



**2<sup>nd</sup> ANNUAL WILLEM C. VIS**  
**MIDDLE EAST INTERNATIONAL COMMERCIAL ARBITRATION PRE-MOOT**  
**February 29 – March 1, 2012**  
**Muscat, Oman**

**Instructions and Procedural Orders for Arbitrators**

**Argument Rounds**

Each of the seven teams will argue four times in the Preliminary Rounds. Each team will have two members per round and take on the role of either Claimant or Respondent. Each round will be conducted in front of three arbitrators (the Arbitral Tribunal). Arbitrators will be pre-assigned to panels and rounds. One arbitrator will serve as the Presiding Arbitrator.

At the outset of the round, the arbitrators should introduce themselves to the teams and the audience and, if they wish, ask the team members to introduce themselves as well. The Presiding Arbitrator may then ask the teams to begin, either by asking one side to start or by asking the teams if they have agreed to the order of arguments between themselves.

The oral presentation of each team is, in principle, thirty (30) minutes. The team should allocate equitably the time available to 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. It will be the responsibility of the tribunal to ensure that the teams are treated fairly. The teams are expected to keep their own time, but an arbitrator should serve as the official timekeeper. With time set aside for feedback from the arbitrators, each round should not exceed two (2) hours.

Teams typically lay out how much time they hope to reserve for their rebuttal (example, “I will be arguing for the Claimant on procedure. My argument will be thirteen minutes long, with two additional minutes reserved for rebuttal.”). The arbitrators can accept or refuse that time estimate, though it is usually accepted.

On Day 2 of the Pre-Moot, based on arbitrator scores, the top four (4) scoring teams will go on to compete in the Semi Final Rounds. Finally, the top two (2) scoring teams will compete in the Final Round. For the Semi Finals, which teams represent the Claimant vs. the Respondent will be determined by a coin toss. The two teams that advance to the Finals will automatically plead the opposite side as in the Semi Finals. Arbitrators in the Semi Finals and Finals will not complete individual scoring sheets, they will only choose a winning team per round.

## **Order of Presentations**

Each argument is divided into two parts: procedural (concerning the arbitration proceedings) and substantive (concerning the CISG). Each team presenting will have two team members, one to argue the procedural side and one to argue the substantive side. Some panels of arbitrators will ask one team to present its argument on both parts before the other team is permitted to present its argument. Other panels of arbitrators will ask both teams to argue one part first before they both argue in respect of the second part. Normally, the party who is contesting the jurisdiction of the tribunal will argue first.

Arbitrators will decide whether rebuttal arguments will be permitted. A rebuttal argument is a response to a specific point given in the opposing team member's presentation. For example, if the team member arguing for Respondent on the substantive part had finished his presentation, the team member arguing for the Claimant, having given his own presentation already, would be allowed to respond briefly to a specific point within the Respondent's argument. If permitted, the Respondent would then be able to briefly respond to the rebuttal (called a sur-rebuttal). The rebuttal and sur-rebuttal points must not contain new arguments, but must respond directly to the points already made. The team's ability to correctly or incorrectly conduct a rebuttal should be reflected in the points awarded. Whether or not rebuttal will be allowed can be expected to change from one argument to the next.

## **Questions by Arbitrators**

The arbitrators are requested to act during the oral hearings the way they would in a real arbitration. There are significant differences in style depending both on the individual personalities and on perceptions of the role of an arbitrator (or judge) in oral arguments. Some arbitrators, or arbitral tribunals, may interrupt a presentation with persistent or even aggressive questioning. Other arbitrators, or arbitral tribunals, may listen to an entire argument without asking any questions. Therefore, teams should be prepared for both styles of oral presentation. In a pre-moot setting, it is helpful for teams to experience both types of panels, to prepare them for whatever type of panel they may encounter in Vienna. It is also helpful for them to experience a wide range of questions concerning the argument. Please look over the document of sample questions provided for examples of the types of questions that may be asked, but please do not limit yourselves to those questions alone. Every argument will be different, and the questions should logically follow the arguments made.

## **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. Exhibits that come from the Problem are contained in the Problem packet. Team members should refer to specific exhibits and the

respective page numbers where they can be found, and arbitrators may find it useful to follow along in the exhibit as the presenter directs.

### **Scoring**

Arbitrators will be provided a score sheet at the beginning of each round and should follow the instructions on that score sheet to assign a score to each individual participant. Each arbitrator will score each of the orators on a scale of 25 to 50. The scoring sheets will determine which teams compete in the Semi Final and Final Rounds. These scores will also determine four of the six prizes that will be awarded at the Pre-Moot: (1) Championship Team, (2) Runner-Up Team, (3) Best Individual Oralist – Claimant, and (4) Best Individual Oralist – Respondent. Awards will also be presented for (5) Best Memorandum – Claimant and (6) Best Memorandum – Respondent.

Arbitrators should fill out the scoring sheets only at the conclusion of each round, preferably after the teams and spectators have left the room. Arbitrators should base their judgments on both style and substance and on the *presentations the teams gave - not on the merits of the case*. For example, if one team clearly argues better than the other yet you believe, having read the case, that the other side would prevail, the team who presents the better argument should score higher.

The score sheets must be given to a Pre-Moot organizer at the end of each round.

### **Feedback**

At the conclusion of each round, arbitrators are highly encouraged to give teams/oralists specific feedback about their performance. Constructive feedback should be reflective of the substantive arguments but also presentation style. No arbitrator feedback should be given in the Semi Final and Final Rounds.