



FDI MEDIATION MOOT



Rules | 2022 Competition



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DEFINITIONS

“Acting Mediator” means a practicing mediator who co-mediate with student mediators in Sessions of the Moot.

“Acting Team” means a Party Representative and a Legal Counsel from the same Team who compete together in a Session of the Moot.

“Assessor” means a mediator or mediation trainer who scores student performances at the Moot.

“Competition” means the 2022 Foreign Direct Investment Mediation Moot.

“Confidential Information” means factual information about Problems for use by Negotiating Teams but not mediators.

“Elimination Rounds” means the semi-final rounds and the final round of the Moot.

“FDI Moot” means the Foreign Direct Investment International Arbitration Moot.

“FDI Moot Case” means the hypothetical dispute between an investor and a foreign State hosting its investment that serves as the basis for the 2021 FDI Moot.

“General Rounds” means the first two days of the Moot comprising 36 Sessions.

“ICSID” means the International Centre for Settlement of Investment Disputes.

“ICSID Mediation Rules” means the mediation rules published by ICSID accessible on the ICSID website.

“Legal Counsel” means a student from a Negotiation Team who acts as legal advisor to a disputing party in a Session.

“Mediation Room” means a virtual room created for a Session.

“Mediation Plan” means a written submission of a Mediation Team described in Rule 21.

“Mediation Team” means a group of students registered to act as mediators in the Competition.

“Moot” means the Sessions of the Competition that will take place online on 25-27 March 2022.

“Negotiation Plan” means a written submission of a Negotiation Team described in Rule 20.

“Negotiation Team” means a group of students registered to act as Party Representatives and Legal Counsel in the Competition.

“Organizing Committee” means the persons responsible for managing the planning and administration of the Competition.

“Party Representative” means a student from a Negotiation Team who represents a disputing party in a Session.

“Prepared Document” means a document created by a Teams for use during a Session whose contents do not exceed one side of one page of A4 paper.



“Private Room” means a virtual room created in a Session for assessors, co-mediators, or a Negotiating Team.

“Problem” means a written explanations of a hypothetical disputes that Acting Teams will attempt to resolve with the help of the mediators.

“Rules” means these Competition Rules.

“Session” means a round of competition as described in Rule 23.

“Team” means a group of students registered to participate in the Competition.

“Working Papers” means the “ICSID Rules and Regulations Amendment - Working Papers” published on the ICSID website.



ORGANIZATION OF THE COMPETITION

1. Overview of the Competition

- 1.1. The FDI Mediation Moot is a student competition that aims to improve understanding about international investment mediation and build relationships that will serve to develop its practice.
- 1.2. The Competition is based on the FDI Moot Case, which concerns a hypothetical dispute between an investor and a foreign State hosting its investment.
- 1.3. Students are evaluated based on written submissions and an assessment of their performances in the Moot. Twenty-four Negotiation Teams represent disputing parties, normally the claimant investor and the respondent State in the FDI Moot Case, in mediated negotiations at the Moot. Twelve student mediators mediate these negotiations together with Acting Mediators.

2. Administration of the Competition

- 2.1. The Organizing Committee and supporting administrators administer the Competition under these Rules. The Organizing Committee has final authority to implement and interpret the Rules and may take additional measures not proscribed in the Rules for the orderly conduct of the Competition.
- 2.2. All materials prepared for the Competition, including the Problems, are the property of the Organizing Committee and may not be used for any purpose outside of the Competition without the prior written consent of the Organizing Committee.
- 2.3. Sessions of the Moot may be photographed and recorded by the administrators. These records may be used for educational and promotional purposes. Participants and observers may not record any part of Sessions without prior consent of the Organizing Committee.

REGISTRATION

3. Eligibility

- 3.1. Team members must be registered as full-time or part-time students on the dates of the Competition to be eligible to participate. Only law students may act as Legal Counsel.
- 3.2. Students who have practiced as mediators or as lawyers are not eligible to participate. Students who are qualified to practice law in any jurisdiction are not normally eligible to participate. However, students who have qualified to practice law solely by virtue of completing their undergraduate law studies without a further qualifying examination and who have not practiced as lawyers are eligible to participate.

4. Team Composition

- 4.1. Teams may comprise students and coaches from the same or different institutions.

- 4.2. There is no limit to the number of members of a Team provided that all members are affiliated with the same institution. A Team with members from more than one institution is limited to five members whether students or coaches.
- 4.3. A single institution may enter more than one Team in the Competition. In this case, each Team affiliated with the institution must work independently, and Team members must remain with the same Team throughout the Competition.

5. Registration

- 5.1. The registration period is from 1 July 2021 to 15 January 2022 or until the planned number of Teams has been registered. Teams may register on the FDI Mediation Moot website.
- 5.2. Registration for Negotiation Teams and Mediation Teams is separate. An institution may register either a Negotiation Team or a Mediation Team or both. Where an institution wishes to register both a Negotiation Team and a Mediation Team, two registration forms must be completed, and the registration fee must be paid by each Team.
- 5.3. Registration is complete once the registration form has been received and the registration fee has been paid. A Team will not be registered based on receipt of the registration form alone.

6. Registration Fee

- 6.1. The registration fee is based on categorization in United Nations Development Programme Human Development Index scaled from a base fee of €50. The fee is €550 for very high, €350 for high, €150 for medium, and €50 for low designations of the countries of origin of the Teams.
- 6.2. If a Team withdraws from the Competition before the first deadline for submitting requests for clarification, its registration fee may be refunded in full less bank charges and related expenses.

PROCEDURAL TERMS OF REFERENCE

7. Language

- 7.1. The Competition is conducted in English.

8. Substantive Laws

- 8.1. The applicable substantive laws of the Competition are those which apply by the terms of the FDI Moot Case.

9. Arbitration Laws and Rules of Arbitral Procedure

- 9.1. The applicable arbitration laws and rules of arbitral procedure of the Competition are those which apply by the terms of the FDI Moot Case.

10. Mediation Laws

- 10.1. The law at the place of mediation is the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018) unless provided otherwise. Article 7 subsection 4 of this law does not apply in the Competition.
- 10.2. Each jurisdiction relevant to the Competition has adopted the United Nations Convention on International Settlement Agreements Resulting from Mediation (2018) unless provided otherwise.

11. Mediation Rules of Procedure

- 11.1. The ICSID Mediation Rules apply in the Competition unless provided otherwise. If the ICSID Mediation Rules have not been adopted by the deadline for submitting Negotiation Plans and Mediation Plans, the applicable rules are the ICSID Mediation Rules available in the last Working Paper published by ICSID. Submission deadlines are indicated on the registration page of the Competition website.
- 11.2. The Rules apply where they conflict with the ICSID Mediation Rules.

PARTICIPANTS

12. Negotiation Teams

- 12.1. Negotiation Teams represent disputing parties in the Problems. During Sessions, Acting Teams from two Negotiation Teams compete. Each Acting Team comprises one Party Representative and one Legal Counsel.
- 12.2. Teams may freely decide which students will compete in any Session.

13. Mediation Teams

- 13.1. Mediation Teams comprise student mediators. One student mediator will co-mediate with an Acting Mediator during each Session of the General Rounds and the semi-final rounds of the Moot.
- 13.2. Teams may freely decide which student mediator will compete in any Session.

14. Coaches

- 14.1. Coaches advise and assist Teams in planning and preparing for the Competition.
- 14.2. Coaches cannot be members of more than one Team and may not serve as Acting Mediators or Assessors in the Moot.

15. Acting Mediators

- 15.1. Acting Mediators co-mediate with student mediators in each Session of the General Rounds and the semi-final rounds of the Moot and provide oral feedback to Acting Teams after each Session. The Organizing Committee will assign Acting Mediators to



Sessions. Acting Mediators also participate in the FDI Mediation Moot Mentoring Program as provided in Rule 37.

- 15.2. Trained and experienced mediators are invited to apply to participate in the Moot as Acting Mediators. Application information will be published on the Competition website.

16. Assessors

- 16.1. Two Assessors are assigned to each Session. Assessors score the Acting Teams and provide feedback about Team performances after the Sessions. The Organizing Committee will assign Assessors to Sessions. Assessors also participate in the FDI Mediation Moot Mentoring Program as provided in Rule 37.
- 16.2. Trained and experienced mediators and mediation trainers are invited to apply to participate in the Moot as Assessors. Application information will be published on the Competition website.

COMPETITION PROBLEMS

17. Problems

- 17.1. The Problems concern disagreements that arise at various stages of the evolution of the investment dispute in the FDI Moot Case. Each Problem provides background information about the dispute and an overview of the perspectives of each disputing party.
- 17.2. The Moot uses four different Problems: one Problem for each day of the General Rounds, one Problem for the semi-final rounds, and one Problem for the final round.
- 17.3. The Problems for all rounds are provided to Negotiation Teams, Mediation Teams, and Assessors prior to the Moot. Registered Teams may request clarifications of the Problems according to the instructions on the FDI Mediation Moot website.

18. Confidential Information

- 18.1. Each Competition Problem is supplemented with Confidential Information for Negotiation Teams and Assessors. Confidential Information is meant to assist the Negotiation Teams to better understand the interests of the parties that they represent and any constraints that the parties are under in the scenario for each Problem.
- 18.2. Confidential information is provided to Negotiation Teams and Assessors at least one hour prior to the Sessions in which they participate. Confidential information must not be disclosed in any way by anyone who receives it. Negotiation Teams may discuss Confidential Information only amongst themselves.

19. Reasonable Inferences

- 19.1. At the Moot and in written submissions, Negotiation Teams may make statements that can be reasonably inferred from the facts in the Problems or the Confidential Information. Negotiation Teams may not introduce new or different facts.

WRITTEN SUBMISSIONS

20. Negotiation Plans

- 20.1. Negotiation Plans are written submissions prepared by Negotiation Teams for each Session of the General Rounds. They are meant to provide assessments of the Problems and identify the Teams' negotiation strategies. Negotiation Teams will submit Negotiation Plans for each disputing party for Problem One and Problem Two.
- 20.2. Negotiation Plans normally identify the disputing parties' positions and perceived interests, their perceived strengths and weakness in the dispute, and their best and worst alternatives to settlement. The Problems and the FDI Moot Case serve as resources for drafting the Negotiation Plans.
- 20.3. Additional information about preparing and submitting Negotiation Plans will be available to Teams. Negotiation Plans will be scored at the Moot as provided in Rule 26.

21. Mediation Plans

- 21.1. Mediation Plans are written submissions prepared by Mediation Teams for each Session of the General Rounds. They are meant to provide assessments of the Problems and identify the Teams' mediation strategies. Mediation Teams will submit a Mediation Plan for Problem One and Problem Two.
- 21.2. Mediation Plans normally include the student mediators' perceptions about the parties' positions and interests, their strengths and weakness in the dispute, and their best and worst alternatives to settlement. The Problems and the FDI Moot Case serve as resources for drafting the Mediation Plans.
- 21.3. Additional information about preparing and submitting Mediation Plans will be available to Teams. Mediation Plans will be scored at the Moot as provided in Rule 26.

THE MOOT

22. Overview

- 22.1. The Moot will be held online from Friday, 25 March to Sunday, 27 March 2022. The Moot comprises two days of General Rounds and one day of Elimination Rounds of competition.
- 22.2. The General Rounds will take place on 25-26 March 2022. Each day of the General Rounds comprises three rounds of six simultaneous Sessions. Each Negotiation

Team and Mediation Team accordingly competes in three Sessions during the General Rounds. Two Assessors score each Session.

- 22.3. The Elimination Rounds will take place on 27 March 2022. Four Negotiation Teams and two Mediation Teams will advance from the General Rounds to the semi-final rounds based on their cumulative scores in the General Rounds. Two Assessors score each semi-final round. Two Negotiation Teams will advance to the final round based on their scores in semi-final rounds. Two Assessors score the final round.
- 22.4. Student Mediators act in co-mediation with Acting Mediators during the General Rounds and the semi-final rounds. The final round is mediated by a practicing mediator.
- 22.5. In advance of the Competition, the Organizing Committee will randomly assign to the Negotiation Teams the disputing parties that they will represent in each Session of the General Rounds. Effort will be made to ensure that Negotiation Teams do not compete against each other more than once during the General Rounds.

23. Sessions

- 23.1. Mediations take place in Mediation Rooms created for each Session. The assessors, co-mediators, and Negotiating Teams have access to associated Private Rooms. Participants in Sessions can move between rooms independently or request to be moved by Session administrators.
- 23.2. Acting participants must turn their cameras on during Sessions. They should ensure that there are no environmental distractions in their joining spaces including background noise and interruptions. Observers must turn their cameras and audio feeds off during Sessions.
- 23.3. Sessions comprise preparations, mediated negotiations, scoring, and feedback. Sessions in the General Rounds and semi-final rounds will last a maximum of 150 minutes and comprise the following phases:

Duration	Phase
20 minutes (simultaneous)	Co-Mediator Conference
	Scoring of the Negotiation and Mediation Plans by Assessors
90 minutes	Mediation (including private meetings and breaks)
10 minutes	Scoring of the Mediation
30 minutes	Session Feedback

- 23.4. The final round comprises only the mediation phase described above.
- 23.5. One or two administrators attend each Session. The administrators manage logistical and technical aspects of the Competition and are responsible for timekeeping.

24. Observers

- 24.1. Team members and coaches may observe any Session in which other members of their Team compete.
- 24.2. Team members and coaches may not observe Sessions in which their Team is not competing during the General Rounds. However, they may observe any Sessions of the Elimination Rounds.
- 24.3. Assessors and Acting Mediators may observe any Session.
- 24.4. Persons who are not Team members, coaches, Assessors, Acting Mediators, or administrators are prohibited from observing Sessions of the General Rounds or the semi-final rounds without the prior consent of the Organizing Committee. The final round will be open to the public. The semi-final rounds and final round will be broadcast live online.

25. Co-Mediator Conference

- 25.1. Before each Session in the general and semi-final rounds, the acting student mediator and Acting Mediator meet to discuss their mediation strategy and how they will share responsibilities in co-mediation.
- 25.2. The mediators have twenty minutes for their discussion, which will take place in the Private Room assigned to the mediators for the Session.

26. Scoring of Negotiation and Mediation Plans

- 26.1. Before each Session of the General Rounds, the Assessors score the Negotiation Plans and Mediation Plans of the competing Teams. The plans are assessed based on criteria identified in the scoresheets and scoring guidelines provided to the Assessors before the Moot.
- 26.2. No written plans are submitted for the semi-final rounds or the final round.
- 26.3. Negotiation Teams and Mediation Teams are not constrained in the Moot by their written submissions. They may adopt different strategies and change their interpretations of the Problems.

27. Mediations

- 27.1. Mediations normally include opening speeches by each Negotiation Team, an identification of the issues to discuss, mediated negotiations, and possibly private meetings with the mediators.

28. Private Meetings

- 28.1. A private meeting or caucus is a confidential meeting between mediators and a limited number of Team members. Private meetings may be held between co-mediators and one Negotiation Team or between co-mediators and one member of each Negotiation Team. Both co-mediators must be present in any private meeting.
- 28.2. Negotiation Teams may initiate a private meeting, for instance, to share information with the mediators that might be relevant to the progress of a mediation. Mediators may initiate a private meeting with a Negotiation Team, for instance, to discuss how to effectively communicate information or offers to the other Team.
- 28.3. Negotiation Teams and mediators may initiate one or more private meetings in a Session. Each private meeting will last no longer than seven minutes. Teams will be scored on the appropriateness of their use of private meetings. Points will not be deducted if a Team does not initiate any private meeting.
- 28.4. Private meetings are held in the Mediation Room created for the Session. Where a private meeting is held with one Negotiating Team, the non-participating Team will move to their Private Room for the duration of the meeting. Where a private meeting is held with one member of each Negotiation Team, for instance Legal Counsel for each Team, the non-participating Team members will ensure that they cannot hear the meeting. This may require the non-participating members to physically move from the joining space if Teams are at the same physical location. Observers including coaches will remain in the Mediation Room during private meetings.

29. Breaks

- 29.1. Each Negotiation Team may take one break of up to three minutes in a Session. Breaks may be useful, for instance, where the members of a Negotiation Team wish to privately discuss an offer or their negotiation strategy. Negotiation Teams may remain in the Mediation Room or use their Private Room for this purpose.
- 29.2. Mediators should take one break of up to 10 minutes 45 to 60 minutes after the Session begins. The break is intended to give the mediators an opportunity to discuss the progress of the mediation and to revise their strategy as needed. Mediators should take their break in the Mediation Room in view of the observers for educational purposes. Acting Teams will move to their Private Rooms during the break.

30. Material Support

- 30.1. Teams may use electronic devices during the Sessions including smartphones. However, members of Acting Teams may only communicate with each other and may not communicate with anyone else including coaches and non-participating Team members.
- 30.2. Mediators and Acting Teams have the ability to project their screens and to use a virtual whiteboard.



- 30.3. Teams may project the FDI Moot Case problem and the FDI Mediation Moot Problems. In addition, each Acting Team may project one Prepared Document. Prepared Documents may be, for instance, graphical diagrams, charts, or drawings meant to improve understanding of information relevant to negotiations. If a Prepared Document is used by a Negotiating Team in a private meeting, the document does not need to be shared with the other Negotiating Team.
- 30.4. Apart from the FDI Moot Case problem, the FDI Mediation Moot Problems, and Prepared Documents, Negotiating Teams may not share any other documents in a Session.

31. Team Support

- 31.1. Coaches may assist their Teams in planning and preparing for the Competition including between Sessions. No person including coaches may advise or communicate with Acting Teams during Sessions.

32. Scoring

- 32.1. Two Assessors score the performances of Acting Teams in each Session. Scores are used to determine advancement through the Competition and the awarding of prizes. The Organizing Committee will try to avoid pairing the same Assessors with the same Teams more than once during the General Rounds.
- 32.2. Student performances are assessed using criteria identified in the scoresheets and scoring guidelines provided to the Assessors before the Moot. Teams will not be awarded points on the basis that they resolved the dispute that is the subject of the Session.
- 32.3. The Administrators have discretion to interpret and correct scoresheets, including mistakes and miscalculations on scoresheets, without consulting the related Assessors. However, if an interpretation or correction changes the outcome of a Session, the administrators will consult the relevant Assessors before making any change.

33. Team Feedback

- 33.1. Feedback is an essential part of the Competition that aims to improve student performance and encourage their personal and professional development. Assessors and Acting Mediators provide feedback to students about their performances in each Session of the Competition.
- 33.2. Feedback is given based on feedback guidelines provided to Assessors and Acting Mediators before the Moot. The Assessors and Acting Mediators may each provide feedback for up to ten minutes of the allotted thirty minutes for each Session. Feedback should not reveal the scores given to the Acting Teams.



Assessors should advise Acting Teams during the feedback if penalties will be imposed against them. Penalties are identified on the scoresheets and include, for example, introducing facts not in a Problem.

34. Competition Feedback

- 34.1. Complaints and comments may be communicated to mediation@fdimoot.org at any time. During the Moot, feedback may be given to the Organizing Committee or Competition administrators. Feedback may also be given on the feedback forms circulated at the end of each Session.

VIOLATION OF THE RULES

35. Sanctions

- 35.1. Violation of the Rules may result in deductions from Team scores or in Team disqualifications. Serious violations may result in the exclusion of an institution from future FDI Mediation Moot competitions.
- 35.2. Sanctions are determined by the Organizing Committee and are final. Reasons for any sanction will be given to the sanctioned Team.

STUDENT RECOGNITION AND PROFESSIONAL DEVELOPMENT

36. Prizes

- 36.1. The Negotiation Team that wins the final round will receive the FDI Mediation Moot Negotiation Trophy. A prize will be awarded to the other Negotiation Team competing in the final round.
- 36.2. The Mediation Team that wins the semi-final round will receive the FDI Mediation Moot Mediation Trophy. A prize will be awarded to the other Mediation Team competing in the semi-final round.
- 36.3. Special prizes will be awarded for Team performances in the General Rounds including in the following categories:

Negotiation Teams

- Best Negotiation Plan
- Best Advocacy
- Best Teamwork
- Creative Solution Award

Mediation Teams

- Best Mediation Plan
- Best Management
- Best Co-Mediation Teamwork
- Creative Solution Award



36.4. All competing Teams will receive certificates of participation.

37. FDI Mediation Moot Mentoring Program

- 37.1. Students who compete in the Moot are eligible to participate in the FDI Mediation Moot Mentoring Program. Team members who attend the Moot but who do not compete will not be assigned mentors but may benefit from advice given to their teammates.
- 37.2. In order to participate, students must submit self-reflection papers within two weeks of the close of the Competition. Details about the contents of the papers will be provided to competing Teams. The papers will be reviewed by mentors chosen by the Organizing Committee.
- 37.3. A meeting in person or online between the participating students and their mentors will be scheduled within one month of receipt of the papers. The purpose of the meeting is to discuss the students' professional development and career planning. Where a meeting is not possible, students and mentors may correspond by other means. Students and their mentors are encouraged to schedule a second meeting to take place within six months of the first meeting.