

# **MCB**

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**THE MOOT COURT BENCH**

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RULES OF THE INTERNATIONAL COMMERCIAL  
ARBITRATION CAPACITY BUILDING PROGRAM OF  
THE MOOT COURT BENCH

7 JUNE 2021

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## **1. THE INTERNATIONAL COMMERCIAL ARBITRATION CAPACITY BUILDING PROGRAM OF THE MOOT COURT BENCH**

- 1.1 The International Commercial Arbitration Capacity Building Program of the Moot Court Bench ("the Program") is an initiative by the members of the Moot Court Bench of Sri Lanka ("the Moot Court Bench") to select, instruct and train Sri Lankan law students on the skills of advocacy by way of mooting-related activities.
- 1.2 The Program would be conducted once every year focusing on International Commercial Arbitration and the International Sale of Goods.
- 1.3 In addition to the above, the Program, which would last approximately three months (July to September), would also serve as a means of selecting the top four students from each participating university. These students would then be eligible to represent their respective universities in the National Selection Round of the Willem C. Vis International Commercial Arbitration Moot (the "National Round"), in the month of September.
- 1.4 The National Round is the second stage of the Program, where the highest-scoring team/teams would be selected to participate in the Willem C. Vis International Commercial Arbitration Moot ("the Vis Moot"), held annually in Vienna, Austria, or the Willem C. Vis (East) International Commercial Arbitration Moot ("the Vis (East) Moot"), held annually in Hong Kong (jointly referred to as "the Moots").
- 1.5 The selected team/teams would be fully sponsored by the Commercial Law Development Program ("CLDP") of the United States Department of Commerce. The discretion of choosing the number of teams that would be selected to represent Sri Lanka in the Moots would lie jointly with the CLDP and the Moot Court Bench.

## **2. THE VIS MOOT AND THE VIS (EAST) MOOT**

- 2.1 The Vis Moot is an annual competition of teams representing law schools throughout the world. The Twenty-Eighth Annual Vis Moot in 2020 – 2021 saw the participation of over 2000 students from 389 law school teams from 80 different jurisdictions. The participating teams and their memoranda were judged by over 800 lawyers and professors from around the world.
- 2.2 The Vis (East) Moot is the sister moot of the Vis Moot. This too is an annual competition of teams representing law schools throughout the world. The Eighteenth Annual Vis (East) Moot in 2020 – 2021 saw the participation of over 800 students from 150 law school teams from 34 different jurisdictions. The participating teams and their memoranda were judged by over 380 lawyers and professors from around the world.
- 2.3 The Vis Moot and Vis (East) Moot are generally held in-person in Vienna and Hong Kong respectively. However, the Moots for the year in 2020 – 2021 were held virtually amidst the COVID-19 pandemic.
- 2.4 Goals of the Vis Moot and the Vis (East) Moot: The Moots aim to stimulate the study of international commercial law, especially the legal texts prepared by the United Nations Commission on International Trade Law (UNCITRAL), and the use of international commercial arbitration to resolve international commercial disputes. The international

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nature of the Moots is intended to lead participants to interpret international commercial law texts from the perspective of different legal systems and to develop an expertise in advocating a position before an arbitral panel composed of arbitrators from different legal systems.

### 3. ORGANIZATION

- 3.1 The Program is organized by the members of the Moot Court Bench; it is sponsored by the CLDP of the United States Department of Commerce.
- 3.2 The Training Phase of the Program would be divided into: (i) Phase One; and (ii) Phase Two.
- 3.3 Phase One would focus on: (i) the basics of International Commercial Arbitration and the International Sale of Goods; (ii) written advocacy; and (iii) oral advocacy.
- 3.4 Phase Two would be aimed at preparing the students for their upcoming matchups in the National Round.
- 3.5 The Program would be conducted entirely in English.

### 4. APPLICATION, SELECTION AND WITHDRAWAL

#### 4.1 ELIGIBILITY AND OTHER REQUIREMENTS

- 4.1.1 All students from universities which provide legal education in Sri Lanka are eligible to register for the Program, provided that the student has not graduated by December 2021.
- 4.1.2 THE EXCEPTIONAL SIX: A maximum of six applicants interested in participating in the Program, but do not meet the eligibility requirements set out under Rule 4.1.1 will be allowed to participate in the Program under special circumstances (Refer Rule 6).
- 4.1.3 The registration for the Program for 2021 would open during June. The specificities as to the time, date and process of registration would be made known to all interested parties via an email request or alternatively be found on the Moot Court Bench website.
- 4.1.4 It is recommended that all communication between participating universities and the Moot Court Bench be done through the designated contact person for each university.
- 4.1.5 Throughout the Program, all deadlines must be met. No extensions would be granted.
- 4.1.6 COURSE FEE: The courses would be conducted free of charge for all students throughout the length of the entire program. Students are expected to bear their personal costs of meals and printing.

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- 4.1.7 Mooties who are part of one program of the Moot Court Bench cannot apply for another program unless and until they formally withdraw from their respective program first.

#### 4.2 APPLICATION FOR PHASE ONE

- 4.2.1 The application process for the Program would consist of multiple levels of screening and evaluation.
- 4.2.2 LEVEL ONE: Each student applying must upload their CV and a 2-minute video clip explaining why they are interested in taking part in the Program. Students who display the requisite fluency in English and the most amount of potential would proceed to level two.
- 4.2.3 LEVEL TWO: Students will face an interview which would seek to evaluate, among other things: communication skills, ability to commit, competency, and preparedness.
- 4.2.4 In the event an interviewee is not present on time at their interview, their application would not be considered any further.
- 4.2.5 SELECTION: A minimum of 4 and a maximum of 8 students from each university would be selected to be part of the Program. However, under exceptional circumstances, allowances may be made as per the discretion of the Moot Court Bench.
- 4.2.6 WITHDRAWAL: Students may withdraw from the Program by informing their respective university and the Head of External Affairs of the Moot Court Bench the reasons for withdrawal. Withdrawal may disqualify a student's participation in future Moot Court Bench activities.

#### 4.3 ELIGIBILITY FOR PHASE TWO (NATIONAL ROUND)

- 4.3.1 The participants with the highest performance scores would be selected from each university to form the team for their respective university. The number of participants who will be selected into each team is solely up to the discretion of the Moot Court Bench. This number may vary according to each participant's performance which would be evaluated based on assessments and engagement throughout the duration of the course. Each team will then represent their respective university at the National Round.
- 4.3.2 WITHDRAWAL: Students are not allowed to withdraw from Phase Two of the Program unless exceptional circumstances warrant the same. Withdrawal may disqualify a student's participation in future Moot Court Bench activities.

### 5. THE PROGRAM

#### 5.1 PHASE ONE

- 5.1.1 SYLLABUS: Phase One of the Program includes the basics of International Commercial Arbitration and the International Sale of Goods; (ii) the art of written

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advocacy; and (iii) the art of oral advocacy. The syllabus will be taught with the aid of the Twenty-Eighth Vis Moot Problem (“the Problem”) for practical application of knowledge.

- 5.1.2 INSTRUCTORS: Decisions taken by instructors pertaining to their classes and assessments would be final and binding and cannot not be subjected to any appeal.
- 5.1.3 ATTENDANCE: It is mandatory upon every participant to attend a minimum of 80% of the classes to successfully complete the Program and then be eligible to be selected to compete in Phase Two of the Program. If any student is unable to attend a class, a reasonable and valid excuse must be given to the Student Coordinator of Internal Affairs at least three days in advance.
- 5.1.4 PUNCTUALITY: Lack of punctuality will amount to a negative consideration in the selection of students to compete in Phase Two of the Program.
- 5.1.5 ASSESSMENTS:
  - 5.1.5.1 The participants will be assessed throughout the Program by means of written and oral assessments. This will be done through individual memoranda submissions, oral advocacy assessments, in-class multiple choice questionnaires and real-time question and answer style assessments.
    - 5.1.5.1.1 Individual Memorandum: Each participant will individually prepare a written memorandum on one of the four issues in the Problem. The choice of the issue (A, B, C or D) and the party (Claimant or Respondent) is up to the discretion of the participant.
    - 5.1.5.1.2 Written Assessments: The participants will be questioned on International Commercial Arbitration and the International Sale of Goods respectively, after the completion these two segments of Phase One. They will be provided with the questions to which their responses must be submitted before the given deadline.
    - 5.1.5.1.3 Oral Advocacy Assessment: The participants will be assessed on their skills of oral advocacy by conducting arbitral proceedings between participants. In this instance instructors will act as the arbitrators as evaluate the participants.
    - 5.1.5.1.4 Multiple Choice Questionnaires: During each class the participants will have to answer several multiple choice questions prepared by the instructor conducting the session and the answers can be viewed immediately.
    - 5.1.5.1.5 Real-time Question and Answer Style Assessments: Following a similar structure to a viva, the participants will be questioned on international commercial arbitration and the international

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sale of goods in order to assess the participant's knowledge on the subject matter.

- 5.1.5.2 No late submissions of assessments will be accepted.
- 5.1.5.3 The assessments would be anonymized and marked by instructors and returned to the students in due time.
- 5.1.5.4 The assessments shall be marked by instructors on the basis of a guided uniform marking scheme.
- 5.1.6 ABSENCE: In the event a student is unable to attend a class due to an emergency, notice of the same must be given immediately to the Class Instructor and the Student Coordinator of Internal Affairs.
- 5.1.7 PLAGIARISM: Plagiarism is not allowed and will result in the disqualification of a student to be selected to compete in Phase Two of the Program.
- 5.1.8 CERTIFICATE OF COMPLETION: A certificate of completion of the Program would be provided upon the successful completion of Phase One of the Program. In order to successfully complete Phase One, all competency levels set out by the Moot Court Bench must be satisfied, thereby attesting to the skills gained by the student after having been assessed on the same by the Moot Court Bench.

## 5.2 PHASE TWO

- 5.2.1 Phase Two of the Program entails the selection of the top four participants with the highest performance scores from each university and the National Round where the teams will compete against each other.
- 5.2.2 RULES: The rules of the National Round are separate to the rules of the Program; however, in the event of gap in one or both of the rules, both rules shall be read in harmony to aid the interpretation of its existing provisions.
- 5.2.3 Refer to the Rules of 'The National Selection Round of the Willem C. Vis International Commercial Arbitration Moot', found on the Moot Court Bench website, for further details regarding the National Round.

## 6. THE EXCEPTIONAL SIX

- 6.1 This is a special application process that allows a maximum of six applicants who do not meet the eligibility requirements set out under Rule 4.1.1, to participate in the Program under the following circumstances.
- 6.2 The applicants are to follow the normal application process as instructed on the website, with one exception: for the question which requires the applicant's university, select 'Other/Exceptional six' and type in 'Exceptional six' in the answer alongside your university's name.
- 6.3 These students are entitled to participate in Phase One of the Program focusing on the basics of International Commercial Arbitration and the International Sale of Goods and are

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expected to complete the in-class multiple choice questionnaires, written assessments on International Commercial Arbitration and the International Sale of Goods and the real-time question and answer style assessments in order to receive their Certificate of Completion for Phase One of the Program.

- 6.4 These students would NOT be considered for the Written Advocacy and Oral Advocacy stages of Phase One nor Phase Two of the Program.

## 7. MISCELLANEOUS

7.1 INTERPRETATION OF THE RULES: In the event any ambiguity is to arise in the interpretation of these rules, the interpretation of the said rule/s by the Moot Court Bench shall be final and conclusive. In the Interpretation of the rules, regard is to be given to the purpose and intent of the Moot Court Bench and its programs.

7.2 AMENDMENT OF RULES: The Moot Court Bench may amend these rules without prior notice and shall make such amended rules available to the public within 2 days of such amendment on the Moot Court Bench website. The amendments shall take effect upon being made accessible on the website.

7.3 COVID - 19: In light with the developments following the COVID-19 pandemic, the structure of the Program and schedule may be subject to change without prior notice or warning. The safety and wellbeing of the Program's participants will be treated as priority.

7.4 Any and all content, documents and audio/visual recordings created or produced for, or during the course of, the Program would become the exclusive property of the Moot Court Bench.