



ICC INTERNATIONAL COMMERCIAL

MEDIATION COMPETITION

ONLINE EVENT | 7-15 February 2022

17th ICC INTERNATIONAL COMMERCIAL MEDIATION COMPETITION

COMPETITION RULES

7 February 2022 – 15 February 2022

Online

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Addendum to the 2022 Competition Rules

Exceptionally, due to the current COVID-19 situation, ICC will be hosting the 2022 edition of the ICC International Commercial Mediation Competition online only. ICC has taken this decision in order to prioritise the health and safety of all attendees and ICC staff, in the knowledge that the pandemic is still active in France and internationally. A set of virtual guidelines will be published in due course on the event platform and [webpage](#). The 2022 Competition Rules set forth in this document will remain unchanged. The virtual guidelines will only advise on the practicalities and logistical implications of a virtual format.

The online format of the ICC Mediation Competition is a temporary measure to guarantee the continuity of the event during the pandemic. The ICC Mediation Competition will return to an in-person event as soon as possible.



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COMPETITION RULES

RULE 0.0 DEFINITIONS

The following terms have the corresponding meanings:

“BATNA” refers to the Best Alternative to a Negotiated Agreement and refers to the best thing a Party can do, without the consent of the other Party, if the Parties fail to reach an agreement.

“Break” refers to a three minute period of time that can be requested once by each Competing Team in each Mediation Session and during which the overall time of the Mediation Session continues to run.

“Brief Biography” refers to a Team member’s written biography and includes their nationality or nationalities, native language or languages and a photograph. The Brief Biography can have a maximum of 150 words.

“Caucus” refers to a separate meeting between the Mediator and a Competing Team. During the Caucus the overall time of the Mediation Session continues to run.

“Centre” refers to the ICC International Centre for ADR which is a separate entity from the ICC Court of Arbitration and its Secretariat and oversees the application of the ICC Rules relating to mediation, experts, dispute boards and DOCDEX.

“Coach” refers to the one or two person(s) selected by a Team or the Team’s university to act as that Team’s Coach(es). Coaches are permitted to accompany the Team to the Competition.

“Competing Team” refers to the two students from one Team competing in one specific Mediation Session in the roles of Counsel and Client.

“Competition” refers to the 2022 ICC International Commercial Mediation Competition.

“Confidential Information” refers to the background factual information of the Problem for the exclusive use of a Party and the Judges but not the Mediator.

“Counsel” and “Client” refer to the roles taken respectively by two members of a Team during each Mediation Session; together they are referred to as a Competing Team or as a Party.

“Cross-Caucus” refers to a separate meeting between the Mediator and both Counsels or a separate meeting between the Mediator and both Clients.

“Competition Problems Working Group” refers to the group, selected by the Organising Committee, in charge of drafting the Problems for the Competition.

“Eligible Student” refers to a person who meets the criteria defined in Rule 5.2.

“Final Rounds” refers to the Semi-Finals and the Final, in which the winner of each Mediation Session progresses to the following round.

“General Information” refers to the background factual information of the Problem for the use by each Party, the Judges and the Mediator.

“ICC” refers to the International Chamber of Commerce headquartered in Paris.

“ICC Mediation Rules” refer to the Mediation Rules of ICC in force since 1 January 2014. A copy of the ICC Mediation Rules can be found at <http://www.iccwbo.org/products-and-services/arbitration-and-adr/mediation/rules/> .

“Judge” refers to a Professional selected by the Organising Committee to evaluate and score the Teams’ performance during a Mediation Session in accordance with the Judging Criteria.

“Judging Criteria” refer to the criteria set out in the Score Sheet.

“Law Student” refers to an Eligible Student studying law.

“Mediation” refers to the timeframe of 85 minutes for the actual mediation between the two Competing Teams as described in Rule 2.1.

“Mediation Plan” refers to each Team’s written case analysis referred to in Rule 3.0.

“Mediation Plan Score Sheet” refers to the document in accordance with the sample set out in Annex I.D.

“Mediation Session” refers to the timeframe of 150 minutes (Preliminary Rounds) or 135 minutes (Final Rounds) as described in Rule 2.1

“Mediation Session Supervisor” refers to a person appointed by the Organising Committee to keep time during a Mediation Session and make sure the Rules are followed.

“Mediator” refers to a professional mediator selected by the Organising Committee to take on the role of Mediator during a Mediation.

“Observer” refers to a[ny] person attending a Mediation Session without having an active role in it.

“Organising Committee” refers to the group of ICC staff in charge of organising and managing the Competition.

“Penalty(ies)” refers to points deducted for any violation of the Rules pursuant to Rule 8.0.

“Preliminary Rounds” refer to the first phase of the Competition, in which Teams are selected for the Final Rounds based on the number of wins and the number of points according to Rule 2.15.

“Problem” refers to an official international commercial dispute case distributed by the Organising Committee, as supplemented or corrected by any Problem Clarifications, which Teams will attempt to resolve with the help of the Mediator during the Mediation.

“Problem Clarifications” refer to the official clarifications or corrections of the [Competition] Problems, as published pursuant to Rule 4.2.

“Problem-Solving Approach” refers to an approach to mediation in which participants ascertain each other’s interests, brainstorm options and seek to create a solution that better meets their interests and needs than their BATNA.

“Professional” refers to an appropriately qualified and experienced volunteer who is selected by the Organising Committee to act as Mediator and/or Judge in the Competition.

“Prohibited Assistance” refers to advice, instructions, or other communication to a Team that is not in compliance with Rule 2.9.

“Requesting Party” and “Responding Party” refer to the Competing Team which argues on behalf of the Party requesting the mediation and the Party responding to the request for mediation at any given point in the Competition.

“Rules” refer to the Competition Rules.

“Score Sheet” refers to the document in accordance with the sample set out in Annex I.A and Annex I.B.

“Special Award Score Sheet” refers to the document in accordance with the sample set out in Annex I.C.

“Team Contact” refers to the person defined in Rule 6.5.

“Team” refers to a group of 2 to 4 Eligible Students representing one or two universities accepted by the Organising Committee to participate in the Competition.

“Visitor” refers to any person who does not have any active role in the Competition and has been exceptionally authorised by the Organising Committee to attend the Competition and/or a Mediation Session.

“Volunteer” refers to a person who has been accepted to attend the Competition to perform a specific role such as Professional, Mediation Session Supervisor or any other logistical duty deemed necessary by the Organising Committee.

RULE 1.0 ORGANISATION OF THE COMPETITION

Rule 1.1 Introduction

The Competition is an educational event that seeks to encourage the effective use of mediation and the open exchange of ideas, experience and know-how between students and professionals from different countries, cultures, generations and backgrounds.

Appreciation and respect for cultural diversity should be shown by all participants.

ICC has over 100 years of experience in devising rules to govern and facilitate the conduct of international business. These rules include those designed to resolve the conflicts that inevitably arise in business relations. ICC offers a wide range of dispute resolution rules for business disputes, including the ICC Rules of Arbitration, the ICC Mediation Rules, the ICC Expert Rules, and the ICC Dispute Board Rules. Details about the dispute resolution services offered by ICC can be found at <https://iccwbo.org/dispute-resolution-services/>

The ICC Mediation Rules govern all proceedings in which the parties wish to settle their dispute amicably. Pursuant to the ICC Mediation Rules, the parties are free to choose a settlement procedure other than mediation if they wish to do so. Should they not agree on a different settlement procedure, however, mediation will be used. All Mediation Sessions during the Competition are conducted pursuant to the ICC Mediation Rules.

The Competition assumes that the Parties did not agree on another settlement procedure under the ICC Mediation Rules and accordingly mediation is used.

The focus of the Competition is to effectively combine the use of the Mediator and collaborative problem-solving skills to successfully present the Parties' interests and progress towards resolution. It is ICC's hope that the Competition will encourage the teaching and learning of an effective use of mediation. ICC wishes to empower tomorrow's business people and legal practitioners to better meet the dispute resolution needs of an increasingly cross-cultural and global market.

Rule 1.2 Language

The official and only language of the Competition is English.

Rule 1.3 Format

The Competition consists of four Preliminary Rounds, the Semi-Finals and the Final.

During the Preliminary Rounds, each Team will, in principle, compete at least once per day. Save in exceptional circumstances, every Team will compete on every Problem only once. During the Preliminary Rounds, each Team will in principle participate in one Mediation Session per day, on a different Problem. Due to scheduling challenges, Teams consisting of four students may be asked by the Organising Committee to compete twice on the same Problem.

With respect to the Final Rounds, the Teams will compete on the two Problems assigned in this order: the Semi-Finals and the Final.

A Mediation Session will consist of the Mediator and two Competing Teams, with two Team members (Client and Counsel) on each side representing respectively the Requesting Party and the Responding Party. Additionally, Judges will be present in order to evaluate the teams' performance. There will be two Judges during the Preliminary Rounds, three Judges during the Semi-finals and five Judges during the Final.

Each university may nominate two to four Eligible Students to participate in a Team. Each Team can be accompanied by a maximum of two Coaches.

Rule 1.4 Use of Images and Audiovisual Recordings

By offering students the opportunity to participate in the Competition, ICC can improve and advance dispute resolution standards throughout the world. When it comes to delivering training and professional development, ICC seeks to do more than just educate. ICC can empower professionals to secure a higher level of excellence for the future of dispute resolution. The ICC International Commercial Mediation Competition

contributes to ICC's mission and accordingly photographs, video interviews and recordings of the Semi-Finals and Final are taken to explain and illustrate what mediation is and how it works in practice. Publication of materials and information related to the Competition guarantees a wide promotion of mediation techniques and promotes future editions of the Competition in full compliance with its spirit. By registering to the ICC Mediation Competition, every participant accepts that ICC will use, including on social media, photos, interviews and audiovisual recordings of the Semi-Finals and Final for promotional purposes.

RULE 2.0 MEDIATION SESSION PROCEDURES

Rule 2.1 General Procedures

In advance of the Competition, the Organising Committee will randomly assign Teams for the Preliminary Rounds (as Requesting Party or Responding Party). Every attempt will be made so that no two Teams will compete against each other more than once during the Preliminary Rounds.

In every Mediation, each Team will be represented by two Eligible Students, with one (who must be a Law Student) taking the role of Counsel and the other taking the role of Client. These two students form the Competing Team for that Mediation Session. The students in each Team are to determine among themselves who will take which role and they may switch roles from one Mediation Session to the next. The role of Counsel must however always be taken by a Law Student.

Violation of this rule may result in a Penalty according to Rule 8.0.

RULE 2.1.1 TIMING

There are two timing systems as illustrated in the tables below:

Preliminary Rounds

| | |
|---|-------------------------------------|
| <u>Total Time for Mediation Session</u> | = 150 min (2 hrs and 30 min) |
| Time to settle in the room | = 5 min (2 hrs 25 min remaining) |
| Time for Judges to read and score Mediation Plans | = 15 min (2 hrs 10 min remaining) |
| Mediation | = 85 min (45 min remaining) |
| Scoring | = 15 min (30 min remaining) |
| *Feedback | = 30 min (0 min remaining) |

*Feedback: Twenty minutes of feedback for the Judges and ten minutes for the Mediator.

Final Rounds

| | |
|--|-------------------------------------|
| <u>Total Time for Mediation Session</u> | = 135 min (2 hrs and 15 min) |
| Time to settle in the room | = 5 min (2 hrs 10 min remaining) |
| Mediation | = 85 min (45 min remaining) |
| Scoring | = 15 min (30 min remaining) |
| *Feedback | = 30 min (0 min remaining) |

*Feedback: Twenty minutes of feedback for the Judges and ten minutes for the Mediator.
 There is no feedback after the Final.

The overall time allowance of 85 minutes for the Mediation continues to run during any Caucus, Cross-Caucus or Break.

RULE 2.1.2 BREAKS

Each Competing Team may take one Break of no more than three minutes during the Mediation. If a Competing Team calls for a Break, both Competing Teams together with the Mediation Session Supervisor must leave the room during such Break. The Mediator, Coaches, other members of the Teams not participating orally in the Mediation Session, and all other persons must remain inside the room.

Silence is to be observed by people staying in the room, including the Judges.

Failure to observe this Rule may result in a Penalty, as stated in Rule 8.0.

RULE 2.1.3 CAUCUSES

Caucuses between the Mediator and the Parties and/or their advisors can be helpful in mediation.

During each Mediation Session the Mediator and the Competing Teams have the right to call for Caucuses in accordance with the following provisions:

- Each Caucus may last no longer than five minutes;
- During any Caucus the Mediation Session Supervisor and the Competing Team or the members of the Competing Teams not part of the Caucus shall leave the room. The Judges, Coaches, other Team members, and all Observers will remain in the room;
- Caucuses can take place between the Mediator and both members of a Competing Team (a Caucus);
- Caucuses can also take place between the Mediator and either the Counsel from both Competing Teams or the Clients from both Competing Teams (a Cross-Caucus);
- Each Competing Team has the right to call for one Caucus and for one Cross-Caucus during a Mediation;
- The Mediator may call for one Caucus with each of the Competing Teams during a Mediation;
- The Mediator may call for one Cross-Caucus with the Counsel from each Competing Team and one Cross-Caucus with the Clients from each Competing Team during a Mediation;
- Competing Team members who are not participating in a Caucus may talk to each other outside the room during a Caucus;
- During the Caucus the overall time of the Mediation Session continues to run.



| Summary table of the possible caucuses and breaks | | | | |
|---|--------------|--------------|----------|---|
| CAUCUSES | | | | |
| | Team A | Team B | Duration | Who leaves the room |
| Caucus requested by Team | 1 | 1 | 5 min | The Mediation Session Supervisor and the Competing Team not part of the Caucus |
| Caucus requested by Mediator | 1 | 1 | 5 min | |
| CROSSCAUCUSES | | | | |
| | Both Counsel | Both Clients | | |
| Cross-Caucus requested by Team A | 1 | | 5 min | The Mediation Session Supervisor and the members of both Competing Teams not part of the Cross-Caucus |
| Cross-Caucus requested by Team B | 1 | | 5 min | |
| Cross-Caucus requested by Mediator | 1 | 1 | 5 min | |
| BREAKS | | | | |
| Break requested by a Team | 1 | 1 | 3 min | Both Competing Teams together with the Mediation Session Supervisor |

RULE 2.1.4 APPROPRIATE USE OF CAUCUSES

Caucuses can be a useful tool in mediation under specific circumstances. Competing Teams should call for a Caucus when they consider that they need input from the Mediator during a Caucus to progress the Mediation. Students however are strongly encouraged to spend the majority of the Mediation in joint session in order to be able to communicate directly with the other Party. A Competing Team’s reasonable use and non-use of Caucuses will be evaluated by Judges according to the Score Sheet. Often,

the decision not to call for a Caucus might be more sensible within the circumstances of the specific Mediation than to call for a Caucus.

A Caucus should not be used to seek clarification of the Competition Rules or any procedural matter. Examples of the appropriate use of a Caucus are when a Competing Team:

- Wishes to clarify an issue or issues within the Problem or otherwise seek advice or guidance from the Mediator;
- Wishes to share with the Mediator facts, concerns, interests, or information that are or might be relevant to the progress of the Mediation to determine how and when it might be best to present such facts or information to the other Competing Team;
- Wants to explore or make an offer/proposal and/or explore with the Mediator how best to present the offer/proposal within the Mediation.

Rule 2.2 Judging Criteria

The Judging Criteria are applied to the performance of both the Counsel and Client in the Competing Team and are set out in the Score Sheet annexed to the Competition Rules. There is no requirement to reach a resolution or a settlement or reward for this.

Rule 2.3 Mediators and Judges

In each Mediation Session one Professional will serve as the Mediator and two Professionals will serve as the Judges during the Preliminary Rounds. There will be three Judges in the Semi-Finals and five Judges in the Final. The Judges will evaluate and score the performance of the Teams according to the Judging Criteria and Score Sheet.

The Organising Committee is responsible for selecting the Mediators and Judges and for allocating them to Mediation Sessions in each round of the Competition. Every attempt will be made for the Teams to face a different Mediator and different Judges in each round; however, due to limited availabilities this might not always be possible.

The Organising Committee will make its best efforts to ensure that the Mediators and Judges are neutral, independent, and impartial towards the Teams they are judging.

Rule 2.4 Timekeeping

Responsibility for timekeeping rests with the Mediation Session Supervisor during the Mediation Sessions. The Mediation Session Supervisor's decision on timekeeping is final.

If no Mediation Session Supervisor is available for a Mediation Session, the Judges are in charge of timekeeping.

Failure to adhere to time limits may result in a Penalty, as stated in Rule 8.0.

Rule 2.5 Governing Law

The Problems may refer to real or fictional places. Unless a Problem explicitly indicates otherwise, for purposes of the Competition, it is assumed that there is no governing law and that the jurisdiction applies general principles of uniform international commercial law.

Rule 2.6 Handout

Teams may present during each Mediation **one** handout only, limited to one A4 sheet of paper (one-sided), which can include any kind of content (pictures, diagrams, graphic representations, drawings, text or other). Copies of this handout shall be given to the other Competing Team, the Mediator and the Judges when first produced by a Competing Team. Competing Teams are permitted to write on this handout during the course of the Mediation. Competing Teams are prohibited from using for general presentation or presentation to the Mediator any other objects, handouts, exhibits or papers prepared in advance including video, computers, or other technology and displays.

Failure to observe this Rule may result in a Penalty, as stated in Rule 8.0.

Rule 2.7 Admitted Material during the Mediation Session

For the Mediation Session each Competing Team may bring and use its own prepared notes for its own use and may, if need be, make its own notes during the Mediation Session. All notes must be written on paper. Each Competing Team may also bring and use a calculator and a watch (or equivalent: stopwatch, timer, etc.) if it wishes to do so.

Use of any other electronic devices, such as mobile phones of any type or any other electronic devices, such as tablets, laptops, etc. and in particular any artefact capable of recording information is not permitted in the room where the Mediation Session takes place. Photographing during the Mediation Session is also forbidden. This applies to Teams, Coaches, Professionals, Observers and Visitors.

Only Judges and the Mediator with an active role in the session and the Organising Committee constitute an exception to this Rule, to the extent that is necessary for performing their duties for the Competition.

Failure to observe this Rule may result in a Penalty or disqualification, as stated in Rule 8.0.

Rule 2.8 Permissible Assistance to Teams

The Coach(es) may advise and assist their Team in its planning and preparation for the Competition, including in advance of the Final Rounds.

Rule 2.9 Prohibited Assistance

No person associated with a Competing Team, including the Coach(es), may give advice, assistance or instructions to, or communicate or attempt to communicate with any of the participants, and in particular with the two students forming a Competing Team, in any way, during the Mediation. **Violation of this Rule, regardless of the substance thereof, and regardless of whether initiated by a participant or by any other person, may result in disqualification from the Competition of the whole Team with which the person is associated, as stated in Rule 8.0.** Harmless error will not be a defence to a complaint based on violation of this Rule.

Rule 2.10 Observing

- (a) Any person who is not a Team member, Coach, Mediator or Judge will not be permitted to attend the Competition including Mediation Sessions, unless specifically invited by the Organising Committee.
- (b) The Organising Committee has total discretion in deciding whether a Volunteer or a Visitor can be accepted to attend the Competition or a specific Mediation Session, and in taking the necessary actions to ensure all participants act in a fair and unbiased way during the Competition. To this end, Volunteers and Visitors will be asked to sign a statement of independence from the Competing Teams ahead of the Competition.
- (c) During the Preliminary Rounds, Teams and Coaches may only attend the Mediation Sessions in which their Team is competing. Attending any other Mediation Session in the Preliminary Rounds is strictly forbidden.
- (d) Any person associated with a Competing Team, including the Coach(es) should choose seats, space allowing, from which they cannot be seen by the Competing Team associated with them. The Mediation Session Supervisor will make sure this rule is observed and will have the final word on whether the seats chosen are acceptable or not.
- (e) During the Final Rounds, if space allows, the Teams and their Coaches which have not qualified for the Final Round in question may attend all Mediation Sessions in that Final Round unless otherwise prohibited by the Organising Committee at its total discretion (which will organise access to the Mediation Sessions).
- (f) Teams and Coaches which have qualified for the Final Round in question may only attend the Mediation Session in which their Team is competing.
- (g) The Organising Committee ensures, as a minimum, that all the rooms in which the Mediation Sessions are scheduled have sufficient capacity to host the two Competing Teams, the Judges, the Mediator and the Mediation Session Supervisor.

h) The Organising Committee will make every effort to ensure that the rooms can also host the other members of the two Teams competing, as well as their Coaches, although this may not be possible at all times. If this is the case, the following order of priority is suggested, but the Teams may ultimately choose at their own discretion which Team member(s) and/or Coach(es) will attend the session, as long as parity between the two Teams competing is respected:

1. Coaches
2. Other student members of the Team who are not competing.

(i) In case of limited space in the room, the Coaches and other members of the Team competing in that Mediation Session have the priority over any other person, for example, over any Observer or Visitor who may wish to attend.

(j) The organisation of the space and the definition of the number of chairs cannot be changed by the Teams, Judges, Mediator or Observers unless decided by the Mediation Session Supervisor with the consent of the Organising Committee.

(k) Coaches, Team members, Volunteers and Visitors will not be allowed to enter or leave the room whilst the Mediation Session is in progress.

(l) Audio or video recording is strictly forbidden during the Mediation Session. This applies to all persons attending.

Failure to comply with this Rule may result in a disqualification as defined under Rule 8.0.

Rule 2.11 Judges' Scoring

At the beginning of the Mediation Session in the Preliminary Rounds, the Judges will be granted fifteen minutes to read and score the Competing Teams' Mediation Plans using the Mediation Plan Score Sheet.

Only the Judges, the Mediator, the Mediation Session Supervisor and first-time Judges attending their compulsory observation session are permitted to stay in the room while the Judges carry out such reading and scoring: **everyone else must leave.**

Following the Mediation, the Teams, Coaches, and Observers shall leave the room and the Judges will score the performance of each Competing Team in accordance with the instructions set out in Annex IV by completing the Mediation Score Sheet.

During the Preliminary Rounds, Judges shall also score the performance of all Competing Teams for the Special Awards by completing the Special Award Score Sheet.

Judges must check that the Score Sheets are correctly filled in and that their calculations are correct before handing them to the Mediation Session Supervisor.

In case of doubt or miscalculations, the Organising Committee has complete discretion in interpreting and/or correcting the Score Sheets without consulting the Judge concerned, unless it has an impact on the outcome of that Round (Win or Lose).

The Mediation Session Supervisor and the Mediator may remain in the room with the Judges while they are scoring.

Thereafter, the Teams, Coaches, and Observers will be invited to re-enter the room.

Rule 2.12 Judges' and Mediators' Feedback

Each of the Judges will then provide feedback to each Competing Team, for no more than 10 minutes each in the Preliminary Rounds and no more than 7 minutes each in the Final Rounds (other than in the Final). Feedback will be based on each Competing Team's performance in the Mediation.

The Judge's feedback must be **consistent** with the **Judges' feedback guidelines** in Annex IV.C.

Judges must not reveal to any Team the results of their individual determinations and any Team's scores. During their feedback, Judges may refer to the

Confidential Information relating to the Problem that was discussed during the Mediation only to the extent that such Confidential Information was disclosed therein by a Competing Team.

If a Judge decides to impose a Penalty on a Competing Team, or to recommend a Penalty to the Organising Committee, according to the procedure laid out in 8.0 below, they should inform the concerned Competing Team accordingly during the feedback. The Judge should explicitly indicate the Rule violated but should not indicate the number of points subtracted.

After the Judges' feedback, the Mediator has 10 minutes to provide feedback to the Competing Teams.

For more detail on feedback procedures, please see Annex III.E and Annex IV.C.

Rule 2.13 Communication between Participants

The Competition is an educational event that seeks to encourage the open exchange of ideas, experience and know-how between students and Professionals from different countries, cultures, generations and backgrounds.

Accordingly, exchange and dialogue between Judges and Mediators with Teams outside the Mediation Session is permitted and indeed encouraged (including regarding the Mediation Plans), subject always to the third paragraph of Rule 2.12, and to the principles of independence, impartiality and neutrality.

Professionals are invited to share their insights with students about a particular Mediation Session or their practice in general.

Nevertheless, Professionals are under a duty of confidentiality and must not reveal to any Team its or any other Teams' scores for a particular Mediation Session or the content of any Confidential Information, with the only exception of references to the Confidential Information during their feedback, in accordance with the third paragraph of Rule 2.12.

Teams are also under a duty of confidentiality and must not reveal the Confidential Information outside the Mediation.

During the Mediation, only the two Competing Teams, the Mediator, the Mediation Session Supervisor and a member of the Organising Committee (if any) are allowed to speak, whereas anybody else present in the room must observe silence.

Rule 2.14 Winning the Preliminary Rounds

The Team with the greatest number of points will be the winner of that round in the Preliminary Rounds.

Points attributed in the Special Awards Score Sheets only count for the attribution of the Special Awards, and do not influence the result of the round, nor progression in the Competition.

Rule 2.15 Ranking and Selection of Teams for the Final Rounds

Teams will be ranked and selected for the Final Rounds by the Organising Committee based on the following criteria, in decreasing order of importance:

- total number of Score Sheets designating a “Win”;
- total number of overall points;
- lowest total of the differentials between the number of points scored in each Mediation Session.

The first 4 teams at the end of the Preliminary Rounds will be admitted to the Semi-Finals.

In the Semi-Finals, the Teams will be paired according to their ranking at the end of the Preliminary Rounds (top rank against lowest rank and so on).

Rule 2.16 Scores and Ranking Provided to the Teams

After the end of the Competition, each Team shall receive its Score Sheets. Teams may also ask the Organising Committee for their individual ranking by email.

RULE 3.0 MEDIATION PLAN

During the Preliminary Rounds, each Team shall provide a Mediation Plan for each Mediation Session in which it competes, according to the Instructions for Participants in Annex II.C.

The Mediation Plan must clearly indicate the name of the Team's university as well as the names of each of the members of the Team. The Brief Biographies of each Team member must be attached to the Mediation Plan.

The Mediation Plan must be no more than 2 pages in 12-point, Arial font, 1.5 spacing and will not be accepted by the Organising Committee if it does not comply with this.

For further guidance on how to structure the Mediation Plan, please refer to the "Instructions for Participants" (Annex II.C).

Rule 3.1 Submission of Mediation Plans for Scoring

The Mediation Plans for all Preliminary Rounds' Problems must be submitted to the Organising Committee at the latest on **23 January 2022**. Mediation Plans for the Preliminary Rounds will not be accepted after this date.

Teams will not be permitted to modify their Mediation Plans after submission to the Organising Committee.

Rule 3.2 Submission of Mediation Plans for the Judges

Each Competing Team must submit two copies on paper of its Mediation Plan to the Mediation Session Supervisor at the beginning of each Mediation Session during the

Preliminary Rounds. The Mediation Session Supervisor is in charge of submitting the Mediation Plans to the Judges.

Any Team not submitting a Mediation Plan will fail to obtain any points for the Mediation Plan, pursuant to the Score Sheet (Annex I.A).

During the Competition, the Organising Committee does not provide printing or copying facilities.

Rule 3.3 Scoring of the Mediation Plans

The Mediation Plans will be scored by the Judges at the beginning of the Mediation Session during the Preliminary Rounds. The score received for a Mediation Plan will count towards that Team's overall score in the specific Mediation Session for a maximum of four points. The Mediation Plans will be scored on the basis of the Mediation Plan Score Sheet as provided in Annex I.D.

RULE 4.0 COMPETITION PROBLEMS

Rule 4.1 Problems

Each Problem will consist of General Information for both Parties and separate Confidential Information for each of the Requesting Party and the Responding Party.

Judges shall receive copies of the General Information and the Confidential Information for each Party and shall read these prior to any Mediation Sessions. Mediators shall receive the copies of the General Information and shall read this only. For logistical reasons, Mediators might also receive copies of the Confidential Information but they should not read them.

Six Problems will be sent to all Teams before the start of the Competition. All Teams will receive General and Confidential Information for the four Preliminary Rounds in advance. General Information for the Semi-Final and Final will also be sent in advance.

Confidential Information and assignment of roles for each of the Final Rounds however will be provided at the end of the Preliminary Rounds and Semi-Finals respectively.

Teams, Coaches, Professionals, members of the Organising Committee and anyone else who knows the Confidential Information may not directly or indirectly disclose any Confidential Information to any other person, save that disclosure by Teams during a Mediation and comments on such disclosures by Judges during their feedback are permitted, in accordance with the third paragraph of Rule 2.12.

Non-compliance with this Rule by a person associated with a Team may lead to disqualification of the Team concerned in accordance with Rule 8.0.

Rule 4.2 Clarifications and Interpretation of the Problems

Every effort will be made to ensure that Problems are clear. Each Team may submit to the Organising Committee by the end of November 2021 a maximum of one written question for clarification or interpretation of either the General Information or the Confidential Information per Problem by the Competition Problems Working Group.

Clarifications can be requested only for ambiguity or possible errors, not to request additional information, as the Problems are self-contained.

These questions shall relate only to the Problems: the Competition Problems Working Group will have total discretion in answering them.

Rule 4.3 Staying within the Record

The Problems are self-contained and include all relevant facts. It is strictly forbidden for Teams to:

- deviate from the facts,
- create their own background story,
- misrepresent facts,
- create new facts or
- deny facts contained in their Confidential Information

The facts of the Problems however are subject to reasonable interpretation and Teams may draw reasonable conclusions from them. Parties are also free to indicate at any

time during the Mediation Session that they do not wish to disclose certain information (yet) or that they do not have certain information.

Teams are discouraged from carrying out research. If, however, they decide to do so, any information presented should be limited to the strict minimum necessary to advance the Mediation and to find creative solutions to the Problem, while staying within the Problem's facts.

Whether a Team is deemed to have respected this Rule is entirely at the discretion of the Judges.

Failure to stay within the record may result in a Penalty in accordance with Rule 8.0.

Rule 4.4 Ethics

Mediation is conducted by the parties and their lawyers in good faith.

The fundamental ethical behaviour and professional obligations of a lawyer representing a client apply to mediation. Competing Teams, Coaches and all participants in the Competition are expected to demonstrate the same standards of ethical behaviour required of practising lawyers.

Lying is unethical and is forbidden in all circumstances in the Competition.

This means Teams must:

- stick to the facts provided in the General and the Confidential Information. Making up facts is going outside the record and will be sanctioned according to Rule 4.3.
- behave with integrity – Teams do not need to reveal everything, but everything Teams say should be true, including any information from the Confidential Information. Failure to behave with integrity will lead to loss of points on the relevant Score Sheet categories.

RULE 5.0 PARTICIPATION AND ELIGIBILITY

Rule 5.1 Participating Universities

- a) The Organising Committee does not accept individual applications from students, but only applications from universities.
- b) Any university may apply.
- c) Each university may nominate only one Team, consisting of a minimum of two and a maximum of four Eligible Students.
- d) Each university can choose at its own discretion which students to select to be part of the Team that is going to represent it, as long as the selected students are all Eligible Students according to Rule 5.2.
- e) Only a Law Student may take the role of Counsel. Accordingly, at least one member of each Team must be a Law Student.
- f) Two universities may apply together to bring one joint Team to the Competition.

Rule 5.2 Eligible Students

The Competition is an educational event aiming to offer unique learning and training opportunities to students during their full-time university studies and prior to starting their professional careers.

Bearing in mind the above, Eligible Students must meet the following criteria:

- (a) The Competition is open to full-time students (excluding post-graduate doctorate students) registered at a university within the academic period during which the Competition is held.
- (b) The Competition is open to students who do not yet have full-time work experience (except internships) in law, business or otherwise.
- (c) Team members do not have to be of the same nationality as that of their universities.
- (d) **A student is entitled to participate in the Competition only once.**

Special provision for Law Students:

Students who are entitled to practise law in any jurisdiction, by having passed a bar exam or otherwise, are as a matter of principle, NOT Eligible Students. Students who have gained their qualification to practise law **automatically** with the completion of their **undergraduate** law studies (i.e. without a further bar exam or similar) and who certify that they have not yet practised as a lawyer (i.e. provided legal advice or services to clients) are Eligible Students provided they are currently registered in a full-time study programme in accordance with Rule 5.2.

Any Team or Team Member that breaches Rule 5.2 will be disqualified from the Competition. If only one member of the Team breaches Rule 5.2, it is at the discretion of the Organising Committee to disqualify the whole Team or only that member. If, as a result of disqualification of one Team Member, the Team has fewer than two students, the whole Team will be disqualified.

Rule 5.3 Attendance

Each Team may be accompanied at the Competition by a maximum of two Coaches. Additional persons and students who are not members of a Team may NOT accompany a Team to the Competition.

It is at the discretion of the Organising Committee to disqualify the whole Team, should Rule 5.3 not be followed.

RULE 6.0 TEAM APPLICATION AND REGISTRATION

Rule 6.1 Application Process

The Organising Committee will receive applications in one application period, running from mid September 2021 until mid October 2021. The exact dates of application period and the information on how to apply will be published on <https://iccwbo.org/dispute-resolution-services/professional-development/international-commercial-mediation-competition/>, on Facebook: ICC Mediation and on Twitter: @ICCMediation.

Each university wishing to participate must apply online within the application period described above.

The Organising Committee will inform all universities of their acceptance or non-acceptance at the end of October 2021 in accordance with the schedule published online.

Subsequently, each university that has been accepted must provide the Organising Committee (within the time limit indicated) with the names, contact details, and Brief Biography of each Team member. A template will be made available by the Organising Committee.

When applying, each university must declare that the Rules have been read and understood by each of its Team members and its Coach(es). When submitting the details of the Team members, each Team must declare that all Team members are Eligible Students under Rule 5.2.

Rule 6.2 Selection Criteria

The Organising Committee will decide at its discretion which universities are accepted to participate in the Competition.

For the 2022 Competition, the Organising Committee will accept a maximum of 48 Teams.

The Organising Committee may put in place agreements with national or regional pre-moots, whose winner will automatically be accepted to participate in the Competition. Teams selected through this means are counted in the total 48 Teams.

Apart from such reserved places for winners, participation and ranking in a pre-moot have no positive or negative effect on and do not preclude the direct application to participate in the Competition.

During the selection, 10 places are reserved for universities that have not yet participated in the Competition.

Should places for universities applying for the first time not be filled at the end of each of the application period, the remaining places will be offered to returning universities.

Universities that have not participated during the two last Competitions (2021 and 2020) will be considered as not having previously participated in the Competition.

Within the two above categories the Organising Committee will select universities based on the following criteria in no particular order:

- preference will be given to universities which have an alternative dispute resolution curriculum (special focus on mediation is an advantage);
- performance in previous ICC Mediation Competitions (if applicable);
- representation of cultural and regional diversity among the selected universities.

In the event that the above selection criteria are insufficient to make a selection between two universities, the Organising Committee will make a selection at its discretion.

Rule 6.3 Registration Fee

Upon acceptance of the Team by the Organising Committee, each university must pay the full registration fee within the time limit as indicated by the Organising Committee. 50% of the registration fee will be refunded if notice of cancellation is received in writing before 14 November 2021. No refund will be made for cancellations received after this date.

Please note that ICC reserves the right to cancel this event or to make minor alterations to the content and timing of the programme. In the unlikely event of cancellation, paying participants will be offered a full refund. ICC will not, however, be held responsible for any related expense incurred by the participants.

Non-payment of the Registration Fee within the time limit communicated by the Organising Committee may lead to disqualification in accordance with Rule 8.0.

Rule 6.4 Travel, Costs and Visas

When applying, participants must ensure that they have sufficient funding to cover their travel and stay in Paris. They are responsible to make their own travel arrangements and hotel reservations.

Each Team must ensure that all Team members are entitled to travel to Paris for the Competition and, if necessary, apply for a visa in a timely manner.

Failure to observe this Rule may result in the disqualification of the Team in accordance with Rule 8.0.

Rule 6.5 Team Contact

Each Team must designate a Team Contact to the Organising Committee. Notice to the Team Contact constitutes notice to all Team members.

RULE 7.0 JUDGES AND MEDIATORS

Rule 7.1 Application and Selection

Trained and experienced mediators and/or mediation trainers from around the world are invited to apply to participate as Professionals in the Competition.

An online application system will be put in place by the Organising Committee to receive applications. Details on the application process and the deadlines will be published on <https://iccwbo.org/dispute-resolution-services/professional-development/international-commercial-mediation-competition/mediation-competition-application-process/>

ICC will select at its discretion the Professionals to participate in the 2022 Competition.

The Organising Committee will select Professionals based on the following criteria (in no particular order):

- mediation qualification
- mediation accreditation

- experience in commercial mediation
- other relevant dispute resolution experience and professional background
- availability
- English language skills
- cross-cultural experience
- performance in previous editions of the Competition

Rule 7.2 Statement of Independence

Once selected, all Judges and Mediators shall provide to the Organising Committee a Statement of Independence declaring their neutrality, impartiality, and independence to judge and/or mediate any of the Teams in the Competition and disclosing any relationships with the university of a Team, a Team member, a Coach or a person affiliated with a Team.

The Organising Committee can disqualify a Judge from judging or a Mediator from mediating a round if the Organising Committee considers that they have a relationship with a Team member and/or any Team's university, a Coach or a person affiliated with a Team which threatens their neutrality, impartiality and independence.

Rule 7.3 Respect

All Professionals in the Competition are reminded to be particularly vigilant in avoiding doing anything (including making any comments) that may be perceived as inappropriate and/or insensitive to differences in culture, gender, age, national origin, race, religion, and ethnicity.

Rule 7.4 Training, Assistance and Support to Students

Coaches may not act as Judges or Mediators in any Mediation Session.

Judges and Mediators may not act as Coaches at any time in relation to the Competition.

Judges and Mediators may train Teams with or without a Coach in preparing for the Competition, if the following restrictions are respected:

Such training:

- can only take place before the current Competition Problems are communicated to the Teams, which is when the Competition is deemed to have commenced;
- cannot in any way relate to current Competition Problems;
- automatically disqualifies a Professional from judging or mediating that Team in the Competition.

Any training or assistance by Judges and Mediators after the disclosure of the General Information of the Problems to the Teams must be notified to and authorised in writing by the Organising Committee.

No training or assistance by Judges and Mediators is allowed during the Competition.

Failure to observe this Rule may result in the disqualification of the Team and the Professional in accordance with Rule 8.0.

Rule 7.5 Confidential Information

Judges and Mediators must keep the contents of the Confidential Information strictly secret from Teams, apart from the disclosure allowed during the feedback in accordance with the third paragraph of Rule 2.12. All Judges, Mediators and other competition participants must be aware that **disclosure of Confidential Information to a Team may result in the disqualification of the whole Team pursuant to Rule 8.0.**

RULE 8.0 PENALTIES AND DISQUALIFICATION

If a violation of the Rules is considered to have been committed, a number of Penalty Points and/or the disqualification of a Team or one or more of its members may be imposed.

A maximum three points reduction may be imposed for any violation of any of Rules 2.1, 2.4, 2.6, 2.7 or 4.3.

Disqualification from the Competition may be imposed for any violation of any of Rules 2.7, 2.9, 2.10, 4.1, 5.3, 6.4, 7.4 or 7.5.

Disqualification will be imposed for any violation of Rule 5.2 or 6.3.

A breach of any Rule other than those referred to above will not result in a Penalty or Disqualification.

According to the Rule breached, Penalty Points may be imposed by the Judges directly in the score sheet and/or by the Organising Committee. Further details are provided in the table below.

Disqualification may only be imposed by the Organising Committee, at its own discretion, upon its own initiative or a recommendation from one or more Judges.

The Organising Committee reserves the right to take the final decision as on whether and how a sanction is imposed in any circumstance.

Summary of sanctions

| Rule | Sanction | Who imposes it? |
|--|---|--|
| 2.1 General Procedures <ul style="list-style-type: none"> • Law students taking the role of Counsel (2.1) • 2.1.2 number and duration of breaks and caucuses | Penalty | Judge (in score sheet) |
| 2.4 Timekeeping <ul style="list-style-type: none"> • Failure to comply with time limits | Penalty | Judge (in score sheet) |
| 2.6 Handout <ul style="list-style-type: none"> • Presenting more than one handout or one handout not complying with the Rules | Penalty | Judge (in score sheet) |
| 2.7 Admitted Material during the Mediation Session <ul style="list-style-type: none"> • Using electronic devices, recording or taking pictures during the session | Penalty | Judge (in score sheet) |
| | Potential disqualification for very serious violations of this rule | OC (after report from MSS and/or Judges) |
| 2.9 Prohibited Assistance <ul style="list-style-type: none"> • Communicating with the Competing team during the session | Potential disqualification | OC (after report from MSS and/or Judges) |
| 2.10 Observing <ul style="list-style-type: none"> • Observing another session while still in the Competition • Bringing unauthorised Observers • Changing the room set-up without authorisation from OC • Entering the room when the mediation is in progress • Video recording | Potential disqualification | OC (after report from MSS and/or Judges) |
| 4.1 Problems <ul style="list-style-type: none"> • Disclosing confidential information | Potential disqualification | OC |



| | | |
|---|-------------------------------------|------------------------|
| <p>4.3 Staying within the Record</p> <ul style="list-style-type: none"> • Deviating from facts, misrepresentation, creation of new facts, lying | Penalty | Judge (in score sheet) |
| <p>5.2 Eligibility</p> <ul style="list-style-type: none"> • Failure to comply with eligibility criteria by one or more team members | Disqualification (partial or total) | OC |
| <p>5.3 Attendance</p> <ul style="list-style-type: none"> • Teams being accompanied by non-team members | Potential disqualification | OC |
| <p>6.3 Registration Fee</p> <ul style="list-style-type: none"> • Failure to pay the registration fee within the time limit set by the OC | Disqualification | OC |
| <p>6.4 Travel, Costs and Visas</p> <ul style="list-style-type: none"> • Failure to declare that Team Members have funding and visas to attend the Competition within the time limit indicated | Potential disqualification | OC |
| <p>7.4 Training, Assistance and Support to Students</p> <ul style="list-style-type: none"> • Judges and/or Mediators acting as Coaches during the Competition (with or without disclosure of confidential information) | Potential disqualification | OC |
| <p>7.5 Confidential Information</p> <ul style="list-style-type: none"> • Disclosing Confidential Information | Potential disqualification | OC |

RULE 9.0 AWARDS

The Organising Committee shall make arrangements for appropriate recognition of Teams that achieve 1st Place (David Plant 1st Prize), 2nd Place, and 3rd Place *ex-aequo* for the two Runner-up positions in the Competition.

The Organising Committee shall also award the following Special Awards for the Teams obtaining the highest number of points in the Special Awards Score Sheets during the Preliminary Rounds in the following categories:

- Distinction in the Mediation Plan
- Distinction in the Opening Statement
- Distinction in Mediation Advocacy
- Distinction in Team Work between Counsel and Client
- Distinction in the Acknowledgement of Cultural Differences
- Distinction in Relationship Building with the Other Team
- Distinction as Public Speaker
- Distinction in Creative Solution Generation
- Distinction in the Interaction with the Mediator
- Distinction for the Performance of a Team from a University Participating in the Competition for the First Time

In the event of equal points, each Team shall receive a Special Award. Special Awards may be awarded only to Teams that are not proceeding to the Final Rounds.

Each Team may be awarded a maximum of one Special Award.

Furthermore, after the Competition, the Organising Committee will issue a formal Certificate of Participation in the Competition (except in the case of disqualification) to all Team members.

RULE 10.0 ICC ORGANISING COMMITTEE

Rule 10.1 Power to Take Additional Measures

The Organising Committee may take other measures as are required for the orderly conduct of the Competition.

Rule 10.2 Interpretation of Rules

The Organising Committee's interpretation as to the implementation of the Rules is final and conclusive.



ANNEX I. Score Sheets

A. Mediation Score Sheet – Preliminary Rounds

Your full name _____

Name of Competing Team _____

Mark the appropriate round by checking the box with X

Preliminary Rounds

Date _____ Morning Afternoon

Date _____ Morning Afternoon

Total Points

Please make sure to mark all three sections:

1. Mediation Plan

2. Mediation Session

3. Special Award
(for Preliminary Rounds only)

Please double check your calculation

| | |
|-------------------------|-------------|
| Total Mediation Plan | / 4 |
| Total Mediation Session | / 46 |
| Penalty Points | |
| FINAL SCORE | / 50 |

Please now indicate whether this Competing Team won or lost: **Won** **Lost**

If the Competing Team on this Score Sheet has the higher number of points, this Competing Team has **won**. If the Competing Team on this Score Sheet has the lower number of points, this Competing Team has **lost**. There must be a difference of at least 1 point between the two Competing Teams. Accordingly, you cannot give the same number of points to both Competing Teams.

Signature _____



Mediation Score Sheet – Preliminary Rounds

Please tick one box for each criterion

| The Mediation Session: <u>Your Interests</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|---|---|---|---|---|---|
| <p>Opening Statement of Your Perspective and Interests</p> <p>Presentation of events giving rise to the dispute and relevant legal considerations. Conveying your interests. Showing willingness to collaborate.</p> | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| <p>Advancing Your Interests 1: Working Through the Dispute</p> <p>Ability to assert and advance your business and other interests throughout the Mediation. Flexibility in adapting to the unexpected. Where appropriate, assertion of your BATNA.</p> | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 1 point | <input type="checkbox"/> 0 points |
| <p>Advancing Your Interests 2: Consistency with Your Confidential Information</p> <p>Ability to advance your business and other interests throughout the Mediation consistent with your Confidential Information.</p> | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 1 point | <input type="checkbox"/> 0 points |
| <p>Team Work: Counsel & Client</p> <p>Working together as a team, effectively communicating with each other, sharing responsibility appropriately and providing mutual backup.</p> | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

Sub – total _____ / 20



Mediation Score Sheet – Preliminary Rounds

Please tick one box for each criterion

| The Mediation Session: <u>Working with the other Party</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|---|---|---|---|---|---|
| Information Gathering and Ascertaining the Other Party's Interests Seeking relevant information and to understand the other Party's interests. Demonstration of active listening skills. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| Seeking to Collaborate with the Other Party Taking initiatives to build a problem-solving relationship with the other Party. Making appropriate strategic decisions on what to disclose or not. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| Working Together to Develop Options Generation of a range of options designed to meet your own and the other Party's interests, without premature evaluation. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

| The Mediation Session: <u>Working with the Mediator</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|--|---|---|---|---|---|
| Making Good Use of the Mediator Appropriate use of the Mediator's assistance and response to the Mediator's interventions. Generally, working with the Mediator in a constructive way. | <input type="checkbox"/> 8 points | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

Sub – total _____ / **26**



ICC INTERNATIONAL COMMERCIAL

MEDIATION COMPETITION

ONLINE EVENT | 7-15 February 2022

B. Mediation Score Sheet – Final Rounds

Your full name _____

Name of Competing Team _____

Mark the appropriate round by checking the box with X

Semi Finals

Date _____ Afternoon

Final

Date _____ Afternoon

Total Points

Please double check your calculation

| | |
|-------------------------|-------------|
| Total Mediation Session | / 46 |
| Penalty Points | |
| FINAL SCORE | / 46 |

Please now indicate whether this Competing Team won or lost: **Won** **Lost**

If the Competing Team on this Score Sheet has the higher number of points, this Competing Team has **won**. If the Competing Team on this Score Sheet has the lower number of points, this Competing Team has **lost**. There must be a difference of at least 1 point between the two Competing Teams. Accordingly, you cannot give the same number of points to both Competing Teams.

Signature _____



Mediation Score Sheet – Final Rounds

Please tick one box for each criterion

| The Mediation Session: <u>Your Interests</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|---|---|---|---|---|---|
| <p>Opening Statement of Your Perspective and Interests</p> <p>Presentation of events giving rise to the dispute and relevant legal considerations. Conveying your interests. Showing willingness to collaborate.</p> | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| <p>Advancing Your Interests 1: Working Through the Dispute</p> <p>Ability to assert and advance your business and other interests throughout the Mediation. Flexibility in adapting to the unexpected. Where appropriate, assertion of your BATNA.</p> | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 1 point | <input type="checkbox"/> 0 points |
| <p>Advancing Your Interests 2: Consistency with Your Confidential Information</p> <p>Ability to advance your business and other interests throughout the Mediation consistent with your Confidential Information.</p> | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 1 point | <input type="checkbox"/> 0 points |
| <p>Team Work: Counsel & Client</p> <p>Working together as a team, effectively communicating with each other, sharing responsibility appropriately and providing mutual backup.</p> | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

Sub – total _____ / 20



Mediation Score Sheet – Final Rounds

Please tick one box for each criterion

| The Mediation Session: <u>Working with the other Party</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|---|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Information Gathering and Ascertaining the Other Party's Interests Seeking relevant information and to understand the other Party's interests. Demonstration of active listening skills. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| Seeking to Collaborate with the Other Party Taking initiatives to build a problem-solving relationship with the other Party. Making appropriate strategic decisions on what to disclose or not. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |
| Working Together to Develop Options Generation of a range of options designed to meet your own and the other Party's interests, without premature evaluation. | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 3 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

| The Mediation Session: <u>Working with the Mediator</u> | Excellent | Very Good | Good | Satisfactory | Poor |
|--|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Making Good Use of the Mediator Appropriate use of the Mediator's assistance and response to the Mediator's interventions. Generally, working with the Mediator in a constructive way. | <input type="checkbox"/> 8 points | <input type="checkbox"/> 6 points | <input type="checkbox"/> 4 points | <input type="checkbox"/> 2 points | <input type="checkbox"/> 0 points |

Sub – total / 26



C. Special Award Score Sheet – Preliminary Rounds

Please evaluate both Competing Teams on all the categories. Points attributed in this Special Award Score Sheet only count for the attribution of Special Awards and do not affect the result of the round, nor the progression of the Team in future rounds. The two Teams can be scored independently and there is no requirement to give a different number of points to each of them.

Your full name _____

Name of Competing Team _____

| | 3 points This Team showed excellent skills in this area. | 2 points This Team showed very good skills in this area. | 1 point This Team showed above average skills in this area. | 0 points This Team showed average skills in this area |
|--|---|---|--|--|
| Distinction in the Mediation Plan | | | | |
| Distinction in the Opening Statement | | | | |
| Distinction in the Mediation Advocacy | | | | |
| Distinction in the Team Work between Counsel and Client | | | | |
| Distinction in the Acknowledgement of Cultural Differences | | | | |
| Distinction in Relationship Building with the Other Team | | | | |
| Distinction as Public Speaker | | | | |
| Distinction in Creative Solution Generation | | | | |
| Distinction in Interaction with the Mediator | | | | |
| Distinction for the performance of a Team from a University Participating in the Competition for the First Time (reference is to a list of first-time participating universities identified by the Organising Committee) (If applicable) | | | | |

ANNEX II. Instructions for Participants

A. Rules

Please review the Rules carefully including all Annexes. Please prepare well so that you fully understand what is required of you.

B. Mediator

Please do remember that the Competition is a mediation one, not a negotiation one, so do "use" the Mediator.

C. Mediation Plan

Pursuant to Rule 3 of the Rules, each Competing Team must provide the Organising Committee **on or before 23 January 2022** with copies of its finalised Mediation Plans for the Preliminary Rounds (with a copy of the Brief Biographies attached). Following submission to the Organising Committee, Competing Teams will not be permitted to modify their Mediation Plans.

The Mediation Plan is crucial to a Competing Team's preparation for the Mediation. In it, a Competing Team sets out its underlying interests, goals and strategies, defines its best alternative to a negotiated agreement (BATNA), and also reflects on the other Party's possible interests and BATNA. In so doing, the Competing Team works closely through the Problem, and, by putting its ideas down in precise form in writing, the Competing Team makes sure it has a clear understanding of the Problem and its own stake in it, as well as what might matter to the other Party. The Mediation Plan is seen as a basis for effective preparation rather than a substantive part of the formal Competition scoring, where it scores just 8%. The Mediation Plan is a way for Competing Teams to ensure that they are well prepared and thus improve their performance. Please note that Judges read and score the Mediation Plans before the Mediation begins, and the impression these make will influence the

way Judges perceive a Competing Team's preparation. A professional, complete, effectively presented and well-formatted Mediation Plan makes a difference.

The Mediation Plan for each Mediation Session during the Preliminary Rounds must be no more than 2 pages in 12-point, Arial font, 1.5 spacing and will not be accepted by the Organising Committee if it does not comply with this format.

Two copies on paper of the Mediation Plan (with a copy of the Brief Biographies attached to each) must be provided by the Competing Teams and handed to the Mediation Session Supervisor at the start of each Mediation Session during the Preliminary Rounds.

The Mediation Plan should contain a brief evaluation under each of the following headings:

1. Mediation Strategy: what is the Competing Team's strategy including its goals, objectives and its likely success for achieving a good outcome;
2. Division of responsibilities and tactics between Client and Counsel during the Mediation. Explain how the Competing Team plans to share responsibilities between Counsel and Client in the Mediation. Explain why the Competing Team chose the particular responsibility sharing by reference to the Problem;
3. The Competing Team's underlying interests – describe the interests that the Party plans to advance in the Mediation Session by reference to the Problem;
4. The Competing Team's BATNA;
5. The other Party's likely underlying interests – describe the likely interests of the other Party by reference to the Problem;
6. The other Party's likely BATNA – describe the likely BATNA of the other party by reference to the Problem.

A “strategy” refers to the overall approach taken to achieve a good outcome whereas a “tactic” refers to specific action used to try to achieve or advance the strategy.

For the Final Rounds (Semi-Finals, and Final) Mediation Plans are not required.

D. Feedback Session

Participants are advised that Judges and Mediators are invited to share their observations and constructive criticism with Competing Teams about their performance in the Mediation during the feedback session.

Judges have been instructed that they are to give feedback in accordance with the Judges’ and Mediators’ feedback guidelines in Annex IV.C and Annex III.C respectively. Under no circumstances will such feedback be used by a Judge or a Mediator to denigrate a Competing Team.

E. Staying within the Record

Rule 4.3 “Staying within the Record” sets out the limit of the additional information which is not included in the Problems that can be used by the Competing Teams during the Mediation.

Indeed, Competing Teams are discouraged from carrying out research as problems are self-contained and excessive research could distract their attention from the preparation for the actual Mediation. An excessive use of additional information during the Mediation can also be counterproductive for the Competing Teams, and may draw the Competing Teams beyond the scope of the Competition.

Nevertheless, doing *some* research of real facts related to the Problems is permitted if it helps the Mediation move forward and the Competing Teams to achieve a good outcome.

Judges have complete discretion in evaluating whether the Teams comply with Rule 4.3.

ANNEX III. Instructions for Mediators

A. General Information

This is a mediation competition, not a negotiation competition. The aim is to demonstrate today's best practise in international commercial mediation, on the part of all Competing Teams in the Mediation, as well as you as Mediator, within the constraints of the Competition, as set out below.

As Mediator in the Competition you perform the valuable role of facilitating the Teams to demonstrate their mediation skills. It is essential that the Mediators participating in the Competition adopt a consistent and uniform approach to the Mediation. With this in mind, please conduct each Mediation using the following guidelines:

1. How you approach your role as Mediator in the Mediation determines the quality of the learning experience that each student will have during the Competition. Your primary goal as a Mediator is to inspire the greatest quality of Team performance during the Competition.
2. Please prepare well so that you fully understand what is required of you.
3. In advance of the Competition, you must read the Rules including all Annexes.
4. In advance of the Competition, you must read the General Information (but **not** the Confidential Information) of each of the Problems for which you have been appointed as Mediator.
5. You must **not** read the Competing Teams' Mediation Plans.
6. Your Mediator's opening statement should be less than five minutes in duration. For the purpose and content of your opening statement please refer to B below.
7. You should encourage each Competing Team to adopt practical and realistic solutions to Problems, and to take account of financial and/or business considerations.

8. You should encourage Competing Teams to address all important issues during the Mediation and you should discourage them from postponing “difficult” ones to imaginary future sessions.
9. Please note, however, that it is not the aim of a Mediation to settle all issues in dispute but to progress towards acceptable and realistic solutions.
10. As set out in B below, you are requested to adopt a facilitative style during the Mediation, independent of your personal style in real life. Accordingly, you should not:
 - suggest specific options for settlement;
 - express a view as to who is right and who is wrong;
 - be directive.
11. Please remember that the Mediation is short and lasts only 85 minutes. During these 85 minutes the Competing Teams should be encouraged by you to exercise their skills as Parties whilst you exercise your skills as Mediator as set out more particularly in B below.
12. Caucuses are explained in Rule 2.1.3.

Caucusing is optional for the Competing Teams, and it is important to let the Competing Teams make their own decision as to whether or not to have a Caucus.

Even if you use a no-Caucus model of mediation in your practice or you consider that the time chosen to take a Caucus by a Competing Team is not appropriate, please allow each Competing Team to take a Caucus when requested and call for one when you consider it appropriate in accordance with Rule 2.1.3. Each Caucus should last no more than five minutes.

13. You may remain in the room while the Judges score the Mediation Plans during the Preliminary Rounds, and when they score at the end of the Mediation.
14. You should also provide feedback to the students in accordance with C below after the Judges' feedback session.

B. The Role of the Mediator

One of the learning experiences for students – and Professionals – at the Competition is the opportunity to work with and observe Mediators' different styles and approaches to mediation. While Mediators bring their personalities and experience to the Competition, it is important for them to reflect on how to ensure that the way they conduct mediations will enable students to show their skills and to have the best possible experience.

The key is giving the students space to show their own skills. This means that Mediators will take a facilitative approach, refraining from making proposals on the substance of the dispute. It also means that Mediators will take an approach to process that takes into account what students have prepared for and are expecting.

Students and Coaches are working with the Competition Score Sheet in mind. This gives Teams points for advancing their interests and for collaborating with the other side. It reflects interests-based and collaborative mediation process, for which students have prepared. Students are expected therefore to show many of the skills that Mediators usually bring to mediation, including working on interests, active listening, and making suggestions on the mediation process. So that they can do this, it is important that Mediators allow them the space and time in the process.

As a guideline, (perhaps) Mediators should wait to see if students make process suggestions before making them themselves. These will include suggestions on agenda setting, visualisation, what to talk about next, summarising and also Caucus. At the

Competition students will suggest these process steps, often asking the Mediator to assist with them. This does not mean that Mediators may not ask questions and reflect on and guide the process themselves. It means that they should ensure the right balance between Mediator interventions and student initiatives.

The Score Sheet includes the category “Use of the Mediator.” Students receive points for asking the Mediator to take process initiative wherever this is appropriate. It is therefore important for students to feel comfortable making requests of the Mediator, and for the Mediator to wisely consider whether to comply with these requests. In general, the students will guide the process working with the Mediator.

Students may also ask for Caucus, which should then be granted. Mediators may also request Caucus, but should do so wisely and with reserve. This is not a Caucus-driven mediation setting, as most of the session is in joint session. Mediators are advised not to request Caucus as a matter of “normal practice,” but only when they feel it will be helpful, and to give Teams the option of not accepting that request. In Caucus students are under time pressure, but it is not the Mediator’s role to time keep. You may of course help students use their time wisely in Caucus.

The Competition is diverse and international, so that culture may come into play. For many Teams, English is not their first language, and for many Mediators too. Standards of English are high, but Mediators and Teams may need to slow the process down at times in order to understand each other. If you are a native speaker of English, or can work in English to native speaker standard, remember when appropriate to choose your own words carefully so that teams can follow. Avoid idiomatic English, and slow down. Other cultural factors may also play a role, including levels of direct and indirect communication. For some Teams it will be easy to ask direct questions and to give direct answers, while others may be more used to indirect communication. The Mediator’s role here may also involve slowing the process down, reframing, and clarifying.

Finally, Teams are often nervous and excited. The students display very high levels of professional conduct, but they are in a Competition format that can be stressful. Trust in the Mediator is particularly important, and the Mediator’s calm presence is significant.

The Mediator's role in a few words: facilitative, sharing process with Teams, giving Teams space and being respectful and calm.

C. Mediators' Feedback

In the feedback session, Mediators give feedback to the Competing Teams after the Judges have given their feedback. The Mediators have up to ten minutes for this. Mediators are asked to give encouraging feedback to the students and are not required to follow any specified feedback procedure – in contrast to Judges who are asked to follow the procedure given in Annex IV.C. Competing Teams appreciate personal reflection by the Mediator on how the Mediation progressed and what the Mediator appreciated or even found challenging when working with the Competing Teams. This feedback is not prescriptive or evaluative, but appreciative and warm.



ANNEX IV. Instructions for Judges

A. General Information

1. As Judges in the Competition, you perform two extremely important functions. First, you evaluate and score the quality of performance by the Competing Teams in accordance with B below. Secondly, you are invited to **give measured, balanced and constructive feedback in accordance with the feedback guidelines in C below**, in a manner calculated to empower the students and increase their learning from this experience.
2. **All Judges must read the Rules including all Annexes, the Problems and the Confidential Information before the Competition. Please prepare well so that you understand what is required of you.**
3. Actual and apparent neutrality, impartiality and independence of each Judge are of the utmost importance in creating a positive educational experience for the Competing Teams. Therefore, a positive awareness of each Competing Team's cultural diversity supports and encourages the students to learn the art, practice and techniques of mediation. Accordingly, in advance of the Competition consider whether you may have biases which will not support an effective role in the Competition and be prepared to discard them. As part of your responsibility as a Judge and in compliance with the Rules, regularly ask yourself whether you are being fair and take particular care to score each Competing Team in accordance with the Judges' scoring guidelines in B below.
4. During the Preliminary Rounds all Judges must read each Competing Team's Mediation Plan (and attached Brief Biographies) at the beginning of a Mediation Session.
5. The Mediation Plans will be scored separately in accordance with Rule 3.0. Accordingly, you must **not** take them into account when scoring the Competing Teams' performances in the Mediation. The Mediator may stay in the room while the Judges score the Mediation Plan.

6. To ensure fairness and equality, you must use the Judges' Scoring Guidelines, as set out in B below, to evaluate and score the Competing Teams, even if such guidelines do not conform to your concept of best practice.
7. Although the language of the Competition is English, its international character means that it draws Teams from many different cultures. There are some obvious differences, such as between the native and non-native English speakers, and there are more subtle differences such as between the members of English-speaking Teams who come from different countries. Judges are encouraged to do two things in this respect:
 - i) to read the Competing Team Brief Biographies prior to judging. All Competing Teams' Biographies are included in the platform. This will help Judges to:
 - identify what cultural issues may emerge during the Mediation;
 - challenge assumptions about who are native English speakers and who are not;
 - know the Competing Team members' real names that Judges can use in feedback.

Competing Teams may include students whose cultural and linguistic backgrounds are not immediately apparent. Judges should bear this in mind. Please note that experience has shown that that it might be more difficult for non-native English-speaking students to express themselves fully as they might be using their energy to find the right words.

- ii) To consider how, within the Mediation, Competing Teams demonstrate a sensitivity to and respect for potential cultural and linguistic differences in a way that allows them to be “soft on the people and hard on the problem” as the proponents of principled negotiation recommend.

8. Do not penalise any Competing Teams for failing to reach settlement. Do not reward any Competing Teams for reaching settlement. Due to the tight timeframe, full settlement is not the aim of the Competition. Do reward Competing Teams for strategies which facilitate progression to resolution. While settlement would suggest finalised and signed agreements, resolution is understood as the Team's ability to make progress in understanding their conflict and considering possible solutions.
9. Judges have entire discretion as to whether any research carried out is permitted under Rule 4.3, as mentioned in paragraph E of Annex II. In doing so, Judges should particularly take into account whether the information presented by the Teams actually contributed to the advancement of the Mediation.
10. Each Judge must first independently score each Competing Team. The Judges may then confer with each other prior to finalising their Score Sheets. If need be, the Judges may subsequently adapt their individual scores. The Mediator may stay in the room while the Judges score.
11. The Judges do not have to award the same number of points or agree on which Competing Team should be awarded more points or indeed which Competing Team has won.
12. You must indicate on your Score Sheet which Competing Team won and which Competing Team lost.
13. Accordingly, you cannot award the exact same amount of points to both Competing Teams. There must be a difference of at least one point.
14. You must complete a Score Sheet for each Competing Team before providing feedback.
15. You must check that your Score Sheets are correctly filled in and that their calculations are correct before handing them to the Mediation Session Supervisor.

16. Your Score Sheets will be collected by the Mediation Session Supervisor after each Mediation Session.

17. Once Competing Teams, Coaches and Observers have returned to the room, you should provide feedback to each Competing Team in accordance with C. In order to avoid disturbances, Coaches for both Competing Teams and Observers must remain in the room through the entire feedback session.

B. Judges' Scoring Guidelines

1. What is being scored?

Judges are asked to score on the basis that they are looking for the most effective deal makers who make best use of the mediation process, while remaining consistent with their Confidential Information. This will involve evidence of skills such as flexibility, listening and empathy and of a Competing Team showing that it is capable of moving towards a collaborative outcome. The specific skills to be evaluated by the Judges are set out in the Score Sheets in Annex I.

2. Consistency

In order to achieve consistency, Judges are required to award points in line with the Score Sheet (Annex I). This will enable the Judges to quickly, easily and consistently establish the standard at which the Competing Teams are performing. The respective Score Sheets will be sent to the Teams following the Competition and will therefore provide additional feedback.

3. Definition of the scoring levels

There are 5 descriptors in the Mediation Score Sheet: Excellent, Very Good, Good, Satisfactory, Poor.

There are 3 descriptors in the Mediation Plan Score Sheet: Excellent, Satisfactory, Poor

As Judge, your starting point for scoring is the “**Good**” descriptor (“Satisfactory” for the Mediation Plan). **Good** is the measure of a Competing Team’s performance in the Mediation if the Competing Team is displaying all the elements of the particular scoring criterion and the Mediation is going well but the team cannot be assessed as delivering an overall outstanding performance. From **Good** Judges may then move up or down the descriptors.

Broadly, the majority of Competing Teams will display a **Good** or **Very Good** performance. Assessment at **Excellent** and **Poor** will be rare and exceptional.

Satisfactory will be an appropriate assessment for a performance that does not meet the standard of **Good** but is not **Poor**.

For example: In assessing “Team Work: Counsel & Client” – a Competing Team that was working together effectively and communicating with each other but failed to exhibit sharing responsibility or providing mutual back-up would be assessed as **Satisfactory**.

Excellent: The Competing Team was outstanding compared with the typical or usual standard in **every** element of the criterion.

Very Good: The Competing Team was outstanding in **some** but **not all** elements of the criterion **or above** the typical or usual standard in **every** element.

Good: The Competing Team was above the typical or usual standard in **some** but **not all** elements of the criterion **or at** the typical or usual standard in **every** element.

Satisfactory: The Competing Team was at the typical or usual standard in **some** but **not all** elements of the criterion.

Poor: The Competing Team was substantially below the typical or usual standard in **some** elements or did not demonstrate the behaviour described in the criterion.

C. Judges' Feedback Guidelines

1. Feedback

The focus of the Competition is on the development of the students' mediation skills. This is achieved by their practice of mediation during the Competition and feedback from you as Judges. The aim is to provide a positive learning experience for the students. To achieve this consistently and fairly across all of the Mediations in the Competition, all Judges are asked to follow the guidelines set out below.

Relevant and developmental feedback to the Competing Teams at the end of each Mediation Session in accordance with the guidelines set out in these instructions is an essential part of the Competition. Measured, balanced and constructive comment enables the participating students to learn and to develop their skills.

It is vital that Judges give feedback that is:

- clear and succinct
- measured and focused
- balanced (fair)
- constructive and digestible
- respectful
- based only on the scoring criteria and best mediation and business practice.

According to Rule 7.3, Judges should be particularly vigilant in avoiding personal comments/preferences, or statements that may be perceived as inappropriate and insensitive to differences in culture, gender, age, national origin, race, religion, and ethnicity.

Judges should be aware that in giving feedback the students perceive you as experienced Professionals and consequently will take what you say very seriously.

How are fairness and consistency achieved?

Use the guidelines for giving feedback. Adherence to the guidelines will ensure your feedback is:

- constructive and effective;
- appreciated and understood by students and
- provides solid points for students to take into their next Mediation.

The method by which you are asked to give feedback is based on the style developed by the National Institute of Trial Advocacy (NITA®). A well-defined and recognised feedback protocol delivers consistency and maximises student learning. Your adherence to the format set out below is vital because:

1. Research has shown that in skills assessments, students can assimilate no more than two or three learning points at a time. It is for this reason you are asked to refer to no more than two points of feedback per Competing Team.
2. Using the NITA® method assists in the giving of clear and direct feedback that is balanced and non-judgemental without being harsh. It avoids diluted or mixed messages.
3. Students must receive feedback that they can use in their next Mediation Sessions to enable them to develop their skills.

The Organising Committee wishes all students to feel that their experience was worth the effort of their participation in and journey to the Competition venue. The Organising Committee thanks you for the extra effort you give to make the feedback session a positive, constructive experience for each of the students.

2. Method for Delivery of Oral Feedback to each Competing Team following the Mediation

During the Mediation Session, each Judge should identify **two** examples of behaviours or conduct by each Competing Team (ideally one for each Competing Team member) that **either**:

- **were effective** or produced a positive impact on the Mediation (i.e. something that the team should develop and use again); **or**
- **would benefit from improvement** (i.e. something that the Competing Team should think about not doing again or doing differently next time).

Ideally, when providing feedback to each Competing Team, each Judge should choose different behaviours or conduct upon which to provide feedback, although this is not essential.

Start your feedback point by explicitly linking it to a category on the Score Sheet. For each example, feedback should be given using **all** of the following four elements.

1. **Headline:** “I want to talk to you about... (name one of the 7 categories from the Score Sheet).”
2. **Playback:** Replay specifically what the students said or did. This must be replayed accurately because it will establish credibility for what you are about to say.
3. **Rationale:** Say why it was useful or not useful. Make it short, clear and credible.
4. **Prescription:** “Next time, why not try...” make sure that you have chosen something that can be fixed or improved further or used again effectively. Consider giving a demonstration.

To ensure consistent, helpful feedback Judges are asked to:

- Be direct and constructive

- Provide a critique which recognises the level of experience of students – not Judges;
- Devote the same attention to each of the two Competing Teams.

Process in outline:

- a) Say which Competing Team, and name the student you are addressing;
- b) Name a category from the Score Sheet;
- c) Describe precisely what you saw or heard the students do or say;
- d) Say what they did or said worked well, or did not work so well from your perspective;
- e) Make a recommendation for a different approach or choice of words or for more of the same (reinforcing feedback). “Here are some things you might want to consider as options...”

3. Examples of Feedback Using this Method.

Example A:

Behaviour or conduct observed:

During the opening statement, Team A, the Requesting Party, hands to Team B a document. It is neither referred to during Team A’s opening nor during the Mediation. Team B however uses it in their opening to advance their interests.

Feedback to Team A following the 4 steps might look like this:

1. **Headline:** [set the context by reference to the Score Sheet heading]

“I want to talk to you about your opening statement of your perspective and interests. In particular, hand-outs and props.”

2. **Playback:** [this must be an accurate recall of what happened or what was said]

“During the first minute of your opening statement, you handed to Team B a document but you did not explain the purpose of the document and you did not refer to it again during the Mediation. Team B, however, made reference to your document in their opening statement and used it to convey their interests and a willingness to collaborate.”

3. **Rationale:** [why did it work or did not work?]

“By not explaining the purpose or significance of your document in relation to your interests or position, you lost the opportunity of making an early impact upon Team B to advance your interests. Team B took advantage of the error and used your own document to successfully advance their interests.”

4. **Prescription:** [What you should do/not do in your next Mediation Session]

“Handouts can be useful if they have a strategic purpose. Without this they can be an unnecessary distraction. Next time, think carefully about what the document is intended to achieve. Think about how you will refer to it during the mediation and the impact it will have on the other party.”

Example B:

Behaviour or conduct observed:

In the middle of the Mediation, Team B, the Responding Party, makes a statement to Team A which sets out ground rules for collaboration with Team A to generate options. The statement produces a breakthrough in the progress of the Mediation.

Feedback to Team B following the 4 steps might look like this:

1. **Headline:** [set the context by reference to the Score Sheet heading]

“I want to talk to you about your seeking to collaborate with the other party.”

2. **Playback:** [this must be an accurate recall of what happened or what was said]

“You (i.e. Team B) said:

...it is not about the claim. It is the deep-rooted question of trust and a proposal to reinstate [client's name]. We would like to ask you to understand this before we talk about figures...”

3. **Rationale:** [why did it work or did not work?]

“This worked well because it appealed to the fundamental issue of trust and produced a very effective platform for building a problem-solving relationship with the other party. This then created the basis for option generation and moved the Mediation on. Seeking collaboration based on a clear understanding of your client’s underlying concerns strengthened the problem-solving relationship and facilitated option generation to meet these concerns.”

4. **Prescription:** [What you should do/not do in your next Mediation]

“Next time, and in the future, seek to identify ways to achieve a collaborative relationship with the other party by making your concerns clear.”



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D. Judge's Feedback Aide Memoire

Team: _____

Judge: _____

Headline: What I want to comment upon: "I want to talk to you..."

Playback: What you said or did (it must be accurate and specific). It is the most important part of the feedback because it establishes credibility.



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Rationale: What was useful/What was not so useful. Make this short, clear and credible



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Prescription: “Why not try...” Make sure you choose something that can be fixed or improved further or used again. You will be critiquing a skill so consider giving a demonstration.