This year, Loyola’s Vis Moot Teams continued to build on Loyola’s reputation in the 2012-13 competitions. Both competitions have continued to grow, with approximately 93 teams in Hong Kong, and 290 teams in Vienna. In fact, the competition in Vienna this year featured over 1,800 students from 67 countries and utilized over 800 arbitrators.

After competing in two pre-moot competitions in Belgrade and Zagreb, the Vienna team made a strong showing in the Vienna Vis Moot Competition. The team advanced to the Round of 64 and then beat Oxford University to advance to the Round of 32 where they lost to Monash University, which ended up reaching the final round. David Yoshimura earned an honorable mention for Best Oralist.

The Hong Kong team gave a strong performance as well. In the Shanghai pre-moot they advanced to the playoffs but lost a close argument to East China University, who previously won the national competition in China. The team didn’t leave empty handed though as Kyle Lennox earned Runner-Up Best Oralist. In Hong Kong, the team gave impressive arguments and received strong praise from many of the arbitrators.
Soon after the problem was released in early October, we found ourselves immersed in the fictional lands of Equatoriana and Mediterraneo. This year’s problem presented an array of interesting and unique issues, which we spent countless hours manipulating for both the claimant and respondent positions. The two parties to this dispute were Mediterraneo Exquisite Supply, Co. (Exquisite) and Equatoriana Clothing Manufacturing, Ltd. (Equatoriana Clothing). The parties entered into a last minute contract for the manufacture of 100,000 polo shirts. A dispute soon arose once Equatoriana Clothing realized it would not be able to meet the original deadline. As a dutiful agent of Equatoriana Clothing, Mr. Short telephoned Exquisite’s agent, Mr. Long, to inform him that the shipment would be late. Aside from this fact, the parties disagreed as to the remaining content of this conversation, which catapulted the parties into disagreement over four issues.

The arbitral tribunal was charged with deciding whether Article 96 of the CISG applied to this contract. Article 96 of the CISG is a national reservation under the CSIG and disallows any oral modification of contracts, which are ordinarily permitted under the CISG. This year’s problem featured the Chinese European Arbitration Centre (CEAC) Arbitration Rules. These rules permit parties to opt out of the application of all national reservations that states may make under the CISG. Traditionally, this type of autonomy is not allowed because the CISG prohibits private parties from derogating from an Article 96 reservation. As such, we crafted arguments on whether an arbitral institution could implement rules effectively trumping a mandatory provision of the CISG. This was truly an incident of first impression as no other arbitral institution allowed for the type of party autonomy that CEAC seemingly provides.

Two other issues then arose out of this issue. First, if it was determined that the parties could in fact derogate from CISG Article 96 under the CEAC arbitration rules, then the tribunal would have to decide whether an oral modification to the delivery date in the contract was agreed upon in the telephone conversation between Mr. Short and Mr. Long. Second, Mr. Short provided a witness statement regarding his version of what was said in his conversation with Mr. Long but refused to attend any oral hearing. The issue before the tribunal was whether or not his witness statement should be considered as evidence in lieu of his absence and unavailability for cross-examination.

The shirts were eventually delivered five days after the original delivery date. However, a news report emerged about a month and a half later and exposed Equatoriana Clothing’s use of child labor in one of its factories. Not only did this serve as negative publicity for Exquisite, but it also violated the company policies of both Exquisite and its parent.

The fourth and final issue concerned the avoidance of the contract by Exquisite because of Equatoriana Clothing’s use of child labor. In order to avoid the contract, Exquisite had to show that Equatoriana Clothing fundamentally breached the contract by using child labor in its factories. The crucial fact here was that Equatoriana Clothing did not use child labor in the production of the polo shirts manufactured for this contract, but instead used child labor in production of other goods. We focused our arguments on whether or not Exquisite was substantially deprived of what it was entitled to expect under the contract and whether any such breach was foreseeable to Equatoriana Clothing, or a reasonable person in the same circumstances.

Although we initially maintained firm positions on which way the issues should be decided, we continuously found ourselves embracing competing ideas. This problem, loaded with its twists and turns, truly opened our minds to the endless realm of possible outcomes that can exist in the practice of law.
In February 2013, Loyola University Chicago School of Law hosted its 8th Annual Pre-Moot Competition for the 2012-2013 Willem C. Vis International Commercial Arbitration Moot. The competition was made possible with the help of our co-sponsors – the Chicago International Dispute Resolution Association (CIDRA) and the Chicago Branch of the Chartered Institute of Arbitrators. The purpose of Loyola’s pre-moot is to promote international arbitration education and provide teams with the opportunity to practice and hone their oral pleadings prior to the Vis International Commercial Arbitration Moots in Vienna and Hong Kong. Loyola welcomed student teams to participate, and legal practitioners and academics attended as moot arbitrators.

On Friday, February 15th, the schools gathered at Rock Bottom Brewery where the students and coaches had an opportunity to meet one another and socialize in a comfortable and informal environment. Unsurprisingly, many conversations quickly escalated from mere pleasantries to detailed and intricate approaches regarding the problem. Nevertheless, the evening filled with food, drink and new friends, provided a fantastic segue into the Saturday arguments.

The Pre-Moot featured 60 students from 10 different schools, including two international schools - Osgoode Hall in Canada and Zurich University in Switzerland. Loyola was also graced by the presence of over two dozen lawyers, judges and professionals, including one from Vienna, who served as guest arbitrators for the arguments. The event provided the students with an experience that closely mirrored what they would encounter in the actual competitions in Hong Kong and Vienna.

The day ended with a luncheon served in Kasbeer Hall. Although the Loyola teams were not eligible to win because Loyola sponsored the pre-moot, both the Hong Kong and Vienna teams performed very well.

The next pre-moot will take place on March 1, 2014.
Crafting in Corboy, Then Vying in Vienna
By Susan Lee

Fresh from an intensive week of pre-moots in Belgrade, Zagreb, and Vienna, the Vis Moot competition for Loyola’s Vienna Team began on day one of the general rounds. We could feel the nervous excitement as we walked over to the Juridicum, one of the main facilities of the arbitration sessions. We first headed up to the top floor of the Juridicum (also called the “dachgeschoss”) to check our room assignments and panel of arbitrators. We were scheduled to argue against Eotvos Lorand, a team from Hungary. Arriving early to our assigned room, my partner, Ebony Smith, and I set our table with the placards, timecards, and sourcebook. The Hungarian team arrived, followed by two arbitrators. Fifteen minutes after our scheduled starting time, the third arbitrator had still not arrived.

We were so eager to begin our arguments. This was the moment we had all been working toward for so many months. We began with taking the International Commercial Arbitration and the CISG course with Professor Moses in the fall, followed by writing the respondent’s brief during winter break, then the countless number of hours of training and practice, and finally, the rigorous pre-moot sessions that led up to the competition in Vienna.

Although missing an arbitrator was not the ideal scenario we hoped for, our coaches and former Loyola Vis Moot alumni prepared us to deal with unexpected situations, no matter how odd or surprising. Eventually a replacement arbitrator joined the panel, and our first session in the general rounds went smoothly despite the delay. The rest of our general round sessions against Waseda University (Japan), University of Liege (Belgium), and Saint Joseph University (Lebanon) went great, and we were all very proud of our performances.

On the last day of general rounds, all the teams gathered in a giant convention hall to find out whether they had advanced. This year, we are proud to say that Loyola advanced to the next round of 64 teams. In that round, we argued, and won, against Oxford University (U.K.), advancing to the next round of 32 where we argued against Monash University (Australia). We lost against Monash University, who went on to the final round, but the Loyola team argued extremely well and ended with a very strong performance.

Going to the Vis Moot and advancing beyond the general rounds was a great experience. But furthermore, there is no doubt that every single team member continuously improved his or her advocacy skills throughout the Vis Moot. Not only was the Vis Moot a memorable law school experience, we know the skills we gained will serve us well in our future legal careers.
An International Endeavor
By Kyle Lennox

Participating in Loyola’s Vis Moot program was the most relevant experience to real world practice that I had in law school. Not only did it allow me to argue in front of numerous panels of arbitrators, but I also conducted countless hours of brief-writing and legal research to participate in our team’s memorandum. I want to thank all of the donors for their generosity in allowing my teammates and me to participate in this experience. It was extremely valuable, and one I will not forget.

China is a fascinating country. We had a chance to enter moot competitions in both Shanghai and Hong Kong. Shanghai provides Chinese culture at its finest. It is a massive city with skyscrapers as far as the eyes can see. The vastness of the skyline matches the density of the city. We ran into a sense of Chinese corporate idealism as well as poor slum neighborhoods within the city.

Hong Kong was fantastic. The modernity of the city was astounding to all of us. Unlike Shanghai, Hong Kong is a truly international city where cultures from around the world live and work. Our hotel was located mere steps away from Victoria Harbour. This allowed us to begin our journey in the city by overlooking the city’s nightly light show. As we had unfortunately been knocked out of the playoffs in the Shanghai pre-moot, we had an extra day to freely explore this part of China.

Our group decided to visit Macau during our off day and see China’s Las Vegas. While we did not participate in the lights and sounds of China’s casino district, we did interact with locals, eat fresh fish on the beach, and Erin Collins bungee jumped. While the bungee jumping scared me half to death, I was more than happy to sit on the beach and chat with locals from Macau. This day of adventure provided us with a breath of fresh air and allowed us to briefly clear our minds. We returned to Hong Kong with a fresh sense of determination and continued with our diligent practice.

The competition was fierce with over ninety teams participating. We did very well by our own standards and we all had our best individual performances throughout the opening rounds. Although it was difficult to accept, a few of our arbitrators happened to disagree with our own humble opinions. Thus, we were left thoroughly disappointed in our results, but happy with how we performed and all the skills we acquired and refined along the way.
This year the Vienna team competed in two preliminary moots, or pre-moots for short, in Belgrade, Serbia and Zagreb, Croatia. We were all very excited for these Pre-Moots because this would be our first time visiting any country that was formerly part of the USSR.

We began our journey at a pre-moot in Belgrade, Serbia. We arrived in Serbia to a light snowstorm. All of the buildings, some from the Soviet days and some much older, were covered with a light layer of white powder. The city looked like an industrial, winter wonderland.

My first impression of Belgrade was that this was a city that had witnessed many things, some of them wonderful and others that could cause nightmares. We would later learn from the pre-moot organizers that in contrast to the cold buildings, the people of Serbia were known for their hospitality and warmth.

As much as we learned about the culture and spirit of the city, we learned infinitely more during the pre-moot. Two early lessons we learned were that we should never assume that we would proceed as outlined in the problem; and that if we wished to proceed in a certain way, we needed to be prepared to support our interpretation of the procedural orders. The lessons we learned helped to prepare us for the competition in Vienna. We arbitrated against teams from Brazil, Switzerland, Italy, and Germany. All of the students were very nice and the pre-moot was well organized. We finished 17th out of 45 teams in the Belgrade Pre-Moot. This great start made me very excited for the main competition in Vienna.

We next traveled to Zagreb, Croatia where we participated, along with the University of Pittsburg, in a more informal pre-moot hosted by the University of Zagreb. On our drive through the Eastern European countryside, it was interesting to see the landscape and city structure evolve into the more familiar image I had of Western Europe. However, the people of Croatia have still managed to retain a distinct identity separate from the other Eastern European countries as well as those in the West.

The time that we spent in Zagreb proved to be invaluable. Although this pre-moot was less tightly structured than Belgrade, we learned a great deal from both teams and we became good friends for the remainder of the competition. One useful tip that we took from Zagreb is that many arbitrators prefer that we call our different arguments “submissions,” just one of many cultural, or legal insights. We also spent time after arbitrating just talking amongst ourselves about this year’s problem as well as “debating” the different rules associated with the case. These informal discussions helped to prepare us for some of the questions we received in Vienna.

Both Belgrade and Zagreb helped to prepare us in different ways for what was to come once we arrived in Vienna. We were able to streamline our arguments and learned that arbitrators from a civil law background tend to ask different questions. As a team, we were happy and grateful that we had the opportunity to compete in both of these beautiful places.
The Team arrived in Shanghai for a pre-moot and had a few days to curb our jetlag and explore the city of over 23,000,000 people. Once the competition started we faced teams from China, Hong Kong, Mexico and Japan. The Shanghai pre-moot was a relatively small competition with only twenty teams, most of which were from Asia, with the exception of three teams from the United States. After four preliminary arguments our team advanced to the quarterfinals. As opposed to the preliminary rounds where you were scored against all other teams, during the playoff rounds teams advanced only if they were deemed by the arbitration panel to defeat their opposition. After a long day of three arguments, Loyola gave a strong argument and was narrowly defeated by a team from East China University. We were later informed that East China University had won the national arbitration moot competition in China.

Although the defeat was quite disappointing we learned a great deal by competing against teams from other legal cultures and felt well prepared to proceed to the main event in Hong Kong. We also were thrilled with the fact that Kyle Lennox took home the honor of being named Runner-Up Best Oralist of the whole competition. Also on the bright side, we had an additional day to enjoy Shanghai, explore the ancient Yuyuan Gardens, and do some souvenir shopping around the Bund.

We then proceeded to Hong Kong where we arrived to see the incredibly large skylines and feel the international flare of the city immediately surround us, along with the humidity! The Team took advantage of our free days before the competition by re-hashing our arbitration arguments and taking a high-speed ferry to Macau.

During the preliminary rounds of the Vis East, Loyola faced teams from South Korea, India, Denmark and Hong Kong. Again, it was an amazing learning experience to see the different approaches to the problem and the argument style that both teams and arbitrators from different cultures embraced.

Although our performances were strong and we received very positive feedback throughout the whole competition, we did not advance to the Round of 16. Although this was a disappointment, we quickly realized that statistically advancing was very difficult even if you had scored well. Instead we explored the culture that Hong Kong has to offer and we had a wonderful day at the Hong Kong Peak before the Vis final seafood banquet on Lamma Island and the closing ceremonies the next day.

Overall, participating in the Vis East was an incredible experience, and certainly one of the best experiences I have had in law school. As even domestic legal culture continues to rapidly involve international components, this exposure to international arbitration will undoubtedly benefit my teammates and me no matter where our future careers take us.
"When I was in law school, the most traveling I did was navigate from the library to my classes," a judge told me during a recent conversation. The judge was utterly amazed at the quality and caliber of my international experiences as a part Loyola’s Vis Moot Team. This year, the Vienna Team was privileged to participate in three pre-moot events before partaking in the 20th Annual Willem C. Vis Moot Competition.

The Belgrade Open Pre-Moot was held at the Pravni fakultet Univerziteta u Beogradu. Its halls were filled with what seemed like countless numbers of our competitors as we arrived on the first day. Despite feeling some intimidation at the sight of our ably prepared peers, our team went on to perform well and received excellent feedback from the arbitrators.

At the conclusion of the Belgrade pre-moot, we headed 240 miles west into Croatia. We were treated to a very warm welcome by the Zagreb team with whom we quickly became friends. Under a less formal setting, the Zagreb pre-moot gave us a chance to evaluate our performance in Belgrade and build on our strengths for Vienna. We had great rounds against the University of Pittsburgh team who also attended the pre-moot.

We then departed from Zagreb via train and headed north into Vienna, briefly crossing through Slovenia. The “City of Music” did not fail to impress from the moment we arrived on its grand streets and surveyed its breathtaking architecture. Once settled in Vienna, our first stop was to participate in the Vienna Pre-Moot held at the Austrian Supreme Court. Having been selected as one of only 12 teams at the event, we welcomed the chance to compete. The team once again performed well and we were quite encouraged by our feedback. This provided the team with a fantastic experience to field questions and receive feedback from arbitrators operating in civil law countries.

The Moot’s opening ceremony was held at the Wiener Konzerthaus, a historic building months away from celebrating its 100th anniversary. We sat with a capacity crowd to hear Professor Eric Bergsten announce that this would be his last year as the ‘man behind the Vis’. On a lighter note, we were also treated to Professor Harry Flechtner’s infamous annual rendition of "The Mootie Blues".

This year, the team did exceptionally well at the moot and advanced from 290 teams into the round of 64. We then championed the Oxford team to advance into the round of 32. Unfortunately, we were eliminated in the next round by an Australian team from Monash University who made it to the final round.

Ultimately, whether it was walking around the famous Kärntner Straße as we made our way to and from rounds, enjoying Wienerschnitzel, or preparing to participate in one of the most competitive moots, Vienna offered up a memorable experience. The trip as a whole was truly a once in a lifetime opportunity that is sure to impact us for years to come.
The Road to Vienna
By David Yoshimura

This past spring, I had the great pleasure of traveling to Austria to participate in the 20th annual Willem C. Vis Moot Arbitration with Loyola’s other Vis Moot Fellows. It was a long road, and it took a lot of work and preparation. But in the end, I can easily say that it was one of the most rewarding, enlightening, and fun experiences of the very busy academic year.

After spending the first months of 2013 writing a response brief and holding practice several times a week, we were able to leave Chicago with a lot of confidence in our ability to do well at the competition. We didn’t realize how far we still had to go before we actually argued our case in Vienna.

Our first stop was Belgrade, Serbia. The University of Belgrade Faculty of Law hosts an annual “pre-moot” invitational competition that takes place one week before the beginning of the actual moot in Vienna. During the pre-moot, we were able to meet lots of fellow law students from Italy, Germany, and beyond while exploring the city. Loyola’s four pre-moot arguments took place at the Faculty of Law, the AmCham office and at the firm of Karanovic/Nikolic. The closing ceremony took place in Belgrade’s beautiful City Hall.

After the closing ceremony, all of the teams were invited to a cozy local restaurant that served Serbian cuisine. The food went along great with the company—dozens of relieved law students and many newfound friends.

The next morning, we went by minivan to Zagreb, Croatia, where we joined up with two other teams that are friends of Loyola: the University of Pittsburgh and the University of Zagreb. We explored the city, which has a rich history and a line right down the middle that separates the modern parts of town from the classical. After a few days of practice arguments, we enjoyed a night out with the other teams, trying the local specialties (seafood dishes) and the excellent local microbrews.

Finally, we left Croatia and were on our way to Vienna. Each year, the team stays in the Benediktushaus, the guest house of a Benedictine monastery in the city center. With barely enough time to take a breath, we were back into practice arguments in our final pre-moot in Austria’s stunning Supreme Court building.

The actual moot competition started the next day and lasted for the following five days. During that time, in addition to making our final arguments, we had time to go out to the “official” club for Vis Moot participants, the Ost Club, try out numerous local restaurants (every single one of which serves some really good schnitzel), and scope out the incredible architecture that has evolved in remarkable ways throughout the city.

Additionally, because the competition always takes place the week leading up to the Easter holiday, the streets are lined with vendor stands selling artisan wares, locally sourced foods, and some startlingly beautiful easter eggs! (I wasn’t brave enough to try to bring one of them safely home across the Atlantic.)

We also visited the famous Café Central for a coffee, where many important intellectuals gathered throughout the late nineteenth and early twentieth centuries.

In the end, our team advanced to and through the elimination rounds of the competition until the Round of 32. Since the competition hosted nearly 300 teams this year, the result was a strong showing for Loyola, and a great pay-off for the months and months of intense preparation work.
A Special Thanks to Our Donors…

The opportunity to compete in Hong Kong and Vienna was made possible by generous contributions from the Chicago legal community. We thank you and hope that together we will continue to ensure future success for the Loyola Vis teams.

**Peter B. Carey, Esq.** is an alumnus of Loyola University Chicago School of Law and has provided consistent support over the years. He has been an insightful arbitrator and generous donor. He also visited Vienna many times to arbitrate and to assist the team. His daughter, Ellie, participated on the first Loyola Vis Moot Team. He specializes in commercial litigation.

**Freddi L. Greenberg, Esq.**, an alumna, has also generously supported the Vis Moot Program. She has a boutique energy practice in Evanston, Illinois, founded in 1983, which focuses on the electric and natural gas industries with a special focus on renewable energy.

**Terry Moritz, Esq.**, an alumnus of Loyola University Chicago School of Law, made generous contributions to the Vis Moot program. Mr. Moritz has more than 35 years of experience in the ADR setting, and is currently teaching an arbitration course at Loyola.

**Silvia Rota**, an alumna of the Loyola University Chicago School of Law graduate program, supports the Vis teams through contribution and through an endowed fund she and her brother have created in honor of their father, Dr. Aminta Rota.

**Professor Moses** contributed the royalties from her book on arbitration – *The Principles and Practice of International Commercial Arbitration*, published by Cambridge University Press.

The Loyola Vis Moot teams would also like to thank the following friends and alumni of Loyola, a number of whom are past participants in the Vis Moot program, for their financial support:


Thank you again to all of the donors. We are very grateful for your support.

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