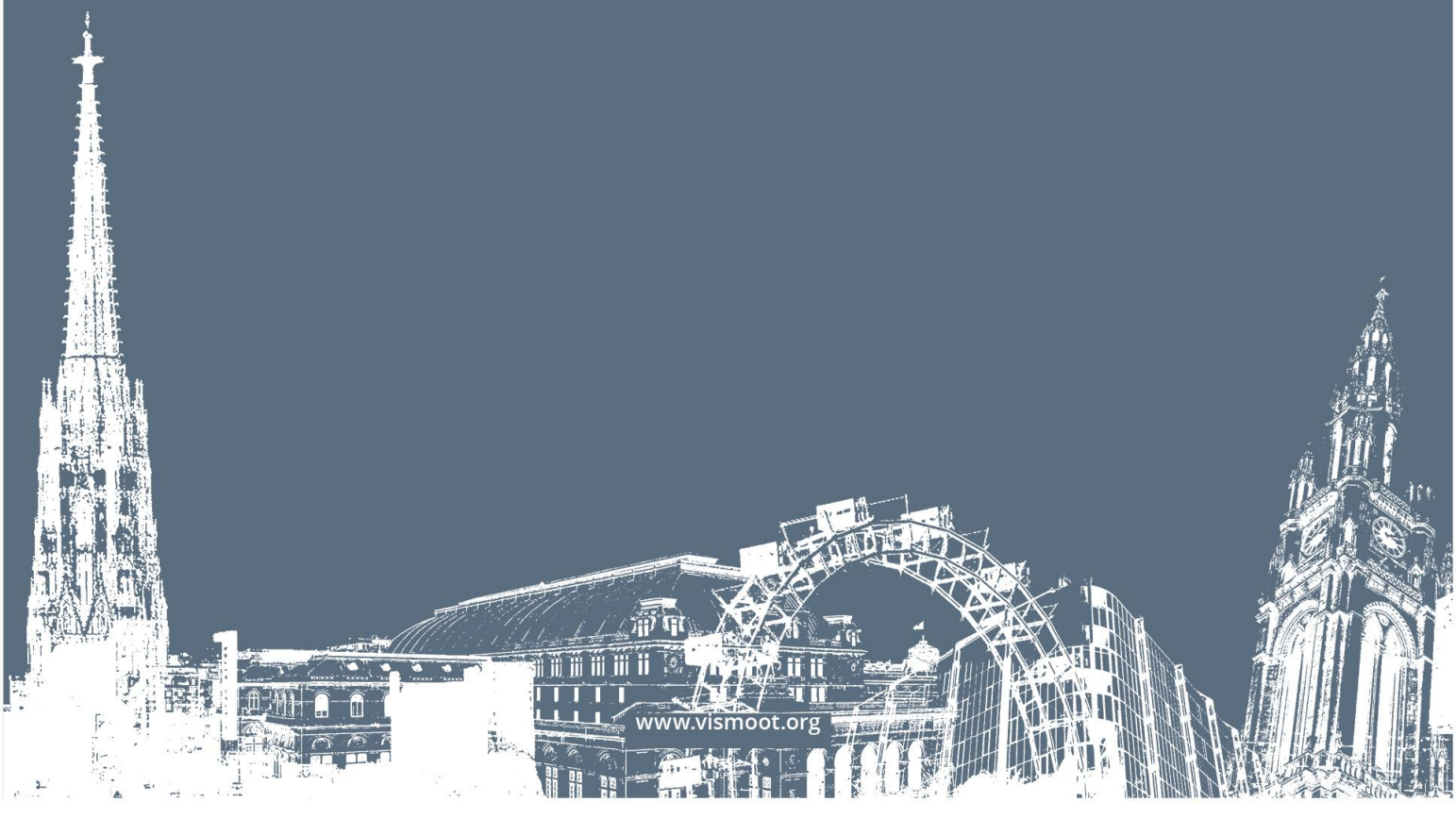
33rd ANNUAL WILLEM C. VIS
INTERNATIONAL COMMERCIAL
ARBITRATION MOOT

27 MARCH – 2 APRIL 2026, VIENNA

GENERAL ARBITRATOR INSTRUCTIONS



These instructions are essentially the same as were given in past Moots Please be sure to read both the rules and these instructions.

The Moot, as an educational venture, is intended to be as close a simulation of what would happen in a real arbitration as possible. That may conflict with the reality that the Moot is a student competition. We would ask you to balance those considerations as best you can. While you may wish to ask more questions than in a real arbitration have in mind that the Oral Hearing is not an exam. It is particularly important that arbitrators appreciate that the hearing is not an oral exam or PhD viva. *Questions whose sole purpose is to make the oral arguments "interesting" and which are not relevant for arguing the case are not appropriate.* The single most frequent criticism that has been made of some arbitrators in past Moots is that some have used up a considerable amount of time and posed questions in order to show off their own knowledge. It should not be necessary to say that this is inappropriate.

A considerable number of the students will not know what to expect in the oral arguments. 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 or in one of the numerous pre-moots will often have had no experience presenting their arguments to a panel that consists of lawyers or law professors from other legal traditions. The Moot will give them experience in making a presentation to such a panel.

Attendance at the argument

The panel for each argument consists of three persons. To the extent possible the panels have been balanced in regard to experience and legal background (i.e. common law and civil law). The assignments have been done within the time periods that the arbitrators have indicated in their Arbitrator Account or in later communications that they would be available to sit on arguments.

In recent years there has been a disturbing tendency for arbitrators not to appear at their scheduled arguments or to arrive excessively late and after the argument had already begun. This is detrimental to the students' experience at the Moot.
We ask all arbitrators to be at the hearing room at least 10 minutes before the start of the hearing.

Presiding Arbitrator

The first person listed in the panel would serve as the presiding arbitrator of the panel. If the Presiding Arbitrator does not wish to serve in that capacity or for other reasons a different Presiding Arbitrator is appropriate, each panel is free to choose its own Presiding Arbitrator.
An additional set of instructions has been prepared for Presiding Arbitrators.

Length of argument

Arguments are scheduled to be one hour in length, with prolongation possible to a maximum of one- and one-half hours. Within the general time-limits the panel 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.

Arguments have been scheduled every two hours in each of the hearing rooms and you are requested to vacate the room in sufficient time for the next argument to begin on time. Conversely, you should be prepared to stay the entire two-hour period of time if the argument itself and any later comments to the students will take that long. This also applies to the Elimination Round arguments on Wednesday and Thursday morning.

Memoranda

The memoranda prepared in the written phase of the Moot have been distributed or made available to you for your information. You are not responsible for evaluating them. That has already taken place. That does, however, not prevent you from giving feedback to memoranda read in preparation for the hearing.

The memoranda are, however, relevant to the oral arguments. First of all, they will give you some insight into the approach that the team has taken to the facts and the law. Moreover, the students should be expected to present oral arguments that are consistent with the written arguments they have made. However, between the time the teams submitted their memoranda and the time of the oral arguments, they will undoubtedly have gained more knowledge about the issues from the memoranda of the teams against which they are arguing and from any practice arguments they may have had. The learning experience is intensified during the oral arguments. The Moot is an educational experience, and the students should not be precluded using the insights they may have gained from earlier arguments in which they have participated or that they may have observed. This is particularly true in regard to the arguments of the respondent, since those arguments were prepared in response to the memorandum of a particular claimant's memorandum. It is obvious that the 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 attitudes as to whether judges - or arbitrators - should allow the lawyers to make their presentations without interruption or whether active questioning is allowed, or expected. One of the benefits of the Moot is that it exposes the students to these different attitudes. Therefore, arbitrators are strongly urged to refrain from questioning if they would refrain from asking questions in a real arbitration or, if they would ask questions, they should ask the same questions they would ask in a real arbitration.
Although noted above it is of considerable importance and so is noted again here - it is particularly important that arbitrators appreciate that the hearing is not an oral exam or PhD viva.

The presiding arbitrator of a panel should feel free to control the proceedings in the argument as he or she might in a real arbitration. The organizers of the Moot do not consider it a disadvantage if different panels conduct the proceedings in different ways, so long as basic considerations of fairness to the two teams are observed.

Evaluation

Separately from the scoring, after an argument the arbitrators are encouraged to give the students oral evaluations of their performance. An oral evaluation by the arbitrators immediately following the argument is often the most valuable aspect of the Moot for the students. Various educational studies support this view, and given that the Moot is first and foremost an educational exercise, the encouragement to do this is as strong as it could be. The students appreciate knowing what they did well and in what respects they should improve. The feedback should be given considering the maximum amount of time for which the hearing room is available (2h).

Scoring

Scoring sheets are NO LONGER sent to you as PDF documents. Instead, a link to the digital scoring system is to be found in your arbitrator account max. 60 min after the start of the oral hearing (e.g. if you are scheduled for a hearing at 08:30 AM, the link to the digital scoring sheet for that hearing will become available at 09:30 AM). You will find the link right next to the hearing details in your schedule. In order to enter scores into the digital scoring sheet you are required to login into your arbitrator account.

During the history of the Moot the system of scoring the oral arguments has been the most controversial aspect of the Moot's organization. Various alternatives have been proposed. The most common suggestion has been that there should be a list of specific criteria, each of which would be graded separately. Though there are strengths to the arguments raised in favour of such a system, it has not been adopted.

However, in the 24th Moot a change was made to the scoring scale. Whereas in earlier Moots oralists were given a score between 25-50, in the 24th Moot the scoring range became 50-100. The intention behind this change was to give arbitrators greater "granularity" in their scoring. The number of unique scores amongst the 64 teams reaching the Elimination Rounds in the 24th Moot significantly increased; and as such the desired effect was achieved.

Scoring should be done on a scale of 50 to 100 points for each of the oralists (50-59 = needed improvement); (60-69 = satisfactory); (70-79 = good); (80-90 = very good); (91-100 = excellent). The total for each team will, therefore, be between 100 to 200 points.

The scores of each oralist should be determined on an overall evaluation of his or her presentation. Each oralist should be judged on his or her ability to argue the assigned position and must not be judged on the merits of the case. They are not responsible for the fact that they are arguing for a party that the arbitrators believe should lose the case on a procedural question or on the merits. An argument that shows a thorough knowledge of the relevant law and the facts may be even more impressive when the student is representing what would seem to be the losing party in the eyes of the arbitrators.

The issues to be argued are set out in Procedural Order No. 1 (9 October 2025) para. 3 No. 1. In Procedural Order No. 2 paras 37 and 38 the issues were "legally broadened" to reflect the Parties' underlying intention (excuse / damages).

Notwithstanding the fact that the parties 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. In particular on the merits teams there are teams which may argue the damage claim first before they address possible excuses.

Furthermore, 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. In particular on the merits teams may decide to argue solely on an excuse under Art. 79 CISG or under the fore majeure clause. 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. Concerning the issues to be treated or emphasized, the tribunal has some discretion to structure the proceedings, in particular in the later part of the competition. The tribunal may point out to the parties particular issues it wants to be addressed in greater detail. It may also give the parties more time for rebuttal than originally requested.

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

As in any real arbitration these deliberations between the members of the arbitral tribunal may not always lead to a unanimous decision. *If an arbitrator, even after carefully considering the views of the co-arbitrators still considers a score appropriate which 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 Moot.

There are no winners or losers of the arguments on Saturday through Tuesday. All that counts is the score that you award to the four oralists. The sixty-four teams with the highest total scores in the four arguments in the general rounds will enter the first of the elimination arguments Wednesday morning. Therefore, it is 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 is measured against the performance of the other team.

The scores given by the arbitrators will be distributed to the teams after the conclusion of the Moot, though the names of the arbitrators will not be attached to the individual scores given.

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

(1) Organization and Preparation

- Does counsel introduce himself or herself and 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?

(2) Knowledge of the facts and the law

- Does counsel know the facts and the relevant law thoroughly? Is counsel able to relate the facts to the law so as to make a strong case for his or her client?
- Does counsel present arguments which are logically plausible and legally tenable. (Please recall though that you are not assessing the success or otherwise of the legal argument itself).

(3) 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?

(4) Handling Questions

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

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