



# FDI MEDIATION MOOT



**Problem 2 | 2022 Competition**



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## Problem Two

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Vemma and Mekar (Parties) are unable to reach an amicable resolution of Vemma's claims in the mediation contemplated in Problem One. Faced with the prospect of resuming the arbitration, the Parties decide to make use of the mediation to try to reach agreement on certain procedural aspects of the arbitral proceedings.

1. The Parties agree to discuss their positions on the applications for leave to file *amicus curiae* submissions in the arbitration including the scope of any submission.
2. The Parties have decided to rely on the testimony of legal experts on the disputed qualification of Vemma as a State-owned or State-controlled enterprise. Vemma prefers to select its own expert and opposes the use of any Tribunal-appointed expert. Mekar prefers a Tribunal-appointed expert or experts with input from the Parties on the selection.
3. Mekar seeks document production in advance of the hearing. It requests that Vemma produce any correspondence between Bonooru agents and Vemma relevant to Bonooru's alleged control of Vemma as well any correspondence between Bonooru agents and Vemma about the Caspian Project. Vemma rejects the requests as untimely, overbroad, and protected by confidentiality.
4. The Parties agree to discuss whether the hearing will be held online in whole or in part. Vemma prefers that the entire hearing be held online in the second half of 2022. Mekar prefers that the hearing be postponed until it can be held entirely in person, which is unlikely to be possible before 2023 owing to the effects of the COVID-19 pandemic.

Participants in the mediation are the same as those identified in Problem One.

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