



FDI MEDIATION MOOT



Problem 1 | 2022 Competition



Problem One

Following the issuance of Procedural Order No. 2, Vemma and Mekar (Parties) meet online to discuss the effect of persisting travel restrictions caused by the COVID-19 pandemic on the Main Stage hearing. Their discussion turns to the merits of the dispute and, sensing room for progress, they decide to set a separate date for negotiations. Based on their unsuccessful attempts to amicably settle the dispute in the past, the Parties also agree to mediation of their dispute under the ICSID Mediation Rules using co-mediators (Mediators) selected with the assistance of the ICSID Secretary General. The Parties advise the Tribunal of their plans, and the arbitral proceedings are stayed pending completion of the mediation.

The Parties agree that the mediation will include discussion of the issues identified in section 27 of Procedural Order No. 1 of the 2021 FDI Moot case including, as relevant, whether the tribunal has jurisdiction over the claims, whether Mekar has violated Article 9.9 of the CEPTA, and the appropriate basis for the grant of compensation if Mekar is found to have violated Article 9.9 of the CEPTA. The Parties do not plan to discuss the applications for leave to file *amicus curiae* submissions in the arbitration.

Participants in the mediation will include the Chief Executive Officer and Chief Legal Counsel for Vemma and Lead Investment Treaty Negotiator and Senior Legal Advisor of the Ministry of Justice for Mekar in addition to the Mediators. Each negotiating team has full authority to settle the dispute.

Unless otherwise indicated, abbreviations and defined terms in this problem have the meanings given to them in the 2021 FDI Moot case.