

# 2024 CI Arb Australia Vis Pre-Moot

## Pre-Moot Guide

**ciarb.**  
Australia Branch

Young Members Group

**C L I F F O R D**  
**C H A N C E**



HERBERT  
SMITH  
FREEHILLS

Revision 0 – 7 February 2024

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## **Revisions**

A	Stakeholder exposure draft	1 February 2024
0	Initial publication	7 February 2024

## **1. Introduction**

### **1.1. The Pre-Moot**

- 1.1.1. The 2024 Chartered Institute of Arbitrators (**CIArb**) Australia Vis Pre-Moot will be held in Sydney on 19-20 February 2024. The Pre-Moot is organised by the CIArb Young Members Group (**YMG**), and co-hosted with Clifford Chance and Herbert Smith Freehills.
- 1.1.2. This Pre-Moot Guide contains information about the event for teams, arbitrators, and other stakeholders. It incorporates the Pre-Moot Supplementary Rules, which provide additional guidance on the structure and format of the Pre-Moot (Appendix B).
- 1.1.3. The Pre-Moot is open to all teams participating in the Willem C Vis International Commercial Arbitration Moot (**Vis Moot**) in Vienna, or the Vis East Moot (**Vis East**) in Hong Kong.

### **1.2. Event Format**

- 1.2.1. The Pre-Moot uses the moot problem of the Vis Moot and Vis East. It is one of many pre-moot evenCOBts held in the lead-up to the Vis Moot each year. The Pre-Moot is the only event of a similar scale in Australia and Oceania.
- 1.2.2. The Pre-Moot will be held across two full days, and will involve:
  - (a) 6 general rounds (day 1 and day 2);
  - (b) semi final and grand final rounds (day 2);
  - (c) a seminar/workshop (day 1);
  - (d) a drinks reception (day 1) and closing reception (day 2), to which all students, arbitrators, and representatives of hosts and sponsors will be invited.

## **2. General event information**

### **2.1. Venues**

- 2.1.1. The Pre-Moot will be held at the Sydney offices of:
  - (a) Clifford Chance, Level 24, Brookfield Place, 10 Carrington St, Sydney; and
  - (b) Herbert Smith Freehills, at 161 Castlereagh St, Sydney NSW 2000.

## **2.2. Schedule**

Deadlines and event schedule are subject to change. Any changes will be notified via email.

### **Monday 19 February 2024 (Venue: Clifford Chance)**

<b>Start</b>	<b>Finish</b>	<b>Event</b>
9:30am	10:00am	Registration and briefings
10:00am	11:30am	Round 1
11:30am	1:00pm	Round 2
1:00pm	2:00pm	Lunch
2:15pm	3:45pm	Round 3
3:45pm	5:15pm	Round 4
5:15pm	5:45pm	Refreshments
5:45pm	6:45pm	Seminar/workshop
6:45pm	8:00pm	Drinks reception

### **Tuesday 20 February 2024 (Venue: Herbert Smith Freehills)**

<b>Start</b>	<b>Finish</b>	<b>Event</b>
9:30am	11:00am	Round 5
11:00am	12:30pm	Round 6
12:45pm	1:30pm	Lunch
1:30pm		Announcement of finalists
2:00pm	3:30pm	Semi-Final Rounds
4:00pm	5:30pm	Grand Final Round
5:30pm	7:00pm	Closing reception

## **2.3. Prize and scoring**

2.3.1. Following the Pre-Moot, teams will be informed of each speaker's scores from each arbitrator in each round. Individual scores will be anonymous.

## **2.4. Social and educational activities**

### **Luncheons**

2.4.1. Lunch for teams and arbitrators will be generously provided by the hosting firms on both days of the Pre-Moot. Please let us know of any dietary requirements.

2.4.2. Teams and arbitrators participating in a round immediately prior to lunch should attend lunch at the same venue. Others may attend the luncheon at the venue of their next scheduled round.

### **Seminar**

2.4.1. In the evening of day 1, teams and arbitrators are invited to enjoy drinks and canapes, which will take place after an informal panel discussion workshop, focusing on mooting and advocacy technique. This will be an interactive discussion with participation from both panellists, teams, and arbitrators.

### **Closing reception**

2.4.1. A closing reception will be held immediately after the Grand Final round. Drinks and canapés will be served.

2.4.2. All participating teams, their supporters, arbitrators, and spectators are welcome to attend the grand final and closing reception. Attendees other than students and coaches of participating teams should register via email to [premoot@ciarb.net.au](mailto:premoot@ciarb.net.au).

## **2.5. Organisers, communications, and contact details**

2.5.1. The Pre-Moot organisers communicate with teams and arbitrators primarily by email. Please add [premoot@ciarb.net.au](mailto:premoot@ciarb.net.au) to your address book to avoid spam filtering.

## **3. Event day logistics**

3.1.1. On day 1, teams should arrive at the venue at the time scheduled for registration and briefings.

3.1.2. Teams and arbitrators are otherwise asked to please arrive at the venue 15 minutes before each of their scheduled rounds.

3.1.3. Upon arrival, please check in at the hosting firm's reception, where you can collect a name tag, and check your allocated hearing rooms.

3.1.4. For urgent matters on the days of the Pre Moot (eg late arrival), please contact:

CC Rounds	Kristian Maley	0438 438 180 <a href="mailto:premoot@ciarb.net.au">premoot@ciarb.net.au</a>
	Micha Schwartzshtein	0400 083 315 <a href="mailto:Micha.Schwartzshtein@cliffordchance.com">Micha.Schwartzshtein@cliffordchance.com</a>
HSF rounds	Guillermo Garcia-Perrote	<a href="mailto:Guillermo.Garcia-Perrote@hsf.com">Guillermo.Garcia-Perrote@hsf.com</a>
	Lauren Kelly	+61 2 9225 5211 <a href="mailto:Lauren.Kelly@hsf.com">Lauren.Kelly@hsf.com</a>

## **4. Information for teams**

### **4.1. Registration**

4.1.1. Teams should register via the Pre-Moot website. After registering, the organisers will confirm the team's registration by email.

### **4.2. Team schedules and draw**

4.2.1. Teams' schedules and draw will be published on 9 February 2024. Each team will be scheduled for five or six general rounds. Teams may be scheduled against the same team, and/or the same arbitrator, in more than one round. This is minimised but sometimes unavoidable.

4.2.2. The general rounds are held across two venues (the Sydney offices of Clifford Chance and Herbert Smith Freehills). The schedule has been prepared to minimise the need for teams to move between venues, and allow enough time for them to do so. Please be sure to check the venue for each of your team's rounds.

### **4.3. Student Affiliate membership of CIArb**

4.3.1. Participating students are required to join CIArb as a Student Affiliate member prior to the Vis Pre-Moot. This student membership is free of charge. Details of student membership and the online application form are available at [www.ciarb.org/membership/membership-types/student/](http://www.ciarb.org/membership/membership-types/student/).

### **4.4. Team draw and schedule for the Vis Moot and Vis East Moot**

4.4.1. Please inform us as soon as possible if your team is scheduled to argue against any other Australian team in the general rounds of the Vis Moot or the Vis East. In that case, we will not schedule any rounds between those teams in the Pre-Moot.

4.4.2. This is to allow compliance with Paragraph 88 of the Vis Moot Rules, which prohibits teams (and their friends and relatives) from attending arguments of other teams against which they are scheduled to argue at the Vis Moot or Vis East. The rule applies to pre-moots and other practice moots. Coaches are asked to be mindful of this rule, and let the Pre-Moot organisers know immediately if any situation arises which might pose difficulty to administration of the Pre-Moot.

### **4.5. Coaches**

4.5.1. If you will be attending the Pre-Moot as a coach, it would assist the organisers if you could register as an arbitrator, or alternatively be available as a standby arbitrator. We will not schedule standby arbitrators for any rounds, but we may ask you to step in if a scheduled arbitrator is unavailable on short notice.

4.5.2. We understand that coaches may need to attend their own team's rounds, especially at this stage of preparation for the Vis Moot, and may therefore be unavailable.

#### **4.6. Catering**

4.6.1. We assume that all registered team members and coaches will attend the luncheon and evening function on each day of the Pre-Moot. Please let us know if any of them *do not* plan to attend. Other attendees will be asked to register separately closer to the event.

### **5. Information for arbitrators**

#### **5.1. Registration and availability**

5.1.1. This section sets out practical information for arbitrators for the Pre-Moot. It should be read with the Pre-Moot Supplementary Rules (Appendix B). For general background to the Pre Moot, see also the general information for arbitrators (5.5.2 below).

5.1.2. To participate as an arbitrator, please register via the Pre-Moot website. There is no specific deadline for registration as an arbitrator, however we appreciate if arbitrators register as early as possible to assist with planning and preparation of the draw.

5.1.3. When registering, you are asked to confirm the times at which you will be available to serve as arbitrator, and the number of rounds for which you are willing to serve.

5.1.4. If arbitrators are unexpectedly unavailable for a scheduled round on short notice, we appreciate if they would consider nominating a colleague or associate to take their place.

5.1.5. The registration form asks about any experience you may have in relation to arbitration or the Vis Moot. This is to help ensure that each panel includes arbitrators with suitable knowledge and experience. It is not a prerequisite for each arbitrator to have such knowledge and experience.

5.1.6. We will contact you in due course to confirm the rounds which you have been allocated (if any), and ask you to reconfirm your availability for those rounds.

#### **5.2. Arbitrator schedule**

5.2.1. A panel of three arbitrators has been allocated to each round of the Pre-Moot, in line with the format of the Vis Moot and Vis East.

5.2.2. The arbitrator schedule is published on the Pre-Moot website, and registered arbitrators are notified by email. Arbitrators will be asked to confirm their attendance at their scheduled rounds.

5.2.3. We aim to minimise any changes to arbitrators scheduled rounds, however it is generally necessary to revise the arbitrator schedule one or more times before the Pre-Moot. Arbitrators will be notified of any revised arbitrator schedule by email. We will ask that arbitrators (re-)confirm their attendance, taking account of any changes affecting them.

### **5.3. CPD points for legal practitioners**

5.3.1. Legal practitioners may claim CPD points for participating as arbitrator in compliance with the professional rules applicable to them. Additional requirements apply for practitioners certified in Western Australia. Please contact us for further information.

### **5.4. During and following the round**

5.4.1. Arbitrators are asked to begin the round promptly at the scheduled time. If arbitrators are unable to begin the round within 5 minutes of the scheduled time, please inform the Pre-Moot coordinators at the venue.

5.4.2. Following the round, completed score sheets must be returned to the Pre-Moot coordinators at the venue.

5.4.3. Where arbitrators are scheduled for consecutive rounds, there is no need to check in again for subsequent round(s) on the same day.

### **5.5. Standby arbitrators**

5.5.1. Arbitrators may be scheduled as a standby for a round. In that case, we ask that arbitrators either:

- (a) attend the Pre-Moot venue at the scheduled start time of the round; or
- (b) be available to attend there with 15 minutes' notice.

5.5.2. If the arbitrator will not be at the venue at the scheduled start time, we ask that they be contactable on the mobile number provided upon registration.

### **5.6. Coaches as arbitrators**

5.6.1. Coaches are also eligible to and encouraged to participate as arbitrators.

5.6.2. When registering, coaches are asked to note any affiliations with any participating universities, to ensure the neutrality of arbitrators.



## Appendix A: Guide to the Vis Moot for arbitrators

### A.1. General

A.1.1. This section provides an overview of the procedure and practice of the Willem C Vis Moot as applicable to the Pre-Moot. It will be particularly relevant to arbitrators with no or limited previous experience with the Vis Moot. Some parts of this briefing note are extracted from the Vis Moot rules. For more information about the Willem C Vis Moot, please see the following resources:

- (a) [The Vis Moot website](#)
- (b) [A Guide to the Willem C Vis International Commercial Arbitration Moot](#)

### A.2. Arbitrators' role

A.2.1. Each round of the Pre-Moot comprises a simulated arbitration hearing. Two speakers for each team appear before a panel of three arbitrators. The arbitrators' role is as follows:

- (a) Ahead of the Pre-Moot, review and consider the moot problem. A briefing pack containing the problem and other relevant materials is available from the Pre-Moot website.
- (b) During the Pre-Moot round, act as an arbitrator would in a real arbitration, e.g., by asking questions of speakers.
- (c) At the conclusion of the round, provide any feedback to teams.
- (d) Allocate a numerical score for each speaker.

A.2.2. Hard copies of the briefing materials will be available for arbitrators on the day of the Pre-Moot.

A.2.3. Each round is scheduled to run for 90 minutes. Arbitrators should expect to attend for up to 90 minutes for each round (allowing 15 minutes before and after the round for registration and feedback, respectively).

### A.3. Materials for arbitrators

A.3.1. Arbitrators should review the following materials before the Pre Moot:

- (a) This Pre-Moot Guide.
- (b) The official Analysis of the Problem for use of the Arbitrators. This is published by the organisers of the Vis Moot, and provides an overview of the moot problem and key issues.
- (c) The Vis Moot problem, including Procedural Order 2 (which comprises answers to students' requests for clarification).

A.3.2. Arbitrators may also wish to consider the following materials:

- (a) The arbitration rules referred to in the moot problem (which differs for each year of the Vis Moot).
- (b) The United Nations Model Law on International Commercial Arbitration with 2006 amendments.
- (c) The United Nations Convention on Contracts for the International Sale of Goods.
- (d) The Vis Moot Rules.
- (e) The above materials are linked on the Pre Moot website.
- (f) The Pre-Moot Score Sheets is included as Appendix C, and includes guidance for arbitrators on scoring. Arbitrators may wish to review the form of score sheet prior to the Pre-Moot.

#### **A.4. General Format of the Pre-Moot**

A.4.1. Each team has two members in each round, judged by a panel of three arbitrators. The students will sit at tables facing on another with a “head” table of the arbitrators.

A.4.2. Each team has 30 minutes to present their argument, including questions from the panel, but this time may be extended to up to 45 minutes as permitted by the tribunal.

#### **A.5. Order of presentation**

A.5.1. Some panels of arbitrators will ask one team to present its argument on all of the issues before the other team is permitted to present its argument. Other panels of arbitrators will ask both teams to argue one issue first before they both argue in respect of a second issue.

A.5.2. Normally the party who has raised the issue will argue first. Therefore, normally the claimant would argue first, if it is to present its arguments on all of the issues before the respondent is permitted to argue. However, if the respondent has raised an objection to the jurisdiction of the Arbitral Tribunal or other such defence, the panel would normally ask it to present its arguments on that issue before the claimant responds to it.

A.5.3. The arbitrators will decide whether rebuttal arguments will be permitted. Whether or not rebuttal will be allowed can be expected to change from one argument to the next.

A.5.4. At the conclusion of the arguments, arbitrators are asked to provide any comments and feedback to teams, if time permits. If the round has run over time the arbitrators may need to abridge or omit their comments.

## **A.6. Scoring**

- A.6.1. Each arbitrator will score each of the oralists on a scale of 50 to 100. The scores of the two oralists will be added to constitute the team score for that argument.
- A.6.2. The arbitrators should confer before finalising their scores, especially where they diverge materially. Following the oral arguments, arbitrators may request teams and observers to vacate the hearing room to allow conferral.
- A.6.3. Arbitrators should not disclose teams' scores after the round. The organisers will collate teams' scores from each round and circulate them to teams following the Pre-Moot.
- A.6.4. The oral argument hearings of the Vis Moot and Vis East are held during the two weeks prior to Easter. During the CI Arb Australia Pre-Moot, teams will be at a relatively early stage of preparation for oral arguments in Vienna or Hong Kong.
- A.6.5. You may wish to view a video of a Grand Final round of a previous Vis Moot (for example, the [2018 Vis East](#), or [2016 Vis Moot](#)).

## **A.7. Procedural matters**

### **Time**

- A.7.1. Arbitrators should ensure that teams do not exceed their permitted time (namely 30 minutes, or up to 45 if extended by the tribunal), and that teams are treated fairly as to timing.
- A.7.2. To this end, we recommend that one arbitrator in each round time each team's presentations, and inform the co-arbitrators and teams when a team approaches or exceeds its allocated time.

### **How should the arbitrators be addressed?**

- A.7.3. Arbitrators in the Vis Moot and in real arbitrations are normally lawyers or law professors and they should be addressed as one would address such persons. Most importantly, arbitrators are not judges and honorific titles that might be appropriate with a judge are seldom appropriate with an arbitrator.

### **Do the participants stand or sit when presenting their arguments?**

- A.7.4. Everyone is seated. The student participants and the arbitrators are seated at tables arranged in a U formation with the arbitrators in the middle, and the advocates on the two sides.

## **A.8. Questions by Arbitrators**

- A.8.1. The arbitrators are requested to act during the oral hearings the way they would in a real arbitration taking into account that this is an educational exercise.

- A.8.2. There are significant differences in style dependent both on individual personalities and on perceptions of the role of an arbitrator (or judge) in oral argument.
- A.8.3. Some arbitrators, or arbitral tribunals, may interrupt a presentation with persistent or even aggressive questioning.
- A.8.4. Other arbitrators, or arbitral tribunals, may listen to an entire argument without asking any questions. Therefore, teams should be prepared for both styles of oral presentation.
- A.8.5. Arbitrators who come from different legal systems tend to have different expectations.
- A.8.6. Those who come from a civil law background tend to ask fewer questions and to ask those questions at the end of a presentation by the advocate.
- A.8.7. Those who come from a common law background tend to ask questions from the beginning and sometimes do not allow the advocate to make a systematic argument at all. Whenever possible the panels of three arbitrators for each argument are composed of lawyers/law professors from both backgrounds.
- A.8.8. As a consequence, advocates must be prepared both to present a coherent reasoned argument without interruption and to have the entire period occupied by questions – or something in between.

## Appendix B: Pre-Moot Supplementary Rules

### B.1. Purpose and scope

- B.1.1. The CIArb Australia Vis Pre-Moot (**Pre-Moot**) is generally conducted in accordance with the rules of the Willem C Vis Moot.
- B.1.2. These supplementary rules provide additional and more specific rules applicable only to the Pre-Moot. These supplementary rules prevail over the Willem C Vis Moot rules to the extent of any inconsistency.

### B.2. Arbitrator Schedule and Conflicts

- B.2.1. Arbitrators must inform the organisers of any affiliations or relationships with (a) any Australian law school which is or might be participating in the Vis Moot or Vis East, or (b) the members or coach of a team from any such law school.
- B.2.2. An arbitrator must not begin or continue hearing a Pre-Moot round if the arbitrator has such an affiliation or relationship with either team.
- B.2.3. The organisers use best endeavours to avoid scheduling a round where such conflict would exist.
- B.2.4. Any issue or concern that an arbitrator may have such an affiliation or relationship should be raised with the organisers. The YMG Australia Chair will make a final and binding decision about the matter.

### B.3. Arbitrator

- B.3.1. If three arbitrators are not present at the time a round is scheduled to commence:
  - (a) the organisers will endeavour to arrange an alternative arbitrator; and
  - (b) the YMG Australia Chair may decide that the round will proceed with two arbitrators, in which case the absent third arbitrator's scores are deemed to be the average of the two remaining arbitrator's scores.

### B.4. Scoring

- B.4.1. During the general rounds, arbitrators will score teams in accordance with the usual Vis Moot criteria. Arbitrators are asked to provide feedback, but not disclose scores to the teams, nor which team had the greater total score.
- B.4.2. Individual speaker scores for each round and arbitrator (but not identifying individual arbitrators) will be provided to teams after the Pre-Moot.

## **B.5. Final Rounds**

- B.5.1. **Progression to Semi-Finals:** The four teams with the highest aggregate score across all general rounds will progress to the semi-final round. The semi-final draw will be determined by score ranking: 1 versus 4 and 3 versus 2.
- B.5.2. **Announcement of Semi-Finalists:** The semi-finalist teams, draw, and claimant/respondent allocation will be announced during the luncheon break on day 2 of the Pre-Moot, simultaneously at both hosting firm's offices.
- B.5.3. **Prevailing team:** At the conclusion of each final round (semi-finals and Grand Final), the arbitrators will announce the winning team and, time permitting, provide any comments and feedback. Scores will not be recorded or announced by arbitrators. The arbitrators may score teams for their own purposes to assist in determining the winning team.
- B.5.4. **Grand Final allocation:** Immediately following the conclusion of the semi-final rounds, the organisers will randomly allocate the grand final teams as claimant and respondent.

## **B.6. Observing other rounds and teams**

- B.6.1. **General rule:** At the Pre-Moot:
- (a) teams and their friends and associates should not observe any other team which they are scheduled to argue against in subsequent rounds of the Pre-Moot, or at the Vis or Vis East moots; and
  - (b) the Pre-Moot rounds are otherwise open to spectators, subject to venue capacity.
- B.6.2. **Disclosure:** During the general rounds, spectators who are affiliated or associated with a team that is not participating in the round should inform both teams of their affiliation.
- B.6.3. **Venue capacity:** As hearing room space is limited, members of the participating teams will be given priority over other spectators.
- B.6.4. **Vis Moot round schedule:** Paragraph 88 of the Vis Moot Rules essentially prohibits teams (and their friends and relatives) from attending arguments of other teams against which the team is scheduled to argue at the moot. The rule applies to Pre-Moots and other practice moots. To facilitate compliance, teams will:
- (a) inform the organisers upon registration if the team is scheduled to argue against any other Australian team in the general rounds of the Vis Moot or the Vis East Moot (in that case we will not schedule any rounds between those teams in the Pre-Moot);

- (b) be mindful of this rule, and let the Pre-Moot organisers know immediately if any situation arises which might pose difficulty.

## Appendix C: Score Sheet

Please complete all unshaded areas in the table below.

Arbitrator				
Teams	Claimant		Respondent	
Round No		Venue		Organisers' use only
Date		Start Time		ENT:                  QA:
Team	Speaker	Speaker Name		Score (50-100)
Claimant	1			
	2			
Respondent	1			
	2			

Scoring is on a scale of 50 – 100 points for each speaker:

50 – 59	60 – 74	75 – 90	91 – 100
Needs improvement	Good	Very good	Excellent

The individual score given to an orator by an arbitrator is entirely within the discretion of that arbitrator. There is no requirement that the arbitral panel agree scores. However, the arbitral panels may, and are strongly encouraged to, discuss scoring at the end of a hearing and prior to submitting their score sheets with a view to having scores that are within the same band. As this is an academic exercise, the underlying merits of a team's theoretical client's case should not affect a team's score.

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

### 1) Organization and Preparation

- Does counsel introduce themselves and co-counsel, state whom they are 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 their 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 their 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?