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THE MOOT COURT BENCH

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

01 MAY 2023

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

- 1.1 The International Commercial Arbitration Program of the Moot Court Bench (“the Program”) is an initiative by the Moot Court Bench of Sri Lanka (“the Moot Court Bench”) to select, instruct and train 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, the International Sale of Goods (CISG), and Written and Oral Advocacy. Further details can be found under Rule 4.1.
- 1.3 In addition to the above, the Program, which would last approximately three months (June to August), would also serve as a means of selecting the best performing students from each participating university. These students would then be eligible to represent their respective universities in the MCB International Commercial Arbitration National Competition (the “National Competition”), in the month of September.
- 1.4 The National Competition is Phase Two of the Program, where the highest-scoring team/teams would be selected to participate in Phase Three to compete at 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”), and other related Pre-Moots. Further details are provided in Rules 5 - 20. Only local students will be eligible for Phases Two and Three.
- 1.5 The selected team/teams would be fully sponsored by the Commercial Law Development Program (“CLDP”) of the United States Department of Commerce.
- 1.6 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. ORGANIZATION**

- 2.1 The Program is organized by the Moot Court Bench in partnership with the CLDP of the United States Department of Commerce.
- 2.2 The Training Phase of the Program would be divided into: (i) Phase One, (ii) Phase Two, and (iii) Phase Three.
- 2.3 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.
- 2.4 Phase Two would be aimed at preparing the students for their upcoming matchups in the National Competition.
- 2.5 Phase Three would aim to instruct and train selected teams to take part at the Vis Moot or the Vis (East) Moot, and any other related Pre-Moots.
- 2.6 The Program would be conducted entirely in English.

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### **3. APPLICATION, SELECTION, AND TEAM COMPOSITION**

#### **3.1 ELIGIBILITY AND OTHER REQUIREMENTS**

- 3.1.1 Phase One of the Program will be open for both local and international applicants, while only local students will be eligible for Phases Two and Three.
- 3.1.2 Only students from universities which provide legal education in Sri Lanka are eligible to proceed to Phase Two and Three of the program, provided that the student has not graduated by December 2023.
- 3.1.3 The registration for the Program for 2023 would open during May. 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.
- 3.1.4 It is recommended that all communication between participating universities and the Moot Court Bench be done through the designated contact person for each university.
- 3.1.5 Throughout the Program, all deadlines must be met. No extensions would be granted.
- 3.1.6 Students 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.

#### **3.2 APPLICATION FOR PHASE ONE**

- 3.2.1 The application process for the Program would consist of multiple levels of screening and evaluation.
- 3.2.2 LEVEL ONE: Each applicant 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.
- 3.2.3 LEVEL TWO: Students will face an interview which would seek to evaluate, among other things: communication skills, ability to commit, competency, and preparedness.
- 3.2.4 In the event an interviewee is not present on time at their interview, their application would not be considered any further.
- 3.2.5 WITHDRAWAL: Students may withdraw from the Program by informing their respective university, Head of the MCB ICA Program, and Chief Administrator of the Moot Court Bench the reasons for withdrawal. Withdrawal may disqualify a student's participation in future Moot Court Bench activities.
- 3.2.6 All applicants who successfully pass the initial interview would be required to make their payment of the registration fee mentioned in Rule 3.3.

#### **3.3 COURSE FEE:**

- 3.3.1 Applicable only to local students:

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- 3.3.1.1 Phase One of the Program will be divided into three segments. Participants will be required to take part in all three segments to be eligible for Phases Two and Three of the Program.
- 3.3.1.1.1 International Commercial Arbitration (June)
  - 3.3.1.1.2 The International Sale of Goods - The CISG (July)
  - 3.3.1.1.3 Written and Oral Advocacy (August)
- 3.3.1.2 Local students attending the entirety of Phase 01, i.e., all three segments of the Program are required to pay LKR 40,000.00 before the 8th of June 2023.
- 3.3.1.3 Applicants may opt to register for specific segments of the Program;
- 3.3.1.3.1 Local students may opt to register for only the first segment of the Program (ICA) and will be required to pay LKR 25,000.00 before the 8<sup>th</sup> of June 2023;
  - 3.3.1.3.2 Local students may opt to register for only the second segment of the Program (CISG) and will be required to pay LKR 15,000.00 before the 8<sup>th</sup> of June 2023;
  - 3.3.1.3.3 Local students may opt to register for both the first and second segment of the Program (ICA+CISG) and will be required to pay LKR 35,000.00 before the 8<sup>th</sup> of June 2023.
- 3.3.1.4 Instalment: Local students may pay the registration fees in two instalments of LKR 25,000.00. The first instalment will be payable by the 8th of June 2023, while the second instalment will be payable by the 15th of July 2023. Failure to complete the payment of either of the instalments would result in the student's removal from the program. This is only available to applicants who apply for all three segments of Phase One.
- 3.3.1.5 Local students making a full payment on/before the 2<sup>nd</sup> of June 2023 will have the opportunity to an early bird discount of LKR 3,000 (Early bird registration fee = LKR 37,000).
- 3.3.2 Applicable only to international students:
- 3.3.2.1 Phase One of the Program will be divided into three segments.
- 3.3.2.1.1 International Commercial Arbitration (June)
  - 3.3.2.1.2 The International Sale of Goods - The CISG (July)
  - 3.3.2.1.3 Written and Oral Advocacy (August)
- 3.3.2.2 International students attending the entirety of Phase 01, i.e., all three segments of the Program are required to pay USD 300.00 before the 8th of June 2023.
- 3.3.2.3 Applicants may opt to register for specific segments of the Program;
- 3.3.2.3.1 International students may opt to register for only the first segment of the Program (ICA) and will be required to pay USD 150.00 before the 8<sup>th</sup> of June 2023;

3.3.2.3.2 International students may opt to register for only the second segment of the Program (CISG) and will be required to pay USD 100.00 before the 8<sup>th</sup> of June 2023;

3.3.2.3.3 International students may opt to register for both the first and second segment of the Program (ICA+CISG) and will be required to pay USD 200.00 before the 8<sup>th</sup> of June 2023.

3.3.2.4 Instalment: International students may pay the registration fees in two instalments of USD 175.00. The first instalment will be payable by the 8th of June 2023, while the second instalment will be payable by the 15th of July 2023. Failure to complete the payment of either of the instalments would result in the student's removal from the program. This is only available to applicants who apply for all three segments of Phase 01.

3.3.3 Listed below is a breakdown of the fees for the schemes mentioned above:

Category	Local Students	International Students
ICA + CISG + Advocacy	LKR 40,000.00	USD 300.00
ICA + CISG	LKR 35,000.00	USD 200.00
ICA only	LKR 25,000.00	USD 150.00
CISG only	LKR 15,000.00	USD 100.00

3.3.4 The registration fee is payable via bank transfer/online payments. The transfer must indicate the name of the student for which the transfer was made. Any banking charges/transfer fees must be borne by the transferor. The Moot Court Bench will provide requisite payment instructions with the confirmation email as well as an invoice upon request.

3.3.5 Once the payment is made, the students must send a payment confirmation via email to [icaprogram@themootcourtbench.com](mailto:icaprogram@themootcourtbench.com).

3.3.6 The registration fee is non-refundable.

3.3.7 Failure to duly pay the registration fee, either by failing to pay on time or in full will result in the removal of the student from the Program unless a valid excuse is communicated in writing via email to [icaprogram@themootcourtbench.com](mailto:icaprogram@themootcourtbench.com)

### 3.4 SCHOLARSHIPS

3.4.1 Scholarships will only be offered to students currently enrolled in a degree program.

3.4.2 Scholarships for payment are open to all students who apply for the Program before the 25<sup>th</sup> of May 2023 (deadline). The purpose of considering such applications and granting scholarships is to accommodate students who are unable to pay the complete registration fee due to financial difficulties.

3.4.3 The Waiver Form attached in the Google Form for Application for the Program, must be downloaded, filled with all required details and uploaded to the Google Drive Folder that is included in the Application Form.

3.4.4 All details mentioned in the Waiver Form must be completed with accurate details and signed by the Applicant. Failure to fill in all details or submission of false information will lead to disqualification of the Scholarship application. In

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exceptional circumstances decided by the MCB, the Application for the Program may be disqualified as well.

- 3.4.5 To be eligible for a scholarship, applicants will be required to provide a written letter from his/her institution affirming that the applicant requires financial assistance and that the institution recommends the applicant for the Program. The Authoriser as mentioned in 3.4.6 below will be required to sign this letter.
- 3.4.6 The Authoriser (Head of Law School/Immediate Supervisor/Batch Coordinator/or other authority in your institution in-charge of students of your enrolled degree) will be contacted by the MCB on submitting the application for the scholarship. You must ensure that the reason for application of the scholarship has been communicated clearly to your Authoriser and you have acquired his/her approval to include their details in the Waiver Form. The reason communicated to them must be consistent with the description on the Form that is submitted to the MCB.
- 3.4.7 If the Applicant is unable to acquire the approval of the Authoriser by the deadline for applications, the Applicant may be allowed to email the Waiver Form on or before 27th May 2023 by submitting in writing an excuse email citing the reasons for such failure. Applications for scholarships received after this deadline will not be accepted.
- 3.4.8 The MCB will review all received applications for the scholarship for the registration fee and will consult the selected Applicant elaborately in the interview.
- 3.4.9 The MCB reserves complete discretion on the offers of instalment plan or partial/complete scholarships. The grant of any scholarship or instalment plan will be communicated to the Applicant via email detailing the selection of the Applicant into the Program and financial exceptions, if any.
- 3.4.10 All students who are not granted complete scholarships must pay the remaining fee that is not covered included in the Scholarship before the commencement of the Program.
- 3.4.11 Students who agree to instalment plans must strictly adhere to the dates of payment provided by the MCB. Failure to comply with these deadlines may lead to the enforcement of penalties/discontinuation of the program at the discretion of the MCB.
- 3.4.12 Students who benefit from instalment plans/scholarships are required to maintain this information confidential and are strictly prohibited from communicating such information with other students in the Program, unless expressly (either verbally or in writing) communicated otherwise by the MCB.

### 3.5 ELIGIBILITY AND PROCESS OF INDUCTION TO PHASES TWO AND THREE

- 3.5.1 Only local students enrolled in a degree program at a legal education institute in Sri Lanka will be eligible to proceed to Phases Two and Three of the Program, provided that the student has not graduated by December 2023. International Students will not be eligible for Phases Two and Three of the Program.

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- 3.5.2 Students are required to take part in all three segments of Phase 01 of the Program to be eligible for Phase Two and Three.
- 3.5.3 A minimum of two students from each university who successfully complete Phase One of the Program and satisfy all eligibility criteria detailed in Rules 3.6 and 3.7, would face the interview detailed in Rule 3.8. Of these students, those selected will represent their respective universities at the National Competition (Phase Two). The top-ranked teams at Phase Two, the exact number of which would be determined by the Moot Court Bench at its discretion, would subsequently, subject to the criteria provided in Rule 3.7, represent their universities at the Vis Moots and any Pre-Moots (Phase Three).
- 3.5.4 Local Students are who the sole representatives of their universities may advance to the Workshops of the National Competition provided they satisfy the eligibility criteria detailed in Rule 3.6, and face the interview detailed in Rule 3.8. These students will not be able to participate in the General and Elimination Rounds of the National Competition, except in the exceptional circumstances detailed in Rules 14.8 or 15.8.
- 3.5.5 The decision on eligibility would be a collective one made by the Moot Court Bench ICA team, the Administrative team, and the Partnership, based on an assessment of each student's performance during the Program, which would *inter alia* entail ICA instructors' observations about the student's level of knowledge and suitability to be part of a team.
- 3.6 ELIGIBILITY CRITERIA FOR PHASE TWO: The Moot Court Bench will consider *inter alia* the following in determining the eligibility of a student for Phase Two of the Program:
- 3.6.1 the student must have attended all three segments of Phase 01;
  - 3.6.2 the student's overall final score obtained from the assessments detailed in Rule 4.1.6;
  - 3.6.3 the student's engagement throughout Phase One;
  - 3.6.4 the student's attitude and suitability to work in a team;
  - 3.6.5 the student's commitment and dedication.
- 3.7 ELIGIBILITY CRITERIA FOR PHASE THREE: In addition to a team's performance at the National Competition, which would not be the sole criterion determining a team's eligibility for Phase Three, the Moot Court Bench will consider *inter alia* the following:
- 3.7.1 individual performances of the students during Phases One and Two;
  - 3.7.2 the collective performance of the team during Phase Two;
  - 3.7.3 whether the number of students in a team justifies the team's progression to Phase Three.
- 3.8 THE INTERVIEW: The selected students will face an interview, prior to competing at the National Competition, which would seek to assess their interest and willingness to participate in Phases Two and Three.
- 3.8.1 Each student will be required to:

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- 3.8.1.1 express their willingness or otherwise in entering Phase Two of the Program: The National Competition, during their interview,
  - 3.8.1.2 express their willingness or otherwise to enter Phase Three of the Program: the International Phase, during their interview;
  - 3.8.1.3 disclose *inter alia* any commitments they may have during the timeline of the International Phase that may affect their commitment to the International Phase.
  - 3.8.2 If a student is not willing to compete at the National Competition and the Vis Moots, such unwillingness must be communicated to the Interview Panel and the same must be expressed in writing via an email sent to the Head of the MCB ICA Program, and Chief Administrator of the Moot Court Bench.
  - 3.8.3 If a student is willing to compete at the National Competition but not the Vis Moots, such unwillingness must be communicated to the Interview Panel and the same must be expressed in writing via an email sent to the Head of the MCB ICA Program, and Chief Administrator of the Moot Court Bench.
  - 3.8.4 This interview will not be a final and conclusive confirmation of whether a student will represent their university at the National Competition and at the Vis Moots.
- 3.9 SELECTION: After the interview, upon a decision being made by the ICA team, the Administrative team, and the Partnership, the selected students will receive email confirmation of their selection to the team representing their university.
- 3.10 In an instance where one of the selected students withdraws from the team, or is removed, the Moot Court Bench may reach out to the next most suitable participant who has completed Phase One of the Program and offer the presently vacant spot. Such participant shall go through the relevant parts of the selection procedure set out in Rules 3.5 o 3.9 above.
- 3.11 Changes may be made to the composition of the team, should exceptional circumstances arise; these may pertain to and/or affect *inter alia* the capability of a student(s) and/or a team to perform at the Vis Moot, and/or any logistical issue with a student(s) and/or team participating at the Vis Moot. This would be solely at the discretion of the Moot Court Bench, and all such changes and reasons thereof would be communicated to the relevant student(s) and university via email.
- 3.12 The Moot Court Bench will not be acting in the capacity of facilitator/coach for any team participating in the National Competition, with the exception of the training given as part of the Program. The university may therefore use any method of coaching they see fit. However, the teams selected to be sponsored by the CLDP will be coached exclusively by coaches of the Moot Court Bench.
- 3.13 The Moot Court Bench reserves the right to refuse or cancel the selection of any team, and such refusal or cancellation is at the absolute discretion of the MCB. In exercising discretion, MCB shall have regard to, among other considerations, the geographical base of the team and past conduct of teams from that institution, for example, the spirit in which it has participated, and past violations of any Rules.
- 3.14 The Moot Court Bench reserves the right to choose the number of students to represent each university. This decision is solely up to the discretion of the Moot Court Bench.



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- 3.15 All decisions of the Moot Court Bench will be final and conclusive.
- 3.16 Withdrawal and removal from Phase Two of the Program would be governed by Rules 14 and 15, respectively.
- 3.17 Withdrawal and removal from Phase Three of the Program would be governed by Rules 19 and 20, respectively.

#### **4. THE PROGRAM**

##### **4.1 PHASE ONE**

- 4.1.1 SYLLABUS: Phase One of the Program includes the basics of International Commercial Arbitration and the International Sale of Goods; (ii) the art of written advocacy; and (iii) the art of oral advocacy. The syllabus will be taught with the aid of the Thirtieth Vis Moot Problem (“the Problem”) for practical application of knowledge.
- 4.1.2 VENUE: Phase One of the program will be held virtually on Microsoft Teams.
- 4.1.3 DATES AND TIME OF THE SESSIONS: The sessions will generally be held on Saturday and Sunday from 09.00 am IST to 12.00 pm IST. These times and dates maybe subject to change and the participants will be provided with further details in the instance such changes to the schedule are made.
- 4.1.4 INSTRUCTORS: Decisions taken by instructors pertaining to their classes and assessments would be final and binding and cannot not be subjected to any appeal.
- 4.1.5 ATTENDANCE: It is mandatory upon every participant to attend a minimum of 80% of Phase One in order to be eligible to receive the certificate of completion. Any local student who fails to meet the attendance requirement will not 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 Manager of Internal Affairs of the ICA Program at least three days in advance.
- 4.1.6 ENGAGEMENT: It is highly encouraged for every participant to keep their cameras switched on at all times throughout the course of the session, except in unavoidable circumstances. Participants are only allowed to keep their cameras switched off only for a maximum of three sessions, and if any student continues to leave the cameras switched off thereafter, they will be marked absent.
- 4.1.7 PUNCTUALITY: Lack of punctuality will amount to a negative consideration in the selection of students to compete in Phase Two of the Program.
- 4.1.8 ASSESSMENTS
- 4.1.8.1 The participants will be assessed throughout Phase One of 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.
- 4.1.8.1.1 Individual Memorandum: Each participant will individually prepare a written memorandum on one of the four issues in the Problem. The

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choice of the issue (A, B, C or D) and the party (Claimant or Respondent) is up to the discretion of the participant.

4.1.8.1.2 Written Assessments: The participants will be questioned on International Commercial Arbitration and the International Sale of Goods respectively, after the completion of these two segments of Phase One. They will be provided with the questions to which their responses must be submitted before the given deadline.

4.1.8.1.3 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.

4.1.8.1.4 Multiple Choice Questionnaires: During each class the participants will have to answer several multiple-choice questions, and the answers can be viewed immediately.

4.1.8.1.5 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 Sale of Goods in order to assess the participant's knowledge on the subject matter.

4.1.8.2 No late submissions of assessments will be accepted.

4.1.8.3 The assessments would be anonymized and marked by instructors and returned to the students in due time.

4.1.8.4 The assessments shall be marked by instructors on the basis of a guided uniform marking scheme.

4.1.9 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 Manager of Internal Affairs of the ICA Program.

4.1.10 PLAGIARISM: Plagiarism is not allowed and any submission by a student containing plagiarism will not be accepted and it may result in the student being ineligible to receive any certification at the end of the program. At the discretion of the Moot Court Bench, a breach of this rule may result in the disqualification of a local student from being selected to compete in Phase Two of the Program.

4.1.11 CERTIFICATE OF COMPLETION: A certificate of completion will be awarded to each participant who successfully completes Phase One of the Program in accordance with the requirements set out in Rule 4.1.

## 4.2 PHASE TWO - THE NATIONAL COMPETITION

4.2.1 Phase Two of the Program entails the selection of the best performing participants with the highest performance scores from each university and the National Competition where the teams will compete against each other.

4.2.2 Phase Two of the Program will be governed by Rules 5 to 15.

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#### 4.3 PHASE THREE - INTERNATIONAL PHASE

4.3.1 The aim of the International Phase of the Program is to instruct and train selected teams to take part at 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 Vis Moots”), and any other related Pre-Moots.

4.3.2 Phase Three of the Program will be governed by Rules 16 to 20.

#### 5. THE NATIONAL COMPETITION

5.1 The National Competition is an annual competition of teams representing law schools throughout Sri Lanka. The National Competition in 2023 will be the sixth National Competition organized by the Moot Court Bench, where the team/s, eligible to take part in the Willem C. Vis International Commercial Arbitration Moot (the “Vis Moot”) held in Vienna, Austria and/or the Willem C. Vis (East) International Commercial Arbitration Moot (the “Vis (East) Moot”) held in Hong Kong (jointly referred to as “the Moots”), will be selected.

5.2 OBJECTIVES: The National Competition aims to select a team/s from Sri Lanka for the Vis Moot held in Vienna, Austria and/or the Vis (East) Moot held in Hong Kong. The Vis (East) Moot is a sister moot to the Vis Moot held in Vienna. The Vis (East) Moot uses the same problem and rules as the Vis Moot. The decision to sponsor more than one team to participate in either the Vis (East) Moot or the Vis Moot lies with the CLDP and the Moot Court Bench, based on the teams’ performance.

#### 6. ORGANIZATION OF THE NATIONAL COMPETITION

6.1 The National Competition will consist of a minimum of two general rounds of oral hearings where each participating team will be required to plead as Claimant and as Respondent. The teams with the highest overall scores from the general rounds will proceed to the Final Round of the National Competition.

6.2 TIME, DATE AND VENUE: The oral hearings will be held in Colombo, Sri Lanka. The general and elimination rounds will take place at a date, time and venue decided by the Moot Court Bench and communicated to all participating teams via email. The Moot Court Bench reserves the right to conduct the National Competition in any other format, subject to prevailing circumstances in Sri Lanka or any other circumstances that the Moot Court Bench deems warrants such a change.

#### 7. THE PROBLEM

7.1 The Problem for the National Competition will be the Problem of the Thirtieth Vis Moot.

7.2 SUBJECT MATTER: The Problem 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).

7.3 DISPUTE SETTLEMENT: The controversy is before an arbitral tribunal pursuant to the 2012 Arbitration Rules of The Permanent Court of Arbitration. The parties have agreed that the arbitration will be held in Vindobona, Danubia. Danubia has enacted the UNCITRAL Model

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Law on International Commercial Arbitration (Model Law) with the 2006 amendments. Danubia, Equatoriana, Mediterraneo, the three states that are, or maybe, involved are party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”).

- 7.4 THE ARBITRATION: By the time National Competition begins, the Claimant has filed its Notice of Arbitration, the Respondent has filed its Answer to the Notice of Arbitration and the arbitral tribunal has been appointed. The Problem will consist of the statements of claim and defense and the additional requests 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 Moots involve oral argumentation in support of the positions of the Claimant and Respondent.
- 7.5 FACTS: The facts in the dispute are given in the Problem. Facts alleged in the Notice of Arbitration and the Answer to the Notice of Arbitration 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 Moot unless they are a logical and necessary extension of the given facts or are publicly available true facts.
- 7.6 Statements of fact alleged by a team that do not fall under Rule 9.5 are not valid. Basing an argument on any such alleged facts will be considered to be a breach of the Moot Rules and to be professionally unethical. Arbitrators will enforce this Rule strictly in the National Competition moots and will evaluate the team’s efforts accordingly.

## **8. TEAMS**

- 8.1 COMPOSITION: Teams will be comprised of the participants from each university who are chosen pursuant to Rule 4. The selection and assessment will be done by the Moot Court Bench.
- 8.2 MIXED TEAM:
- 8.2.1 Participants who are not eligible to advance to Phase Two of the Program owing to the fact that there are insufficient participants to form a team representing their respective University, may be invited to join a Mixed Team to participate in the National Competition. A Mixed Team shall comprise two or more such participants. The discretion of forming a Mixed Team for the National Competition lies with the MCB.
- 8.2.2 Participants will only be eligible to be in a Mixed Team in the event there are no other participants or eligible participants from their respective universities and where the participants satisfy the eligibility criteria detailed in Rule 3.6.
- 8.2.3 Participants who form a Mixed Team will not be eligible to advance to Phase Three of the Program.
- 8.3 LIST OF TEAM MEMBERS AND CERTIFICATES OF PARTICIPATION: Certificates for participating team members will be prepared from the team lists submitted at the end of Phase One of the Program. The certificates of participation will show the names of the team members exactly as they have been submitted.

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- 8.4 PARTICIPATION: All members of the team (other than any coaches) may participate in the oral pleadings on behalf of the Claimant and Respondent.
- 8.5 In each of the oral hearings, two members of the team will present the argument. During the argument, other members of the team may not aid them in any way.
- 8.6 Different members of the team may participate in the different hearings.

## **9. ORAL HEARINGS**

- 9.1 VENUE: The oral hearings will be held at a venue decided by the Moot Court Bench and will be communicated to participating teams in due time.
- 9.2 GENERAL ROUNDS: Each team will argue in the general rounds as Claimant and as Respondent.
- 9.3 FINAL ROUND: The teams with the highest overall scores from the general rounds will proceed to the Final Round of the National Competition. The victorious team will be titled the Winners of the National Competition for 2023.
- 9.4 PANEL OF JUDGES: Every round will be judged by a panel of three arbitrators. Each participant will be given a score from 50 to 100 points. A sample scoring sheet will be prepared and made available on the guidelines sent to participants and Judges, before the National Competition.
- 9.5 DURATION OF ORAL PRESENTATION: The oral presentation of each team is, in principle, thirty (30) minutes. The team should allocate the time available equitably between the two individual advocates. However, the arbitral tribunal may exceed the time limits stated so long as neither team is allowed more than forty-five (45) minutes to present its argument, including the time necessary to answer the questions of the tribunal.
- 9.6 QUESTIONS BY ARBITRATORS: The arbitrators are requested to act during the oral hearings the way they would in a real arbitration, taking into account that this is an educational exercise. There are significant differences in style dependent both on individual personalities and on perceptions of the role of an arbitrator (or judge) in oral argument. Some arbitrators, or arbitral tribunals, may interrupt a presentation with persistent or even aggressive questioning. Other arbitrators, or arbitral tribunals, may listen to an entire argument without asking any questions. Teams should be prepared for both styles of oral presentation.
- 9.7 ORDER OF PRESENTATION: Some panels of arbitrators will ask one team to present its argument on all the issues before the other team is permitted to present its argument. Other panels of arbitrators will ask both teams to argue one issue first before they both argue a second issue. Normally, the party who has raised the issue will argue first. Thus, generally the Claimant will argue first if it is to present its arguments on all the issues before the Respondent is permitted to argue. However, if the Respondent has raised an objection to the jurisdiction of the arbitral tribunal or other such defense, the panel would normally ask it to present its arguments on that issue before the Claimant responds to it.
- 9.8 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.
- 9.9 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

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be used, but only if the arbitrators and the opposing team agree. For technical reasons, the exhibits may not consist of overhead or PowerPoint projections or require the use of a stand.

9.10 SCORING: Each arbitrator will score each of the orators on a scale of 50 to 100. The scores of the two orators will be added together to constitute the team score for that argument. Thus, each team can score a maximum of 200 points per arbitrator per round, or a theoretical maximum of 800 points for the four rounds. Arbitrators will score the oral arguments without knowledge of the results of earlier arguments.

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

9.12 The winning team of the oral hearings is the team that wins the National Competition.

## **10. VIRTUAL ORAL HEARINGS**

10.1 The final decision regarding how the National Competition will be carried out, be it either in-person or online will be communicated to the teams with sufficient time prior to its commencement.

10.2 The virtual National Competition will be held through a platform communicated in due time. The teams will be sent instructions to join the online room 30 minutes prior to the commencement of the round. Teams are requested to join the room 15 minutes before the round is scheduled to begin to test the audio and video quality to ensure that the rounds progress smoothly without interruption.

### **10.3 TECHNICAL NOTES**

10.3.1 No special equipment or software is necessary to participate.

10.3.2 A team can access the online room with a laptop or desktop computer paired with a web-camera, microphone, and stable internet connectivity. Teams are cautioned to ensure that all equipment being used has a power supply sufficient to last for at least two hours without interruption.

10.4 The team's camera and microphone should be firmly positioned throughout the argument so as to show both oralists and to ensure their voices are clearly audible. External cameras and microphones may provide better quality audiovisual experience.

10.5 Each team is responsible for finding a suitable venue from which to participate. The venue must be a quiet location which can be closed and private and which has adequate and reliable internet activity and have a desk and chairs for the oralists as well as space to seat coaches and other team members during the argument.

10.6 Locations in open spaces or hallways or cybercafés or similar areas are NOT permitted.

10.7 During the argument, the camera shall always remain turned on and trained at the oralists.

10.8 Teams shall mute their microphones when not speaking and ensure there is no rustling of papers and extraneous noise throughout the arguments.

## **11. PROCEDURE FOR THE ONLINE NATIONAL COMPETITION**

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- 11.1 The contact person of each team will receive an email from the Moot Court Bench setting out the names of the teams they will argue against.
- 11.2 The message(s) will also contain:
- 11.2.1 the date and time of the general arguments scheduled for that team;
  - 11.2.2 the email and phone number of the Contact Person for each opposing team; and
  - 11.2.3 a link to enter the “room” for each argument.
- 11.3 Each virtual pleading room will consist of the two teams, three-member arbitral tribunal and a moderator. Each team will be responsible for keeping track of its time to ensure it does not exceed 15 minutes. The moderator will also keep track of time as a check on the teams’ timekeeping and will inform the tribunal once it has been exceeded.
- 11.4 If an arbitrator is not able to join a session for any reason whatsoever then the teams and other panel members should wait 15 minutes before the remaining two arbitrators shall proceed. If the third arbitrator does succeed to join the session, that arbitrator shall score only the oralists he/she has heard. For the other oralist(s), the missing score will be reached by finding the average of the two arbitrators who were in attendance throughout. If a second arbitrator loses the connection and cannot be reconnected within 15 minutes, the remaining arbitrator will complete the argument and a single score will be entered for each oralist for that argument.
- 11.5 At the end of the arguments the teams will be asked to leave the virtual room for a period of 10 minutes to allow the arbitrators to deliberate the scores in private. The teams will then rejoin the arbitrators in the room for feedback for a maximum of 10 minutes. The arbitrators do NOT at any point divulge the scores to the team but will submit their scoring sheet to the organizers.

## **12. ASSISTANCE**

- 12.1 ASSISTANCE FOR ORAL HEARINGS: Teams may receive coaching in preparation for the oral hearings from their respective universities or any individual they see fit.
- 12.2 SCOUTING: One purpose of the Moots is to develop the art of advocacy in international commercial arbitration proceedings. Observance of the performance of other participants is one way to develop that art. Therefore, attendance of team members at the arguments of other teams is permitted, except that no team, coach, friend or relative of a team member is permitted to attend arguments of other teams against which they are scheduled to argue later in the general rounds.

## **13. AWARDS**

- 13.1 The following achievements will be recognized in the form of awards at the National Competition Closing Ceremony, for which all students who complete the relevant Phase(s) of the Program are eligible: ‘Certificate of Participation’, ‘Best Individual Memorandum’, ‘Runner-up Best Individual Memorandum’, ‘The Most Promising Speaker’, ‘Runner-up Most Promising Speaker’, ‘Highest Marks - ICA and CISG Assessments’, ‘The Commitment to the Program’, and ‘Spirit of the Moot Court Bench’.

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13.2 The teams that represent their university at the National Competition are eligible to be recognized for the following awards: 'Winners of the National Competition', 'Runners-up of the National Competition', 'Best Oralists', and 'Honorary Mentions for Best Oralists'.

#### **14. WITHDRAWAL FROM PHASE TWO**

14.1 Any attempt at withdrawal once selected to a team must be supported with sufficient cause.

14.2 Such withdrawal may disqualify a student from taking part in future Moot Court Bench activities.

14.3 Any attempt to withdraw shall be communicated in writing via an email sent to the Head of the MCB ICA Program, and the Chief Administrator of the Moot Court Bench.

14.4 Such withdrawal will be communicated to the respective university by the Moot Court Bench.

14.5 The Moot Court Bench reserves the right to dissolve a team if such withdrawal affects the team in a manner that the Moot Court Bench ICA team, the Administrative team, and the Partnership deem it to no longer be practicable to move ahead.

14.6 Upon the withdrawal of a student, the Moot Court Bench may remove the name of such student from any and all representation of the team with regard to the National Competition.

14.7 The withdrawing student (and the dissolved team, if that be the case) shall hand over all documents belonging to the Moot Court Bench received during Phase Two.

14.8 Upon the withdrawal of a student, the Moot Court Bench may replace the withdrawing student with another student, by way of Rule 4.3.2 or Rule 4.8.

14.9 The decision of the Moot Court Bench shall be final and binding.

#### **15. REMOVAL FROM PHASE TWO**

15.1 The Moot Court Bench reserves the right to remove a team member for the reasons mentioned below, or for any other circumstances that are sufficiently serious, that the Moot Court Bench ICA team, the Administrative team, and the Partnership deem would make the student unfit to progress further.

15.1.1 the student fails to attend the Workshops of the National Competition;

15.1.2 the student displays unsatisfactory conduct or lack of commitment;

15.1.3 the student engages in malpractice.

15.2 Such removal may disqualify a student from taking part in future Moot Court Bench activities.

15.3 The process of removal shall be as follows:

15.3.1 The request for removal shall be made by the Head of the ICA Program.

15.3.2 An inquiry would be held into the above with the involvement of the Administrative team of the Moot Court Bench.

15.3.3 Recommendations, following the inquiry, shall be forwarded to the Partnership of the Moot Court Bench, who will make the final decision on the removal.

15.4 Such removal and reasons thereof shall be communicated to the student and the respective university by the Moot Court Bench.



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- 15.5 The Moot Court Bench reserves the right to dissolve a team if such removal affects the team in a manner that the Moot Court Bench ICA team, the Administrative team, and the Partnership deem it to no longer be practicable to move ahead.
- 15.6 Upon the removal of a student, the Moot Court Bench may remove the name of such student from any and all representation of the team with regard to the National Competition.
- 15.7 The removed student (and the dissolved team, if that be the case) shall hand over all documents belonging to the Moot Court Bench received during Phase Two.
- 15.8 Upon the removal of a student, the Moot Court Bench may replace the withdrawing student with another student, by way of Rule 3.5.3 or Rule 3.10.
- 15.9 The decision of the Moot Court Bench shall be final and binding.

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

- 16.1 The Vis Moot is an annual competition of teams representing law schools throughout the world. The Thirtieth Vis Moot in 2022 - 2023 saw the participation of over 2000 students from 378 law school teams from 88 different jurisdictions. The participating teams and their memoranda were judged by over 800 lawyers and professors from around the world.
- 16.2 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 Nineteenth Annual Vis (East) Moot in 2022 - 2023 saw the participation of over 800 students from 111 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.
- 16.3 The Vis Moot and Vis (East) Moot are generally held in-person in Vienna and Hong Kong respectively. However, the Moots for the years 2020 - 2022 were held virtually amidst the COVID-19 pandemic.
- 16.4 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 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.

## **17. TRAINING FOR PHASE THREE**

- 17.1 Training for the Vis Moots will commence upon the induction of teams to Phase Three.
- 17.2 Coaches for Phase Three would be provided by the Moot Court Bench and the teams are barred from seeking any help or advice, either individually or unilaterally, from external parties.
- 17.3 Any contravention of Rule 15.2 above may lead to the termination of the team from Phase Three.

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- 17.4 During this Phase, students are barred from taking part in any other moot training and or moot competition(s) without the prior consent of the Vis Coach(es), the Head of the ICA Program, and the Partnership.
- 17.5 During this Phase, students are barred from engaging in practice sessions with teams, coaches and/or arbitrators with whom a conflict of interest exists at the time of said practice sessions.

## **18. CONDUCT**

- 18.1 All team members are required to act with utmost professionalism both during training and when representing their team and Sri Lanka at the Moots.
- 18.2 Conduct by any team member that would adversely affect the stability and dynamic of the team would result in disciplinary action being taken against such member, and may result in removal from the team, as detailed in Rule 20.
- 18.3 In an event where a selected student displays unsatisfactory conduct or lack of commitment, the Moot Court Bench reserves the right to remove such student from progressing further.
- 18.4 Repercussions stemming from any form of misconduct and or malpractice during the Vis Moot would be borne by the student in question. The MCB and/or the Coach(es) will not take responsibility for any misconduct and or malpractice.

## **19. WITHDRAWAL FROM PHASE THREE**

- 19.1 Any attempt at withdrawal once selected to a team must be supported with sufficient cause.
- 19.2 Such withdrawal may disqualify a student from taking part in future Moot Court Bench activities.
- 19.3 Any attempt to withdraw shall be communicated in writing via an email sent to the Coach(es) of the respective team and the Chief Administrator of the Moot Court Bench.
- 19.4 Such withdrawal will be communicated to the respective university by the Moot Court Bench.
- 19.5 The Moot Court Bench reserves the right to dissolve a team if such withdrawal affects the team in a manner that the Coach(es), the Administrative team, and the Partnership deem it to no longer be practicable to move ahead.
- 19.6 Upon the withdrawal of a student, the Moot Court Bench may remove the name of such student from any and all representation of the team with regard to the Moots.
- 19.7 The withdrawing student (and the dissolved team, if that be the case) shall hand over all documents belonging to the Moot Court Bench and access to their Microsoft 365 account and access to other accounts and databases received during Phase Three, shall be terminated.
- 19.8 Any opportunity, whether in the form of a scholarship, internship, or any other award that the student has received from the Moot Court Bench or any sponsors or partners, as a result of their selection to be a part of the Moot Court Bench sponsored team for the Vis Moots and Pre-Moots, may be made null and void upon withdrawal from the Program, subject to the discretion of the Moot Court Bench.
- 19.9 The decision of the Moot Court Bench shall be final and binding.

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## **20. REMOVAL FROM PHASE THREE**

- 20.1 The Moot Court Bench reserves the right to remove a team member by reason of the provisions provided in Rules 18 and 19 above or any other circumstances that are sufficiently serious, that the Coach(es), the Administrative team, and the Partnership deem would make the team member unfit to progress further.
- 20.2 Such removal may disqualify a student from taking part in future Moot Court Bench activities.
- 20.3 The process of removal shall be as follows:
- 20.3.1 The request for removal shall be made by the respective Coach(es) to the Head of the ICA Program.
  - 20.3.2 An inquiry would be held into the above with the involvement of the Administrative team of the Moot Court Bench.
  - 20.3.3 Recommendations, following the inquiry, shall be forwarded to the Partnership of the Moot Court Bench, who will make the final decision on the removal.
  - 20.3.4 This procedure may be deviated from at the discretion of the Partnership of the Moot Court Bench
- 20.4 Such removal and reasons thereof shall be communicated to the student and the respective university by the Moot Court Bench.
- 20.5 The Moot Court Bench reserves the right to dissolve a team if such removal affects the team in a manner that the Coach(es), the Administrative team, and the Partnership deem it to no longer be practicable to move ahead.
- 20.6 Upon the removal of a student, the Moot Court Bench may remove the name of such student from any and all representation of the team with regard to the Moots.
- 20.7 The removed student (and the dissolved team, if that be the case) shall hand over all documents belonging to the Moot Court Bench and such student's access to their Microsoft 365 account and access to other accounts and databases received during Phase Three, shall be terminated.
- 20.8 Any opportunity, whether in the form of a scholarship, internship, or any other award that the student has received from the Moot Court Bench or any sponsors or partners, as a result of their selection to be a part of the Moot Court Bench sponsored team for the Vis Moots and Pre-Moots, may be made null and void upon removal from the Program, subject to the discretion of the Moot Court Bench.
- 20.9 The decision of the Moot Court Bench shall be final and binding.

## **21. PUBLIC RELATIONS**

- 21.1 No other institution will be permitted to upload or share any posts regarding Phase two and Phase three of the Program on any social media site or public forum without the prior approval of the Moot Court Bench.

## **22. MISCELLANEOUS**

- 22.1 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

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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.

22.2 AMENDMENT OF THE 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.

22.3 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.

22.4 Any and all content, documents, aids, and audio/visual recordings created, produced, or provided for, or during the course of, the Program would become the exclusive property of the Moot Court Bench. Such material shall not be shared or reproduced during and/or after Phase Three without prior written approval from the MCB Administration.

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## APPENDIX 01

Each arbitrator is expected to make an individual decision as to the score to be awarded. Nevertheless, a widely divergent score, whether higher or lower than the others, raises questions as to the criteria used by the arbitrator in question. As such, arbitrators are encouraged to confer in order to assign scores that are within the same band.

- (50 - 59 = needed improvement);
- (60 - 74 = good);
- (75 - 90 = very good);
- (91 - 100 = excellent) or are otherwise within 10 marks.

### CRITERIA TO BE REGARDED IN THE EVALUATION OF THE ORALISTS

- Organization and Preparation
  - Does counsel introduce himself or herself and his or her co-counsel, state whom he or she is representing, introduce the issues and relevant facts clearly, have a strong opening, present the arguments in an effective sequence, and present a persuasive and generalized conclusion?
  - Is counsel clearly prepared and familiar with the authorities on which his or her arguments rely? If rebuttal is used, is it used effectively?
- 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 to make a strong case for his or her client?
  - Does counsel present arguments which are legally tenable?
- 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?
- Handling Questions
  - Does counsel answer questions directly and use the opportunity to turn the question to his or her client's advantage?