

# FDI MOOT SHENZHEN RULES 2023

## TABLE OF CONTENTS

<b>1. DEFINITIONS .....</b>	<b>1</b>
<b>2. GENERAL PROVISIONS .....</b>	<b>1</b>
2.1. Organization .....	1
2.2. Administration .....	1
2.3. Subject Matter .....	1
2.4. Structure .....	2
2.5. Venue of Oral Hearing .....	2
2.6. Language .....	2
2.7. Copyright .....	2
<b>3. PARTICIPATION AND ELIGIBILITY .....</b>	<b>2</b>
3.1. Team Composition .....	2
3.2. Participation .....	3
3.3. Outside Assistance .....	3
<b>4. REGISTRATION .....</b>	<b>4</b>
4.1. Registration Form .....	4
4.2. Registration Fee .....	4
4.3. Official Registration .....	4
<b>5. CASE .....</b>	<b>4</b>
5.1. Dispute .....	4
5.2. Drafting the Case .....	5
5.3. Case Delivery .....	5
5.4. Requests for Clarifications .....	5
5.5. Skeleton Bench Brief .....	5
<b>6. SKELETON BRIEFS .....</b>	<b>6</b>
6.1. Submission of Skeleton Briefs .....	6
6.2. Content .....	6
<b>7. ORAL HEARING .....</b>	<b>6</b>
7.1. General Procedure .....	6
7.2. Oral Arguments .....	6

7.3. Oral Rounds .....	7
7.4. Arbitrators .....	7
7.5. Communication and Use of Electronic Devices During Oral Rounds .....	7
7.6. Publicity .....	7
7.7. Evidence .....	8
7.8. Scouting .....	8
7.9. Ex Parte Oral Rounds .....	8
7.10. Scoring .....	8
7.11. Preliminary Rounds .....	9
7.12. Elimination Rounds .....	9
<b>8. PRIZES .....</b>	<b>9</b>
<b>9. PENALTIES .....</b>	<b>9</b>
9.1. Penalties for Written and Oral Performances .....	9
9.2. Disqualification .....	10
<b>10. MISCELLANEOUS .....</b>	<b>10</b>
10.1. Communication .....	10
10.2. Interpretation of Rules .....	10
10.3. Observance of Rules .....	10
10.4. Decisions of Organizer .....	10

## **1. DEFINITIONS**

“Registration Fee”: An official fee transferred by each Team to cover administrative expenses for the competition (moot). The 2023 fee is EUR250.

## **2. GENERAL PROVISIONS**

### **2.1. Organization**

2.1.1. The China National Round of the Foreign Direct Investment International Arbitration Moot (“the FDI Moot Shenzhen”, or “the Moot”) is organized by Shenzhen Court of International Arbitration (“the Organizer”).

2.1.2. The Organizer has signed the Memorandum of Understanding for Authorizing a China Round of the FDI Moot (“the MOU”) with the Center for International Legal Studies (“the Global Organizer”). According to the MOU, the Global Organizer shall not authorize any other person to conduct Rounds in China during the term of the MOU and the Organizer has the exclusivity to conduct the FDI Moot Shenzhen. The FDI Moot Shenzhen 2023 is a qualifying round, and Chinese mainland teams must qualify via the FDI Moot Shenzhen 2023 for the Global Orals (“the Globals”) and the Regional Rounds (“the Regionals”); teams from HKSAR, Macao SAR and Taiwan may opt to take part.

### **2.2. Administration**

2.2.1. The Organizer is responsible for the organization and execution of the Moot.

2.2.2. All requests regarding the administration of the Moot, implementation and interpretation of FDI Moot Shenzhen 2023 Rules (“the Rules”) will be directed to the Organizer.

2.2.3. The Organizer is located at 35-40/F, SCIA International Arbitration Tower (One Excellence T1, 5033 Tinghai Blvd, Qianhai, Shenzhen, P.R.China); Tel. (86-0755)83501700; Fax (86-0755) 82468591, or the Moot Website at <http://www.fdimootsz.org.cn/>. All Communications must be directed to the Organizer via the email address disclosed to the registered teams.

### **2.3. Subject Matter**

2.3.1. The Moot involves a hypothetical dispute in connection with an investment by a foreign investor in a host state.

2.3.2. Relevant institutional rules (e.g. the Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings or the Additional Facility Rules of the International Centre for Settlement of Investment Disputes) will apply to the proceedings.

## **2.4. Structure**

The Moot consists of two stages: preparation and submission of skeleton briefs for each of Claimant and Respondent, and presentation of oral arguments at the Oral Hearings.

## **2.5. Venue of Oral Hearing**

2.5.1. The Oral Hearing consists of two stages: Preliminary rounds and Elimination rounds.

2.5.2. The Preliminary rounds will be held online.

2.5.3. The Elimination rounds will be held in Shenzhen, China and a prior notice regarding the specific Venue of the Oral Hearings will be released by the Organizer.

## **2.6. Language**

The Moot will be conducted in English.

## **2.7. Copyright**

2.7.1. All materials prepared by or for the Global Organizer for the Moot, including without limitation, the case, any bench brief, the procedural orders, clarifications, are the exclusive property of the Global Organizer and may not be used for any purpose other than administration of the Moot and/or participation therein, without prior express written consent by the Global Organizer.

2.7.2. All materials prepared by or for the Organizer for the Moot, including without limitation, the skeleton brief, the Rules, the Schedule etc. are the exclusive property of the Organizer and may not be used for any purpose other than participation therein, without prior express written consent by the Organizer.

2.7.3. The Organizer reserves all the rights to the audio and videotaping of any Oral Round, or part thereof, subject to the privacy rights of the participants.

# **3. PARTICIPATION AND ELIGIBILITY**

## **3.1. Team Composition**

3.1.1. Each team should have two “student-members” to plead in each hearing; they need not be the same student members in each match.

3.1.2. A student-member (i) is currently or (ii) has been within six months of the Globals enrolled in a course of study leading to a law qualification (*e.g.*, LLB, LLM, M.iur, JD, diploma in professional practice or equivalent). Students enrolled in non-law programs may participate on prior written consent of the Organizer.

- 3.1.3. The Organizer may exceptionally permit a person with more than six months' Post-Qualification Experience to participate as a student-member of a team.
- 3.1.4. Previous participation in the FDI Moot does not exclude a student-member.
- 3.1.5. The number of each team's student-members is unlimited, provided they all are (or have been recently) enrolled at the same institution (even if in different courses or degree programs).
- 3.1.6. A team may have non-student-members, i.e. coaches and academic supervisors. All researches, writings and pleadings must be exclusively the work product of student-members. Non-student-members must limit themselves to giving the team organisational (and financial) support, general guidance and feedback.
- 3.1.8. The registration fee covers the participation at the Oral Rounds of 5 team members, whether students or coaches. The Global Organizer may impose a surcharge for additional team members attending.
- 3.1.9. A list of each team member must be finalised and submitted online by 12 pm on 30 June 2023.
- 3.1.10. A visiting student, a student enrolled as an extern or apprentice may also become a team member.
- 3.1.11. The Moot may at its own discretion review and approve the registration under special circumstances, such as the teams from different campuses of the same institution.

## **3.2. Participation**

- 3.2.1. In each match of the Oral Rounds, each Team is represented by exactly two student-member advocates. The same or different student members may participate in different matches.
- 3.2.2. Where a Team becomes unable to field two advocates for the Oral Hearings, the Organizer may at its discretion permit the Team to participate with its sole remaining student member pleading (i) only half the issues/allotted time or (ii) all the issues/allotted time. In the case of (i), the Team will not be able to win matches or advance to the elimination rounds, but the sole advocate will remain individually eligible for ranking; in the case of (ii), the Team may also win matches and advance to the elimination rounds, though at its discretion the Organizer may impose a penalty for the Team only having one advocate.
- 3.2.3. Teams may not reveal their institutional affiliation(s) or country of origin to the Arbitrators at any time during the Competition. Every Team will be referred to by its competition alias assigned by the Global Organizer.
- 3.2.4. Team members are responsible for their own travel to, visas for, and accommodations at the venue of the Oral Hearings.

## **3.3. Outside Assistance**

- 3.3.1. All researches, writings and editings, especially of skeleton brief, must be the

exclusive product of student Team members.

3.3.2. Teams may seek and receive outside assistance, which must be limited to a general discussion of the issues, suggestions as to research sources, general comments on arguments, organization and structure, and practice for the Oral Hearings. Teams may also receive financial and logistical support.

3.3.3. Teams must indicate any person (other than a member of the team) attending the Oral Rounds who has assisted the Team, either by registering such person as a coach member of the Teams, or making the Organizer aware that such person, having been invited by the Organizer or having voluntarily registered online to act as an Arbitrator at the Orals, could give rise to an appearance of partiality if assigned to one of the Team's hearings.

3.3.4. Arbitrators should independently indicate a "conflict" with any Team they have assisted within the meaning of this rule.

## **4. REGISTRATION**

### **4.1. Registration Form**

Every team must submit to the Global Organizer before 31 May 2023 the Registration Form available online at <https://fdimoot.org/teams/>, designating a Team contact, communication with whom constitutes communication with the Team.

### **4.2. Registration Fee**

4.2.1. The Registration Fee must be paid by 31 May 2023.

4.2.2. If a Team withdraws from the Moot before the first deadline for submitting requests for clarification, its Registration Fee may be refunded in full, less bank charges or any other related expenses.

### **4.3. Official Registration**

Only upon the receipt of both the Registration Form and the Registration Fee will the Organizer officially confirm the registration of each Team, assigning an alias for use in the Moot (on skeleton briefs and during the oral hearings) and enabling the team to manage its profile, clarification requests, etc.

## **5. CASE**

### **5.1. Dispute**

5.1.1. A dispute arises between a foreign investor and a host state. An (arguably) applicable investment agreement, treaty, or national legislation provides for dispute resolution before an arbitral tribunal consisting of three arbitrators in accordance with the chosen arbitration rules.

5.1.2. The dispute involves a set of theoretical and practical procedural and substantive legal issues both in the sphere of arbitration adjudication and foreign investment regulation and protection. Any existing or fictitious legal provisions may be used.

5.1.3. The dispute itself and the names of all the parties mentioned therein are fictitious. Any resemblance to an actual dispute or persons living or dead is purely coincidental.

## **5.2. Drafting the Case**

The Case is drafted each year by a Case Committee selected by the Global Organizer.

## **5.3. Case Delivery**

The Organizer posts the Case on Wechat Official Account “FDI Moot Shenzhen” and official website <http://www.fdimootsz.org.cn/>.

## **5.4. Requests for Clarifications**

5.4.1. The Global Organizer may provide all teams an equal, limited (timing and volume) opportunity to request clarifications of the case. Details on requesting clarifications will be disclosed to each Team when its registration is complete.

5.4.2. Any clarification responses are prepared by the Global Organizer and Case Committee and posted on [www.fdimoot.org](http://www.fdimoot.org) in accordance with the Schedule.

5.4.3. The Global Organizer and Case Committee may at their absolute discretion clarify only legally significant matters or those matters that may affect the understanding of facts of the dispute.

## **5.5. Skeleton Bench Brief**

5.5.1. The Global Organizer may distribute a Skeleton Bench Brief outlining the major issues and indicating some possible arguments on the issues raised in the Case only to the Arbitrators.

5.5.2. The Skeleton Bench Brief is strictly confidential. Authorized readers of the Skeleton Bench Brief may not disclose its contents to Teams or their coaches. The Organizer may disqualify any arbitrator sharing and any Team receiving the Skeleton Bench Brief.

## 6. SKELETON BRIEFS

### 6.1. Submission of Skeleton Briefs

- 6.1.1. Each Team must submit a Skeleton Brief for Claimant and a Skeleton Brief for Respondent by 8 am on 17 July 2023.
- 6.1.2. A Skeleton Brief must be contained in a single file and submitted in PDF format.
- 6.1.3. Equipment or software failure is not considered as an excuse for improper formatting or late submission of Skeleton Brief.
- 6.1.4. No Team may revise, substitute, add, delete, or in any other manner alter its Skeleton Brief once submitted.

### 6.2. Content

- 6.2.1. Each Skeleton Brief must contain the following parts:
  - a. Cover page;
  - b. Arguments.
- 6.2.2. Each Skeleton Brief may NOT contain additional parts or exhibits.
- 6.2.3. Each Skeleton Brief, including any footnotes, must be 1500 words or less.
- 6.2.4. Skeleton Briefs may be drafted in topic outline style ([see example of alphanumeric or decimal outline](#)).
- 6.2.5. Use direct quotations judiciously. A quotation of more than two lines in length must be block quoted and single-spaced.
- 6.2.6. The cover page must contain the following and only the following information:
  - a. The Team competition alias in the top right corner;
  - b. The name of the administering arbitration centre;
  - c. The names of the parties;
  - d. The title of the document, i.e. Skeleton Brief for Claimant, Respondent, or the like, as the case may be.
  - e. It must not contain anything identifying the Team's origins (University name, logo, URL, city, country, etc.).
- 6.2.7. One day before the Oral Hearings, each Team will be given access to the Skeleton Briefs drafted by other Teams.

## 7. ORAL HEARING

### 7.1. General Procedure

The Oral Hearings consist of Preliminary and Elimination Rounds.

### 7.2. Oral Arguments



Each Team presents in English oral arguments for Claimant and for Respondent. Its oral pleadings are not restricted to the arguments stated in its Skeleton Briefs.

### **7.3. Oral Rounds**

7.3.1. Each Oral match consists of 80 minutes of oral pleading. Claimant and Respondent are each allotted 40 minutes, including not more than 5 minutes thereof each for any rebuttal or sur-rebuttal. A Team must allocate at least 15 minutes to each oral advocate. The time allotted includes the time needed to answer any questions from the panel.

7.3.2. Before the hearing begins, teams must submit to the Tribunal in writing an order of argument, including any time reserved for rebuttal or sur-rebuttal, that is either (i) agreed between the teams or (ii) each team's proposal (with copy to the opposing team). If there is no agreed order of argument, the presiding arbitrator's decision is final as to the proposals. Arbitrators must ensure that both teams are treated fairly.

7.3.3. Only students registered as Team members may act as oral advocates. No more than two Team members may plead during one Oral Round. Other Team members may be present in the session in which their Team is pleading.

7.3.4. The Organizer will supply the Teams with the Schedule of the Oral Rounds one week before.

### **7.4. Arbitrators**

Three arbitrators preside over each Oral Round. If there is a shortage of Arbitrators, the Organizer may assign two or one arbitrator to preside over the Oral round. The Organizer appoints the Arbitrators from its College of Arbitrators.

### **7.5. Communication and Use of Electronic Devices During Oral Rounds**

7.5.1. During an Oral Round, the Team members pleading may only communicate with those team members at the counsel's table, the Tribunal, the Secretary and opposing counsel.

7.5.2. Behavior that distracts from the hearing is prohibited. Team members pleading in a given Oral Round may exchange written notes or assist each other in finding the necessary documents. No other communication is allowed.

7.5.3. Use of any electronic devices (cell phones, tablets, laptops, etc.) such as for time-keeping, note-taking, argument outlining or providing information in support of the pleadings is permitted. Use of these devices to communicate with any person is prohibited.

### **7.6. Publicity**

7.6.1. All Oral Rounds may be open to the public, subject to “scouting” restrictions under the Rules 7.8 and the security requirements of the host venue.

7.6.2. The Organizer may provide for the live web cast (and recording) of the Teams pleading in the final.

7.6.3. By participating, Team members and Arbitrators consent to the use of their images and audio-video recordings for the educational and promotional purposes of the FDI Moot.

## **7.7. Evidence**

No documentary evidence (exhibits, handouts, flip-charts, etc.), slideshows, or examination of witnesses or experts is allowed during the Oral Hearing.

## **7.8. Scouting**

7.8.1. Team members or persons directly affiliated with any Team may only attend matches in which their Team is competing, unless their Team has already been eliminated from the Moot.

7.8.2. No audio, video or photographic recording is permitted without prior consent of the Organizer once the Round has commenced.

## **7.9. Ex Parte Oral Rounds**

7.9.1. In case a Team fails to appear for a scheduled Oral Round, the arbitral tribunal after notifying the Organizer and waiting for 15 minutes will conduct the Oral Round ex parte. The attending Team may present its arguments and will be scored as if the absent Team were present.

7.9.2. The Team that fails to appear at the scheduled Oral Round forfeits all points for the round.

## **7.10. Scoring**

7.10.1. The Arbitrators score the individual oral advocates’ presentations during Preliminary Rounds. The Organizer will prepare and supply the Arbitrators with official scoring sheets.

7.10.2. In estimating individual oral advocates’ presentations, the Arbitrators will take into account the competence, inclusion of relevant facts, knowledge of legal norms, structure and logic of the arguments, and responses to questions. The Arbitrators will also take into account that for some Teams English is not their mother tongue.

7.10.3. Every Arbitrator may award each oral advocate a maximum of 100 points per preliminary round. The score per Oral Round for the oral arguments of a Team is the total of the points awarded and may be a maximum of 800 points (400 points for each Team's oral advocate).

7.10.4. Arbitrators must conduct the Oral Hearings in accordance with the Conduct of Hearing Guidance (<http://fdimoot.org/Instructions.doc> as updated from time to time).

## **7.11. Preliminary Rounds**

7.11.1. Each Team must present oral arguments in four Preliminary Rounds: twice as Claimant and twice as Respondent.

7.11.2. The Teams will plead as Respondent and as Claimant an equal number of times, and any two Teams may not face each other more than twice.

7.11.3. Teams may advance to the elimination rounds on the basis of the aggregate scores of its oral advocates, the number of matches it has won, or a match ranking system.

## **7.12. Elimination Rounds**

7.12.1. The teams emerging from the Preliminary rounds or a preceding elimination round may be paired strongest v. weakest, second strongest v. second weakest, etc.

7.12.2. If the pairings do not involve each team pleading both as Claimant and Respondent, the decision as to which Team pleads Claimant or Respondent may be determined by lot.

## **8. PRIZES**

8.1.1. The winning Teams of the Elimination Round will advance to the Regionals and the Globals.

8.1.2. The Moot will award the Teams and individuals prevailing in the Oral Argument. Individual awards include the Best Oralist and Honorable Mentions of Oral Advocate.

## **9. PENALTIES**

### **9.1. Penalties for Written and Oral Performances**

9.1.1. The Arbitrators scoring the Preliminary Rounds may reduce the number of points awarded to an advocate for violations of Rules 7.5 and 7.7.

9.1.2. The Organizer may reduce the number of points awarded to a Team for violation of Rules 6.1.1 or 7.8.

9.1.3. The number of points deducted will correspond to the severity of the violation as adjudged by the Arbitrators, or the Organizer accordingly.

9.1.4. The Arbitrators will be provided with the internal instructions as to the number of points to be deducted for each violation of the present Rules.

## **9.2. Disqualification**

The Organizer may disqualify a Team for serious violations of the Rules that the Organizer deems to be dishonest rather than inadvertent. The decision of the Organizer is final.

## **10. MISCELLANEOUS**

### **10.1. Communication**

All requests regarding the organization and administration of the Moot must be directed to the Organizer via e-mail. No Team may seek direct ex parte communication with any arbitrator (exceptions may apply if the Organizer must use a coach as a substitute arbitrator).

### **10.2. Interpretation of Rules**

Any participant may submit requests for clarification of the present Rules. The Organizer has the absolute discretion of interpretation. The Organizer may also annually review and amend the Rules as necessary.

### **10.3. Observance of Rules**

10.3.1. Any Team submitting the Registration Form agrees to observe the present Rules and the Organizer's instructions.

10.3.2. Any complaint relating to a rule violation or similar concerns should be brought to the attention of the Organizer immediately. Any delay to notify or substantiate a complaint jeopardizes the ability of the Organizer to investigate and if appropriate remedy the concern.

### **10.4. Decisions of Organizer**

10.4.1. Any decision of the Organizer in connection with the Moot is final and not subject to appeal.

10.4.2. The liability of the Organizer, co-founders, hosts, sponsors and arbitrators for errors or omissions is limited to the full extent legally permissible.

10.4.3. The Organizer does not provide accommodation and transportation arrangements.

Any losses including but not limited to property losses, traffic accidents and other personal injuries, infections or accidents will be borne by the team members themselves. The Organizer shall not be liable to any of the possible losses aforementioned, except for intentional misconduct.