



OFFICIAL RULES  
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## ***1. DEFINITIONS***

“Competition” – the annual Foreign Direct Investment International Moot Competition (the FDI Moot).

“Competition Website” – the official website of the Foreign Direct Investment International Moot Competition, located at [www.fdimoot.org](http://www.fdimoot.org).

“Final Round” – a final match between the two winning Teams from the Preliminary Rounds to define the Winner of the Competition.

“Host” – a University or other institution hosting the Oral Hearing of the Competition.

“Oral Hearing” – the final stage of the Competition held at the Host consisting of Oral Rounds (Preliminary and Final).

“Oral Round” – a match of oral presentations of two Teams, one representing Claimant and the other the Respondent.

"Preliminary Round" – an Oral Round to determine a winning Team in a single match to compete further in the Competition.

“Registration Fee” – an official fee transferred by each Team to cover the administrative expenses for the Competition. The fee is currently EUR600; teams from institutions in countries with “Medium” HD pay EUR400; teams from institutions in countries with “Low” HD pay EUR200(see <http://hdr.undp.org/en/statistics/>). The fee may also be paid in its US \$ equivalent.

“Request for Clarifications” – an official request of a Team to clarify the Case or the Rules, submitted to the Organizer within the time limit stated in the Schedule.

“Rules” – the official rules of the Competition including all the amendments and corrections issued by the Organizer as necessary.

“Schedule” – the official schedule of dates for all events and deadlines in relation to the Competition established each year by the Organizer.

“Sponsor” – an individual, commercial entity or institution providing material support to participating teams (registration fee, travel or accommodation grants), social events during the Competition (receptions, dinners, etc.), Competition winners (awards) and Competition in general.

## **2. GENERAL PROVISIONS**

### **2.1. Organization**

The Foreign Direct Investment International Moot Competition (“the FDI Moot”, “The Skadden, Arps FDI Moot”, or “the Competition”) is an annual competition organized by the Center for International Legal Studies (“the Organizer”) in cooperation with the following founding institutions:

- [Suffolk University Law School](#), Boston, Massachusetts (Prof. Christopher Gibson)
- [Pepperdine University Law School](#), Malibu, California (Prof. Jack Coe)
- [Centre of European Law](#), King’s College London (Prof. Piet Eeckhout, Dr Federico Ortino)
- [German Institution of Arbitration](#) (DIS), Frankfurt/Cologne, Germany

Together, these Founders have signed the Memorandum of Understanding on the Establishment of Foreign Direct Investment International Moot Competition.

### **2.2. Administration**

1. The Organizer shall be responsible for the organization and execution of the Competition.
2. All requests regarding the administration of the Competition, implementation and interpretation of its Rules shall be directed to the Organizer.
3. The Organizer is located at Matzenkopfgasse 19, A-5020 Salzburg, Austria; Tel. +43 (662) 835399; Fax +43 (662) 835399-22, with the Competition Website at [www.fdimoot.org](http://www.fdimoot.org). All communications with the Organizer shall be via e-mail using:  
<http://www.fdimoot.org/dd-formmailer.php>
4. The Organizer may designate one or more Directors of the FDI Moot.

### **2.6. Subject Matter**

1. The Competition shall involve a hypothetical dispute in connection with an investment by a foreign investor in a host state.
2. Relevant institutional (e.g., the Rules of Procedure for Arbitration Proceedings or the Additional Facility Rules of the International Centre for Settlement of Investment Disputes, Arbitration Rules of the London Court of International Arbitration) or ad hoc rules (e.g., UNCITRAL Arbitration Rules) will apply to the proceedings.

### **2.7. Structure**

The Competition shall consist of two stages: preparation and submission of written Memorials for each of Claimant and Respondent, and presentation of oral arguments at the Oral Hearings.

## **2.8. Venue of Oral Hearing**

The Oral Hearing shall be held at the facilities of the Host and/or supporting local law firms and international organizations determined each year by the Organizer.

## **2.9. Language**

The Competition shall be conducted in English.

## **2.10. Copyright**

1. All materials prepared by or for the Organizer for the Competition, including without limitation the case, any bench brief, the procedural orders, clarifications, the Rules, the Schedule etc. are the exclusive property of the Organizer and may not be used for any purpose other than administration of the Competition and/or participation therein, without prior express written consent of the Organizer.

2. All Memorials submitted in the Competition become the sole property of the Organizer and may be copyrighted as such.

3. The Organizer reserves all the rights to the audio and videotaping of any Oral Round, or part thereof.

## **3. PARTICIPATION AND ELIGIBILITY**

### **3.1. Team Composition**

1. Any university level institution that has a law-related program of study ("the School") may participate in the Competition. The number of the Teams originating from the same country is not restricted.

2. The list of team members shall be submitted to the Organizer in accordance with the Organizer's instructions and the Schedule.

3. Each participating School shall form one Team composed of two or more students. There is no maximum limit on the number of Team members. The registration fee includes the attendance of four team members and one coach at the oral hearings.

### **3.2. Team Members' Eligibility**

1. Persons shall be eligible to become members of a Team irrespective of previous participation in the Competition.

2. A team member shall be a student enrolled in a program of undergraduate or advanced legal studies when he or she becomes a Team member or will have completed such program of legal studies within six months prior to the deadline to submit memorials. A visiting student, a student enrolled as an extern or apprentice may also become a team member. Participation of students enrolled in programs other than law may be allowed upon prior written consent of the Organizer.

3. A student who has or will have been admitted to the bar or legal practice in any jurisdiction more than four months prior to the deadline for submitting memorials may only become a Team member with the prior written consent of the Organizer.

### **3.3. Participation**

1. In each match of the Oral Rounds, each Team shall be represented by two members only. The same or different Team members may participate in different matches arguing for Claimant or for Respondent.

2. Teams shall not reveal their School or country of origin to the Arbitrators or Memorial Judges at any time during the Competition. Every Team shall be referred to by its competition alias assigned by the Organizer.

3. Team members are responsible for their own travel to, visas for, and accommodations at the venue of the Oral Hearings.

### **3.4. Outside Assistance**

1. All research, writing and editing shall be the exclusive product of team members. Teams may seek and receive outside assistance, which shall be limited to a general discussion of the issues, suggestions as to research sources, general comments on arguments, organization and structure, and practice for the Oral Hearings.

3. Pre mootings among participating teams is permitted so long as teams notify the Organizer and it does not involve exchange of memorials or other materials.

## **4. REGISTRATION**

### **4.1. Registration Form**

1. Every School shall fill-in and submit to the Organizer within the time-limits specified in the Schedule the Registration Form available on-line at [www.fdimoot.org](http://www.fdimoot.org).

2. In the Registration Form, each Team shall designate a Team contact, communication with whom shall be considered to constitute communication with the Team. Communication between a Team and the Organizer via anyone other than the Team contact shall be at the risk of the Team.

### **4.2. Registration Fee**

1. The payment of the Registration Fee shall be in accordance with the Schedule.

2. If a Team withdraws from the Competition before the first deadline for submitting requests for clarification in accordance with the Schedule, its Registration Fee shall be refunded in full, less bank charges or any other related expenses.

### **4.3. Official Registration**

1. Only upon the receipt of both the Registration Form and the Registration Fee will the Organizer officially confirm the registration of each Team and assign an alias for use in the Competition ( on memorials and during the oral hearings).

## **5. CASE**

### **5.1. Dispute**

1. A dispute arises between a foreign investor and a host State. An (arguably) applicable investment agreement, treaty, or national legislation provides for dispute resolution before an arbitral tribunal consisting of three arbitrators in accordance with the chosen arbitration rules.

2. The dispute involves a set of theoretical and practical procedural and substantive legal issues both in the sphere of arbitration adjudication and foreign investment regulation and protection. Any existing or fictitious legal provisions may be used.

3. The dispute itself and the names of all the parties mentioned therein are fictitious. Any resemblance to an actual dispute or persons living or dead is purely coincidental.

### **5.2. Drafting the Case**

1. The Case shall be drafted each year by a Case Committee selected by the Organiser.

2. The Case shall consist of any relevant contracts concluded between the parties, their correspondence prior to the date of official announcement of the Competition, notice/request of arbitration, statements of claim and defense and their exhibits, minutes of the pre-hearing conference held by the arbitral tribunal, and any procedural documents issued by the arbitral tribunal. Facts of the Case may also be presented in the form of an agreed statement of facts, governmental decisions, newspaper articles, website information, etc. No additional facts shall be allowed, unless they are logical or publicly available.

### **5.3. Case Delivery**

1. The Organizer shall post the Case on [www.fdimoot.org](http://www.fdimoot.org) as stipulated in the Schedule, providing equal access thereto.

### **5.4. Requests for Clarifications**

1. The Organizer may provide all teams an equal, limited (timing and volume) opportunity to request clarifications of the case. Details on requesting clarifications will be disclosed to each Team when its registration is complete.

2. Any clarification responses shall be prepared by the Organizer and Case Committee and posted on [www.fdimoot.org](http://www.fdimoot.org) in accordance with the Schedule.

3. The Organizer and Case Committee may in their absolute discretion clarify only legally significant matters or those matters that may affect the understanding of facts of the dispute.

### **5.5. Bench Brief**

1. The Organizer shall distribute a Bench Brief outlining the major arguments and indicating some possible arguments on the issues raised in the Case only to the Memorial Judges and the Arbitrators in accordance with the Schedule.

2. The Bench Brief is strictly confidential. Authorized readers of the Bench Brief shall not disclose its contents to Teams or their coaches. The Organizer shall disqualify any Team making use of the Bench Brief.

## **6. WRITTEN MEMORIALS**

### **6.1. Submission of Memorials**

1. Each Team shall prepare a Memorial for Claimant and a Memorial for Respondent. Both shall be submitted according to the Organizer's instructions no later than the date specified in the Schedule.

2. A Memorial shall be contained in a single file. The electronic copies shall be submitted in PDF format.

3. Equipment or software failure or problems shall not be considered as an excuse for improper formatting or late submission of Memorials.

4. No Team may revise, substitute, add, delete, or in any other manner alter their Memorials once submitted.

### **6.2. Content**

1. Each Memorial shall necessarily contain the following parts:

- a. Cover page;
- b. Table of Contents;
- c. List of Authorities;
- d. List of Legal Sources;

e. Statement of Facts;

f. Arguments.

2. A Memorial may contain additional parts or exhibits as necessary.

3. The name of a Teams' School or country of origin shall not appear in any other way in the Memorial. A Team shall be identified only by its designated alias. The alias shall be placed in the upper right-hand corner of the outside front cover of each Memorial.

### **6.3. Length**

Each Memorial shall be 13,000 words or less. The cover page, table of contents, index, list of authorities, or other material that does not consist of facts or arguments may amount up to a further 2,500 words.

### **6.4. Style Requirements**

1. A Memorial shall be drafted in *formal* English. The usage of Latin maxims and foreign terms (e.g. Kompetenz-Kompetenz) is allowed in so far as they are widely accepted and known.

2. The text including quotations within the text shall be Times New Roman 12-point; footnotes may be 10-point. The statement of facts and arguments shall be typed at 1½ line-spacing. All margins shall be at least one inch or 2.5 cm.

3. The pages of the statement of facts and arguments together shall be numbered consecutively in Arabic numerals (1, 2, ...). All other parts of a Memorial shall be page-numbered consecutively in small Roman numerals (i, ii, ...). Each page shall be numbered in the middle at the bottom.

4. The paragraphs of the statements of facts and arguments parts shall be numbered consecutively in Arabic numerals.

### **6.5. List of Authorities and Citations**

1. The List of Authorities shall contain only those authorities actually cited in a form adequate to allow an educated reader to identify and locate the authority.

2. The footnotes shall be used to cite the authorities in the arguments. No facts or arguments shall be included in the footnotes. The footnotes may contain a short form of citation (if introduced in the List of Authorities).

### **6.6. Quotations**

Excessive quotations shall be avoided. A quotation of more than one full line in length shall be block quoted and single-spaced.

### **6.7. Cover Page**

1. Each Memorial shall have a cover page.

2. A cover page shall contain the following and only the following information:

a. The Team competition alias;

b. The name of the administering arbitration center;

c. The name of the Case and its parties

d. The title of the Document: Memorial for Claimant or Memorial for Respondent.

### **6.8. Review and Scoring of Memorials**

1. All Memorials submitted shall be reviewed by at least three Judges.

2. Each Judge shall score the Memorials on the quality of analysis of the issues involved, persuasiveness of the arguments, logic and reasoning, writing, knowledge of the facts, use of authorities and extent of the research. The Organizer will deduct points for non-adherence to the style specified in the present Rules.

### **6.9. Receipt of Memorials of Other Teams**

One week before the Oral Hearings, each Team shall receive access to the Memorials drafted by other Teams.

## **7. ORAL HEARING**

### **7.1. General Procedure**

1. The Oral Hearing shall consist of Preliminary, Semi-Final and Final Rounds. If the Organizer deems it beneficial to the Competition, Quarterfinal Rounds may be conducted prior to the Semi-Final Rounds.

2. The Oral Hearings shall take place generally at the premises of the Host announced each year (see [www.fdimoot.org](http://www.fdimoot.org)).

### **7.2. Oral Arguments**

Each Team shall present in English oral arguments for Claimant and for Respondent. The scope of its oral pleadings shall not be restricted to the arguments stated in its Memorials.

### **7.3. Oral Rounds**

1. Each Oral match consists of 80 minutes of oral pleading. Claimant and Respondent are each allotted 40 minutes, including not more than 5 minutes thereof each for any rebuttal or surrebuttal. Each team shall inform the secretary of the tribunal how it wishes to allot this between the two oral advocates and any rebuttal (or surrebuttal). The time allotted includes the time needed to answer any questions from the panel. The Arbitrators shall ensure that the Teams are treated fairly.

2. A Team shall in principle equally allocate the time between the two oral advocates.

3. Only students registered as Team members may act as oral advocates. No more than two Team members may make oral presentation during one Oral Round. Other Team members may be present in the session in which their Team is pleading.

4. The Organizer shall supply the Teams with the Schedule of the Oral Rounds one week before.

### **7.4. Arbitrators**

Three arbitrators shall preside over each Oral Round. If there is a shortage of Arbitrators, the Organizer reserves the right to assign two or one arbitrator to preside over the Oral round. The Organizer shall appoint the Arbitrators from its College of Arbitrators.

### **7.5. Communication During Oral Rounds**

1. During an Oral Round, the Team members pleading may only communicate with the Tribunal, the Secretary and opposing counsel.

2. Team members pleading in a given Oral Round may exchange written notes or assist each other in finding the necessary documents. No other communication or behavior that distracts from the pleading shall be allowed. Use of any telecommunications devices (cell phones, laptops, etc) is prohibited.

### **7.6. Publicity**

1. All Oral Rounds shall be open to the public (subject to paragraph 7.8).

2. The Organizer may provide for the live web cast of the Teams pleading on the Competition Website.

### **7.7. Evidence**

No documentary evidence (exhibits, handouts, flip-charts etc), slideshows, or examination of witnesses or experts is allowed during the Oral Hearing. Teams are not permitted to use laptops or other computing devices at the counsel table.

### **7.8. Scouting**

1. Team members or persons directly affiliated with any Team may only attend matches in which their Team is competing, unless their Team has already been eliminated from the Competition.

2. No audio, video or photographic recording is permitted without prior consent of the Organizer once the Round has commenced

### **7.9. Ex Parte Oral Rounds**

1. In case a Team fails to appear for a scheduled Oral Round, the arbitral tribunal after notifying the Organizer and waiting for 15 minutes shall conduct the Oral Round ex parte. The attending Team may present its arguments and shall be scored as if the absent Team were present.

2. The Team that fails to appear at the scheduled Oral Round forfeits all points for the round.

### **7.10. Preliminary Rounds**

1. Each Team shall present an oral argument in at least four Preliminary Rounds: twice as Claimant and twice as Respondent.

### **7.11. Scoring**

1. The Arbitrators shall score the individual oral advocates' presentations during Preliminary Rounds. The Organizer shall prepare and supply the Arbitrators with official scoring sheets.

2. In estimating individual oral advocates' presentations, the Arbitrators shall take into account the competence, inclusion of relevant facts, knowledge of legal norms, structure and logic of the arguments, response to questions. The Arbitrators shall also take into account that for some Teams English is not their mother tongue.

3. Every Arbitrator shall award each oral advocate a maximum of 50 points per round. The score per Oral Round for the oral arguments of a Team shall be the total of the points awarded and may be a maximum of 300 points (150 points for each Team's oral advocate).

4. Arbitrators shall conduct the Oral Hearings in accordance with the **Conduct of Hearing Guidance** (<http://fdimoot.org/AllInstructions.htm> *as updated from time to time*).

### **7.12. Preliminary Rounds**

1. The Organizer may elect to conduct Preliminary Rounds on the basis of pools, round-robin or Swiss-tournaments, and seed teams according to their memorial scores and/or progressively during the preliminary rounds. The Teams shall plead as Respondent and as Claimant an equal number of times, and two Teams shall not face each other more than twice.

2. Teams may advance to the Quarter-Finals, Semi-Finals or Finals on the basis of the aggregate scores of its oral advocates, the number of matches its has won, or a match ranking system. The Organizer may also factor memorial scores (on a weighted basis) into a Team's aggregate scores or into each Team's match scores in order to determine the winner of each match.

### **7.13. Quarter-Final and Semi-Final Rounds**

1. The eight teams emerging from the preliminary rounds (according to 7.12) may be paired first v. eighth and second v. seventh, etc.
2. If the pairings do not involve each team pleading both as Claimant and Respondent, the decision as to which Team pleads Claimant or Respondent may be determined by lot.

### **7.14. Final Round**

1. The winning Teams of the Semi-Finals shall advance to the Final Round.
2. If the pairing does not involve each team pleading both Claimant and then Respondent, the decision as to which Team pleads Claimant and which pleads Respondent may be determined by lot.

## **8. PRIZES**

### **8.1. Winner of the Oral Competition**

The winning Team of the Final Round is the winner of the Competition and shall receive the Skadden, Arps, Slate, Meagher & Flom Trophy.

### **8.2. Best Advocate**

The best individual oral advocate of the Oral Hearing shall be determined by adding the [\*normalized\*](#) scores awarded to that oral advocate in the best two Preliminary Rounds in which he/she argued (irrespective of representing Claimant or Respondent). The Best Advocate shall receive the [Thomas Wälde](#) Advocacy Award.

### **8.3. Best Memorial for Claimant**

The Team that received the greatest number of points from the Memorial Judges for its Memorial for Claimant shall receive the Oxford University Press Award for the Best Memorial for Claimant.

### **8.4. Best Memorial for Respondent**

The Team that received the greatest numbers of points from the Memorial Judges for its Memorial for Respondent shall receive the Oxford University Press Award for the Best Memorial for Respondent.

### **8.5. Highest-Ranked Team**

The Team with the highest score resulting from the sum of its normalized scores from the preliminary oral rounds and its Memorial scores shall receive the Highest Ranked Team sponsored by Baker & McKenzie.

### **8.6. Honorable Mention of Advocates**

The first 10 advocates who received the greatest number of points during the Preliminary Rounds shall be Honorably Mentioned at the Closing Ceremony of the Competition.

## **9. PENALTIES**

### **9.1. Imposition of Penalties**

During the Competition, penalties may be imposed by the Organizer, the Memorial Judges, or the Arbitrators, in accordance with paragraphs 9.2 and 9.3.

## **9.2. Penalties for Written and Oral Performances**

1. The Memorial Judges may during the scoring procedure reduce the number of points awarded to a Team's Memorial for violations of Rules 6.1 – 6.7.
2. The Arbitrators scoring the Preliminary Rounds may reduce the number of points awarded to a Team's individual oral advocate for violations of Rules 7.5 and 7.7.
3. The Organizer may reduce the number of points awarded to a Team for violation of Rules 6.1 (1) or 7.8.
4. The size of the penalty (the number of point being deducted) shall correspond to the severity of the violation as adjudged by the Memorial Judges, the Arbitrators, or the Organizer accordingly.
5. In imposition of the penalties, every Team shall be treated equally. The Memorial Judges and the Arbitrators shall be provided with the internal instructions as to the number of points to be deduced for each violation of the present Rules.

## **9.3. Disqualification**

The Organizer shall be authorized to disqualify a Team for serious violations of the Rules that the Organizers deem to be dishonest rather than inadvertent. The decision of the Organizer is final.

## ***10. MISCELLANEOUS***

### **10.1. Communication**

All requests regarding the organization and administration of the Competition shall be directed to the Organizer via e-mail. No Team shall seek direct communication with any member of the College of Arbitrators (who is not registered with the Organizer as a coach of that Team).

### **10.2. Interpretation of Rules**

All requests for the interpretation of the present Rules shall be forwarded to the Organizer. The Organizer shall also annually review and amend the Rules as necessary to correspond to the actual circumstances.

### **10.3. Observance of Rules**

Any Team submitting the Registration Form and transferring the Registration Fee thus agrees to observe the present Rules.

### **10.4. Decisions of Organizer**

Any decision of the Organizer in connection with the organization, execution and administration of the Competition is final and not subject to appeal.