorandum on the Team Account. This should **not** be understood as an extension to the submission deadline. Memoranda are timestamped upon submission, and submissions received after the deadline **will not be eligible** for participation in the claimant memoranda competition.
46. Each team will prepare a memorandum in support of the respondent's position to the claimant's memorandum that they receive from the Vis East Moot Administration through the Team Account. The claimant memorandum to which a team is to respond to will be

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made through the Team Account as soon as possible after the submission date (approx. 7 to 10 days after the submission). The memorandum for respondent must be submitted by **23:59 (Hong Kong Time) on Thursday, 18 January 2024**. Teams that fail to submit the memorandum for respondent by that time will be considered to have withdrawn from the Vis East Moot and will be subject to being barred from future Vis East Moots, as set out in paragraph 19 above.

47. There may be extenuating circumstances that require the system to re-open the ability for the submission of respondent's memorandum on the Team Account. This should **not** be understood as an extension to the submission deadline. Memoranda are timestamped upon submission, and those submissions received after the deadline **will not be eligible** for participation in the respondent memoranda competition.
48. It is essential that the memorandum for respondent be responsive to all the arguments made in the memorandum for claimant as the arbitrators judging the memoranda will be evaluating it based to a large degree on how well it refutes the arguments raised by 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.
49. Teams that participates in **both** the Vis Moots are encouraged to submit separate memoranda to each of the competitions. However, should a team decide to submit the same claimant's memorandum to both Vis Moots, the memorandum can only be considered for an award in one of the competitions. Accordingly, teams who are participating in both Vis Moots and submitting only one memorandum for the claimant must indicate in their Team Accounts:(i) whether the team has submitted the same claimant's memorandum to both Vis Moots; and (ii) if yes, which competition does the team wish for the claimant's memorandum to be considered for an award. Since the memorandum for respondent must be responsive to the memorandum for claimant that was sent to the team, the memoranda for respondent in the two Moots should not be the same.

VII. Formatting of Memoranda

50. The formatting provisions set out in paragraphs 51, 52, 53, 56, 57, and 58 are mandatory. Memoranda that do not comply with these provisions will be disqualified and not considered for an award or honourable mention.
51. Paragraphs must be numbered. 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.
52. 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.
53. 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

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List of Authorities.

54. 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 arbitrators reviewing memoranda will be from other countries. As such, the type of citation used for judicial decisions or articles in legal decisions 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.
55. Teams should be aware of when they are referring to legal doctrines and terminology (including Latin maxims) that are common in some legal systems but not found in the CISG, Model Law, New York Convention, or the relevant arbitration rules. These references may not be familiar 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.
56. The length of each memoranda should be no longer than thirty-five pages. This page limit is inclusive of 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 are excluded from the page limit. A page refers to size 8 ½ x 11 inches or A4.
57. The font used for the written memoranda must not be smaller than size 12. This includes quotations or other non-arguments in the body of the memoranda. The line pacing for written memoranda should be at 1 ½ spacing. All margins must be at least one inch or 2.5 cm on each side.
58. The cover page of the written memoranda must clearly set out the name of the team and whether the memorandum is for the claimant or for the respondent so that such information is clear to the reader without having to open the memorandum.

VIII. Submission of Memoranda

59. Written memorandum must be submitted in searchable PDF-form which can be printed fully (inclusive of cover page) in one single document. The document should not exceed 1 MB as it may be too large to upload to the Team Account. Errors with uploading the memoranda due to size restrictions are **not** valid excuses for late submissions. As set out in paragraph 38 above, when the claimant's memorandum is sent, the names and contact information of each team member must be finalised in the Team Account. No further additions can be made after the deadline for claimant's memorandum has passed.
60. **Place for Submission of Memoranda.** Memoranda must be submitted by uploading the files through your Team Account.
61. **Memoranda Due Dates:**

The due dates for memoranda submissions are as follows:

Memorandum for claimant:	Thursday, 7 December 2023 (23:59 HKT)
Memorandum for respondent:	Thursday, 18 January 2024 (23:59 HKT)
62. **Memorandum Revision.** As explained previously, written memoranda may be uploaded to the Team Account many times 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 memorandum may not be revised, including for missing pages, typographical or grammatical errors, or for problems caused by faulty computer software.

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Teams should allow for sufficient time prior to the submission deadline to verify the text to be submitted.

63. Teams will have access to the claimant's memorandum to which they are to submit their respondent's memorandum to through their Team Account. The claimant's memorandum to which a team is responding will be available approximately 7-10 days following the deadline for submission of the claimant's memorandum. Teams will be notified when the memorandum of their opposing team is available.
64. 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 compete in the general argument of the oral arguments will be made available on the Team Account.
65. 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.
66. **Copyright.** Memoranda once submitted (in physical and digital form) shall be the property of the VEMF. By submitting written memoranda in the Twenty-First Vis East Moot, 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 purposes relating to the substance and activities of the Vis East Moot. In this situation, the memoranda will be used in an anonymized fashion unless express 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 .
67. **Exchange of memoranda.** Teams may exchange memoranda only after the memorandum for respondent has been submitted.

IX. Scoring of Memoranda

68. 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 to be considered include whether they are responsive to the arguments raised by the claimant.
69. 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 to determine the winners of the awards for best memorandum in each category.
70. **Plagiarism.** Plagiarism is a serious breach of these Rules and of international standards of ethics. Any memorandum that includes exact or paraphrased text from any source, whether from 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 also be disqualified from the Vis East Moot and barred from future competitions.
71. **Allowed use of Artificial Intelligence (AI).** Given the evolution, widespread prevalence, and

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practical significance of AI, there are contexts and purposes for which AI can be used within the Vis East Moot.

The use of AI for the Twenty-First Vis East Moot is permitted ONLY as follows:

- a. Using AI-enhanced research tools to find relevant sources (for example search engines);
 - b. Using AI-enhanced proof-reading tools;
 - c. Using AI-enhanced translation tools to translate and understand legal sources;
 - d. Using AI-enhanced translation tools to aid an English translation of text within the submitted memorandum (it should be noted that whilst not prohibited, the use of English translation tools is strongly discouraged for education purposes);
 - e. Using AI to generate overviews or briefings on relevant factual and legal topics solely for the team's own research purpose. For the avoidance of doubt, no such overviews or briefings may be submitted as part of the written memorandum.
72. **Prohibited use of AI.** All other uses of AI are expressly prohibited as acts in violation of these Rules and will result in the written memorandum being automatic disqualified. The team may also be disqualified from the Twenty-First Vis East Moot and barred from future competitions. Specific, non-exhaustive examples of AI violations are:
- a. Including as part of the team's written memorandum, text that has been generated by an AI-tool other than as contemplated in paragraph 71.d above. This includes situations where the AI-generated text has been altered, corrected and amended by the team members.
 - b. Use of any documents issued by either the Vis Vienna or the Vis East Moot, to "train" an AI-tool, or employing an AI-tool that has been trained on the Vis Moot Problem, to write and submit any part of a memorandum.
73. **AI Disclosure.** All teams must submit the Academic Integrity and Artificial Intelligence Disclosure Statement ("**AI Statement**"), attached to these Rules as Appendix 2. The AI Statement must be placed immediately following the cover page of every written memorandum submitted to the Vis East Moot. All AI statements must be made truthfully and on the honour of every team member and signed either physically or electronically by each, in order to be eligible for awards and certificates. Failure to comply with this rule may result in the disqualification of the relevant written memorandum. Untruthful statements will result in automatic disqualification of the memorandum and possible disqualification of the offending team from the Twenty-First Vis East Moot and future competitions.

ORAL HEARINGS

74. **Venue.** As set out in paragraph 7 above, the oral hearings for the Twenty-First Vis East Moot will be held in Hong Kong S.A.R. The general rounds and elimination rounds will take place at the West Wing of Justice Place in Central. The general rounds are scheduled from Monday through Thursday, 11 – 14 March 2024 (Hong Kong Time). The elimination rounds are scheduled from Friday to Saturday, 15 – 16 March 2024. The Final Round will take place at the JW Marriott Hotel in Admiralty at 9am (Hong Kong Time) on Sunday, 17 March 2024.
75. **General Rounds.** Each team will plead four times in the general rounds, twice as claimant and twice as respondent.
76. The general rounds will be scheduled so that, in principle, each team will argue once per day, Monday through Thursday. In certain circumstances, this may be impossible, and one or more teams will have to argue twice on the same day, with no argument on one of

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the three other days of the general rounds. The published times of oral hearings will be Hong Kong Time.

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 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.

77. **Arguments.** During oral arguments, teams are not restricted to plead 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 the position in their written memoranda 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. Nevertheless, it is important to remember that arbitrators will receive the written memoranda of teams during the general rounds and the arguments raised in the written memoranda are fair game for arbitrators (and opposing counsel) to address.
78. **Questions by Arbitrators.** During oral arguments, the arbitrators are expected 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 an oral argument 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.
79. **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.
80. 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.
81. **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. Where a team believes the opposing team is using an exhibit in violation of the Rules, it must raise an objection with 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 powerpoint projections or require the use of a stand.
82. **Scoring.** Each arbitrator will score each of the orators 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 particular oral argument. Each team can score a maximum of 200 points per arbitrator per oral hearing. Theoretically, a perfect score would be 2,400 points for the four general rounds. Arbitrators will score the oral arguments without knowledge of the results of earlier arguments. Some arbitrators will have participated in evaluating the memoranda

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of teams whose oral arguments they later hear. Although they will be aware of their own evaluation of the memoranda, they will not be aware of the evaluations given by other arbitrators.

83. Each individual arbitrator retains the discretion to decide individual scores she or he will give to an oral advocate. There is no requirement that the arbitral tribunal agree on the scores. However, the arbitral tribunal are encouraged to discuss their scoring privately among themselves at the end of a hearing, prior to submitting the scores to the Vis East Administration. Appendix 1 to these Rules sets out key elements of the arbitrator guidelines that will be provided to arbitrators for the oral arguments.
84. Where the Vis East Moot Administration notices what appears to be a considerable discrepancy in scoring, in order to try and ensure consistency of scoring, an attempt will be made to seek confirmation regarding those scores. The Vis East Moot Administration will speak with the arbitral tribunal to see whether the tribunal conferred on the scoring before their submission. The arbitrator whose score varies considerably from the other two will be invited to confirm or amend the score given. A considerable discrepancy is defined as a variance of 15 points.
85. 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 the two arbitrators who have submitted scores.
86. **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 in the general rounds will be totaled. 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 the toss of a coin. The teams will be paired so that the team with the top score will be paired with the team with the thirty-second highest score, the team with the second highest score with the team with the thirty-first highest score, etc. Ranking of a team in the General Rounds will not be revealed until after the close of the Twenty-First 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 (Hong Kong Time) on Friday, 15 March 2024. The second half of the Round of 32 will take place at 11:00 am (Hong Kong Time) on Friday, 15 March 2024. All oral arguments will take place at the West Wing in Justice Place.

If the number of teams participating in the Twenty-First Vis East Moot is less than 100, there will be no Round of 32 and the first elimination round will be the Round of 16, with timings adjusted accordingly
87. **Second Elimination (Eighth) Round ("Round of 16").** The sixteen winners of the First Elimination Round will meet in the Second Elimination Round at 3:00pm on Friday, 15 March 2024. All oral arguments will take place at the West Wing in Justice Place.
88. **Quarter-Finals ("Round of 8").** The eight winners of the Round of 16 will meet in the Quarter-Finals at 9am on Saturday, 16 March 2024. The Quarter Finals will take place at the West Wing in Justice Place.
89. **Semi-Finals.** The four winners of the Quarter-Finals will meet in the Semi-Finals at 1pm on Saturday, 16 March 2024. The Semi-Finals will take place at the West Wing in Justice Place.
90. **Final Round.** The two winners of the Semi-Finals will meet in the Final Round at 9am on Sunday, 17 March 2024. The Final Round will take place at the JW Marriott Hotel.
91. **Determination as to which team is claimant and which is respondent.** In the first

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elimination round the Vis Moot Administration will assign the roles of Claimant and Respondent to the 32 teams. In the following rounds, if one of the two teams in the preceding round was claimant and the other was respondent, they will each argue for the opposite position to the one they represented in the 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 the toss of a coin. If the two teams in the final round have argued against one another in the general or elimination rounds, they will each argue for the opposite position in the final round. If they did not argue against one another in the general rounds, each will take the position of the party it did not represent in the semi-final round. If both finalist teams have argued for the same position in the semi-final arguments, the toss of a coin will determine which finalist team will be claimant and which will be respondent.

92. **Winning Team.** The team that prevails in the final round will be the recipient of the Eric E. Bergsten Award. There is no provision for a tie vote in any round of the Vis East Competition.

ASSISTANCE

93. **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 the 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. The Teams must confirm when they upload their memoranda to their Team Account that no person other than a student team member has participated in the writing of the memorandum .
94. **Oral Hearings.** There is no restriction on the amount of coaching that a team may receive in preparation for the oral hearings. It is expected and encouraged that teams will have practice arguments, whether against other members of the team or against other teams that will participate in the Moot. Many pre-moot events are scheduled throughout the world. Teams are encouraged to participate in one or more of the pre-moots, if they find it feasible to do so. The only restriction is that no team is permitted to have a practice argument or argue in a pre-moot competition against a team that it is scheduled to meet in the General Rounds of either of the Vis Moots.
95. In each oral hearing, two members of the team will present the argument. No communication with other members of the team who are not pleading may take place during the oral arguments.
96. **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 (student participants, student coaches, or other coaches/advisors), or friend or relative 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), Violation of this rule will disqualify a team from participation in the elimination rounds and may result in the team from being barred from future competitions. This rule will be applied even if attendance at an argument was inadvertent. See also paragraph 67 on exchange of memoranda. The sole exception to this Rule may occur when a team participating in the Vis East Moot practices or observes a team participating in the Vienna Moot, prior to both teams receiving notice of their opposing teams. In this case, the conflict is caused by the scheduling of the two Moots.

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For the avoidance of doubt, scouting is also prohibited during the Elimination Rounds. No team (student participants, student coaches, or other coaches/advisors), or friend or relative of a team member, is permitted to attend arguments of other teams against which that team may argue in the Elimination Rounds.

97. **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.

AWARDS

98. The awards given in the Vis East Moot are:
- **Eric Bergsten Award** for the Team Prevailing in the final round of Oral Arguments
 - **David Hunter Award** for the Best Written Memorandum for Claimant
 - **Fali Nariman Award** for the Best Written Memorandum for Respondent
 - **Neil Kaplan Award** for the Best Individual Oral advocate in the general rounds, **being** the individual with the highest average score in the general rounds, and who in accordance with paragraph 42 above, has 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 in the Vis East Moot.
99. **Achievement Certificates.** Certificates will be prepared for all members of teams that win an award or honorable mention in one of the team categories as well as for those who receive an award or honorable mention for best individual oralist and for the winners of the Colin J. Wall Award. Certificates of participation will show the names of the team members exactly as they have been submitted in the Team Account. It is the Teams' responsibility to ensure that names are spelt and presented correctly and the correct contact details for each team member are reflected in the Team Account. The Achievement Certificates will be sent to the team contact person as a PDF document via email to the authorized email reflected in the Team Account.

INTERPRETATION OF THE RULES

100. **Requests.** For interpretation of these Rules, requests should 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.

CONTACT DETAILS

101. All communications with regard to the Vis East Moot should be sent by email to the Vis East Administration info@cisgmoot.org. Please ensure that all communications to the Vis East Moot Administration are copied to the above-referenced email as this will ensure that **all members** of the Vis East Administration will receive a copy of the email.

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102. For good order, the addresses to be used in any such communications are:

Ms. Louise Barrington

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Ms. Sherlin Tung

sherlin@cisgmoot.org

Ms. Maricel Somerville

maricel@cisgmoot.org

* * *

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?

APPENDIX 2

Academic Integrity and Artificial Intelligence Disclosure Statement

[NOTE: This signed declaration must appear as the first page, following the cover page, of the team's written memoranda submitted in the Willem C. Vis East International Commercial Arbitration Moot. If you are unsure please tick "unsure", you should only declare "no" use when you are certain that there has been no use. In doing so please be mindful of the explicit instructions set out in paragraphs 71 and 72 of the Rules. The text of this note does not need to be reproduced in your declaration]

SCHOOL NAME:

JURISDICTION:

ACADEMIC INTEGRITY	YES	UNSURE	NO
We confirm that this memorandum does not include text from any source, whether the source was in hard copy or online available, which has not been properly distinguished by quotation marks or citation.			

USE OF AI	YES	UNSURE	NO
We have used AI enhanced search engines for researching sources and (factual or legal) information on the Moot Problem.			
We have used AI-enhanced proof-reading tools.			
We have used AI enhanced translation tools to translate sources relevant for our work on the Moot Problem.			
We have used AI enhanced translation tools to translate parts of the text submitted in this Memorandum into English from any other language.			
We have used AI to generate overviews or briefings on relevant factual and legal topics which are not submitted as part of the memorandum but have been solely used to advance our own			
We have used AI tools to generate statements that are now included in the memo . Please tick yes even if you have altered or amended the text generated by AI before submission.			
We have trained an AI tool on Vis Moot documents.			

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<p>We have used an AI tool that has been trained on Vis Moot documents to generate text that is part of our Memorandum</p>			
<p>Other (please specify):</p>			

We hereby certify the truthfulness of our statements, and confirm that we have not used AI-applications in any other way in preparing the submission of this memorandum.

DATE:

NAME:

SIGNATURE:

NAME:

SIGNATURE:

NAME:

SIGNATURE:

NAME:

SIGNATURE:

[NOTE: Please ensure that all team members have reviewed, completed, and signed this document. The text of this note does not need to be reproduced in your declaration]