

TWENTY-SECOND ANNUAL
WILLEM C. VIS EAST
INTERNATIONAL COMMERCIAL ARBITRATION MOOT

2024 - 2025
HONG KONG



INSTRUCTIONS FOR
ARBITRATORS

ORAL ARGUMENTS
30 MARCH – 6 APRIL 2025

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IMPORTANT NOTICE! The Vis East Moot Administration is excited to announce the launch of the Vis East Moot APP ("**VEM APP**"), which is exclusive for Vis East Moot Participants (arbitrators and teams!). With the VEM APP, arbitrators will be able to access their oral arguments, submit scoring, and other details for the Vis East Moot at the tip of their fingers! You can access your Arbitrator Account through the VEM APP using the same login credentials. Please make sure to download the VEM APP from your [Apple Store](#) or from [Google Play](#) **before** the start of the 22nd Vis East Moot week!

General Guidelines

While these instructions are similar to those issued in the past, there are some key changes in light of the developments of the Vis East Moot ("**VEM**"). We therefore ask that you read through these instructions as well as the 22nd Vis East Moot Rules (which is available on our website).

The VEM, as an educational venture, is intended to be as close as possible to a simulation of what would happen in a real arbitration. This sometimes conflicts with the reality that the VEM is a student competition. Please balance these considerations as best you can. You are encouraged to be honest in your comments but remember also to be kind and encouraging.

Please make sure to read through the [Problem w/PO2](#), which is available on the [Vis East Website](#) under the 22nd VEM page. Arbitrators are expected to be familiar with the facts and arguments as set out in the Problem w/PO2. Additional supporting documents such as the Rules Booklet (a compilation of the relevant rules used in the VEM), the Arbitrator Analysis (a non-binding summary of the facts and potential arguments in the Problem), and the Arbitrator Bundle (a compilation of these Instructions, the Problem w/PO2, the Arbitrator Analysis, and the Rules Booklet) are also available on our website under the 22nd VEM page. They can also be accessed via your VEM APP.

Moot courts are common in law school education in some countries, rare in many, and unknown in others. However, even those students who have participated in moot courts in their own country will have had no experience presenting their arguments to a panel that consists of lawyers or law professors from other legal traditions. The VEM will give them experience in making a presentation to such a panel.

The score you give to each oral advocate should represent the performance of the oral advocate in the oral argument. It must not reflect the oral advocate's performance in other arguments, the reputation of the law school, or your judgment of the merits.

Attendance at the Oral Argument

Please ensure that you arrive at the Vis East Centre, which is located on the 2nd Floor of the West Wing, Justice Place, 11 Ice House Street (corner of Ice House Street and Queens Road Central), at least 15 minutes prior to the time you are scheduled to hear an argument. Make sure to check-in with the Vis East Moot Administration before

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proceeding to your hearing room. You can find a venue map for the Vis East Centre and hearing rooms on your [Arbitrator Account online](#) or on the VEM APP.

The arbitral tribunal for each oral argument consists of three individuals. To the extent possible, the panels have been balanced taking into consideration each individual's experience and legal background. The scheduling has been done in accordance with the availability provided by the arbitrators in their Arbitrator Account.

Presiding Arbitrator

Each panel is free to choose its presiding arbitrator. However, should no agreement be reached, the person whose name is listed first, *i.e.* under First Arbitrator, is usually expected to preside.

Length of oral argument

As set out in paragraph 76 of the 22nd VEM Rules, each team is allocated, in principle, thirty (30) minutes for their oral arguments (totaling one (1) hour for both teams). The Arbitral Tribunal may extend the time limits for oral argument so long as no team is allowed more than forty-five (45) minutes in total to present their arguments. This includes the time necessary to answer questions from the Arbitral Tribunal and ideally feedback following the oral arguments. Within the general time-limits, the Arbitral Tribunal should feel free to allow a team to argue in rebuttal, whether or not time for rebuttal was asked for at the beginning of the argument. It is not necessary that the two teams or the two members of a team argue for exactly the same amount of time. However, considerations of fairness in the evaluation call for each of the four students to have an equivalent amount of time to present his or her argument. The student are responsible for keeping to their allotted time but one tribunal member should also keep track of time.

General Round arguments have been scheduled every two hours in each of the hearing rooms. Thus, it is important that vacate the room in sufficient time for the next argument to begin on time. Please note, the Vis East Moot Administration will interrupt oral arguments and ask that the teams and Arbitral Tribunal vacate the room should the need arise. As such, it is **imperative** that the Arbitral Tribunal ensures that the oral arguments are kept within the allocated times.

Memoranda

The memoranda for the teams you will be arbitrating are available in your Arbitrator Account. Please log into your Arbitrator Account, click on MENU on the top right corner of the page, and then ORAL ARGUMENTS. From there, the memoranda are hyperlinked to the teams set out in your oral arguments schedule.

Please note, you are not responsible for evaluating the written memoranda. The memoranda have been made available to you because they are relevant to the oral arguments. They will give you some insight into the approach that that team has taken to the facts and the law. However, as set out in paragraph 77 of the 22nd VEM Rules, teams are not restricted to plead the arguments in their written memoranda. While the students should be expected to present oral arguments that are consistent with the written arguments they have made or justify why the position has been abandoned, this

expectation becomes weaker as the VEM goes on and hardly exists in the elimination and final rounds.

The VEM is an educational experience, and the students should not be precluded from using the insights they may have gained from earlier arguments. This is particularly true with respect to the arguments of the respondent, since those arguments were prepared in response to the memorandum of a particular claimant's memorandum. Respondent may have to change its argument to meet somewhat different arguments of a different team representing the claimant.

Questions from Arbitrators

Different legal traditions have different perspectives as to whether judges - or arbitrators - should allow the lawyers to make their presentations without interruption, whether active questioning is allowed, or whether active questioning is expected. One of the benefits of the VEM is that it exposes the students to these different perspectives. Arbitrators are therefore asked to act as they would in a real arbitration.

It is particularly important that arbitrators not ask questions whose sole purpose is to test whether the students have understood the problem and the law or to make the oral arguments "interesting". Such questions are not appropriate in the VEM, which attempts to simulate a real arbitration. This is the single most frequent criticism that has been made of some arbitrators in the past.

The presiding arbitrator should feel free to control the proceedings in the argument as he or she might in a real arbitration. This includes diverting a co-arbitrator from a line of questioning which appears to contravene the guideline in the preceding paragraph. It is not considered a disadvantage if different panels conduct the proceedings in different ways, so long as basic considerations of fairness to the two teams are observed.

Feedback

Separate from the scoring, after a round of oral arguments, the arbitrators are encouraged to give the students oral feedback on their performance. Feedback from the arbitrators immediately following the general arguments is often the most valuable aspect of the VEM for the students. The students appreciate knowing what they did well and in what respects they should improve. If it is necessary to vacate the room before you are able to give or complete your feedback, the arbitrators may wish to accompany the students outside to the CIETAC Lounge (5/F of the West Wing in Justice Place) or a nearby coffee shop to continue with feedback.

Please ensure that comments made and/or discussed during arbitrator deliberations remain confidential and no confidential information (i.e. scoring) is relayed outside of the arbitral tribunal deliberations. Please also ensure that feedback is professional and in line with what is expected of the teams in oral arguments.

Scoring

Scoring sheets are **NO LONGER** available in hard copy. ALL scoring **must** be submitted online through your **Arbitrator Account** (using the web or your VEM APP). WIFI will be throughout the hearing venue. Please therefore ensure that you bring with

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you a device that can access the internet (i.e. mobile phone, tablet, laptop) so that you can insert your scores for each round.

During the history of the VEM, the system of scoring the oral arguments has been the most controversial aspect. Various alternatives have been proposed. Along with Vis Moot Vienna, we have put together a set of specific criteria, but without giving them any specific value or weight. You can find these criteria at the end of these instructions. Please familiarize yourself with these criteria before sitting at your first oral arguments, as we hope they will help to make the scores coherent.

Scoring should be done on a scale of **50 to 100 points** for each of the oralists:

- 50 - 59 = needed improvement;
- 60 - 74 = good;
- 75 - 90 = very good;
- 91 - 100 = excellent.

There are two oralists per team per argument. The highest possible score to be given by each arbitrator to a team is 200 points, *i.e.* 100 points for each oralist. The total possible scores for each team will be between 300 to 600 points in each argument (based on a three-member arbitral tribunal).

The scores of each oral advocate should be determined on an overall evaluation of his or her presentation. Oral advocates should be judged on the ability to argue the assigned position and must not be judged on the merits of the case. The oral advocates are not responsible for the fact pattern that they are given. The Rules require that the teams use the facts provided to them and forbid them from deviating from what is provided and/or making up new facts.

The issues to be argued are set out in paragraph 3 of Procedural Order No. 1 dated 24 October 2024. Please note, teams are instructed to **not** to argue the allocation of costs.

Notwithstanding the fact that the teams are in principle free to select the order in which they want to address the various issues, the majority of teams will follow the given order (procedure/substance). There are, however, considerations which could justify a different order.

Further, the amount of issues that arise out of the fact situation makes it necessary for the teams to take a decision regarding which of the issues they emphasize in their submission and oral presentations. Arbitrators should keep in mind that the team's background might influence its approach to the Problem and its analysis. In addition, the decision may be influenced by the presentation a team has to reply to. Full credit should be given to those teams that present different, though fully appropriate, arguments and emphasize different issues. With respect to the issues to be addressed, the Arbitral Tribunal has some discretion to structure the proceedings, in particular in the later part of the competition. The Arbitral Tribunal may point out to the teams particular issues it wants to be addressed in greater detail. It may also give the teams more time for rebuttal than originally requested.

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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 are therefore encouraged to confer with a view to having scores that are **within the same band** (*i.e.* (50-59 = needed improvement); (60-69 = satisfactory); (70-79 = good); (80-90 = very good); (91-100 = excellent)) or otherwise **generally within 15 points** of one another.

As in any real arbitration, deliberations between the Arbitral Tribunal may not always lead to a unanimous decision. If an arbitrator, even after carefully considering the views of the other arbitrators, still considers a score that deviates more than 15 points from that of the other arbitrators, she/he should give the score considered appropriate.

Mistakes or difficulty in use of the English language should not be penalized when the team, or the individual oralist, is not from an English-speaking country. On the other hand, no extra points should be awarded to teams or oralists to compensate them for competing in a foreign language. Arbitrators would not give extra consideration to the language capabilities of the lawyers when reaching their decision in a real arbitration. That must hold true in the VEM.

There are no winners or losers of the general rounds of oral arguments on Monday, Tuesday, Wednesday and Thursday. All that counts is the score that you award to the four oralists. The thirty-two teams with the highest total scores in the four general round arguments will enter the first Elimination Round on Friday morning at 9:00am and 11:00am. It is therefore extremely important to judge each oralist independently of the performance of the other three oralists. In particular, arbitrators should attempt to avoid the “halo effect” by which the performance of one or both oralists on a team are measured against the performance of the other team.

The total scores given by the arbitrators for each general round will be distributed to the teams after the conclusion of the VEM. The scores will be reported anonymously and will not be attributed to any specific arbitrator.

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

(1) Organization and Preparation

- a. 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?
- b. 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

- a. Does counsel know the facts and the relevant law thoroughly?
- b. Is counsel able to relate the facts to the law so as to make a strong case for his/her client?

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- c. Does counsel present arguments which are logically plausible and legally tenable. (Remember, you are not assessing the success or otherwise of the legal argument itself).

(3) Presentation

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

(4) Handling Questions

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