



CLDP
COMMERCIAL LAW DEVELOPMENT PROGRAM



Summer Course on International Commercial Arbitration

for

Tajikistan

*August 26–28, 2024
Dushanbe, Tajikistan*

With the support of

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Project made possible through funding by



Dear Participants,

On behalf of the Commercial Law Development Program (CLDP) of the US Department of Commerce, welcome to the Summer Course on International Commercial Arbitration. CLDP is honored for the support of the Tajik State University of Commerce (TSUC).

International Commercial Arbitration is an important and critical area of law that is growing internationally. State and non-state parties entering into international commercial contracts often require or prefer disputes to be settled through arbitration. This requires a specific cadre of legal expertise, able to engage in arbitration with international parties, understanding the various international principles, cultures, and laws.

Established as an educational tool for developing international commercial arbitration capacity, the Annual Willem C. Vis International Commercial Arbitration Moot (Vis Moot), held in Vienna and Hong Kong, is the pre-eminent moot on commercial law and arbitration. CLDP is sponsoring several teams from across the world in a series of training sessions in preparation for their participation in the Vis Moot. The goals of the Vis Moot are the promotion and study of international commercial arbitration and the training of legal leaders of international commercial arbitration. For more information on the Vis Moot, please visit <https://www.vismoot.org/>.

Every year the United Nations Commission on International Trade Law (UNCITRAL) requests the law library to provide a report on the development of international commercial arbitration. The report would provide background on different countries. One of the measures for UNCITRAL to determine progress is Vis Moot. From the perspective of UNCITRAL and to the world, country representation in the Vis Moot is an important indicator that illustrates a commitment to progress in international commercial arbitration. You all have an important journey ahead!

The Summer Course on International Commercial Arbitration for Tajikistan denotes a significant representation of the country's commitment to international commercial arbitration. We are honored to have TSUC, TNU and APAPRT participating in-person from Tajikistan in the Summer Course.

We thank you for your commitment to provide sustainable support to this program.

About CLDP

CLDP is a legal technical assistance office within the United States Department of Commerce. Established in 1992, CLDP's mandate is to work with emerging economies to improve the policy, legal, and regulatory conditions for trade, investment, and commercial activity. CLDP provides legal technical assistance, legislative and policy advisory services, and institutional capacity building to host country governments in support of their economic development goals.

CLDP Alternative Dispute Resolution Work and Vis Moot Programs

CLDP works to improve the legal and business enabling environment by working to ensure efficient and effective dispute resolution mechanisms, including availability and access to alternative dispute resolution (ADR). CLDP works with stakeholders including governments, judiciary, ADR institutions, practitioners, arbitrators/mediators, academia, students, and the business community to improve the legal infrastructure, modernize legislation, train and certify, and raise awareness and use of ADR mechanisms. Every year, CLDP supports university participation from around the world in Vis Moot to support the development of future ADR practitioners and a culture of arbitration in legal and academic communities around the world.

Objectives of the Summer Course

- Enhance knowledge of students regarding ADR, particularly arbitration;
- Familiarize students with the process of arbitration, its basic principles and structure;
- Improve the understanding of students about the basis and key elements of arbitration;
- Develop understanding of students about key legal instruments used in Vis Moot;
- Students will learn about the structure of Vis Moot and its components, such as Vis problem;
- Develop a basic understanding of written and oral advocacy;
- Students will understand how Vis Moot can develop arbitration in their respective jurisdictions.

Expected Outcomes

- Students will gain an advanced understanding of ADR including arbitration and Vis Moot;
- Facilitate selection of Vis team for TSUC;
- Prepare interested students for future participation in Vis Moot.

All the sessions of the Summer Course are interactive. Speakers of the Summer Course will ask questions and engage students in discussions. Therefore, the students should ensure completing the assignments which have been shared with them before the Summer Course.

Summer Course on International Commercial Arbitration for Tajikistan

Monday, August 26, 2024 – Day 1	
8:30 – 9:00	Arrival at TSUC and Registration
9:00 – 9:15	Welcome and Opening Remarks <ul style="list-style-type: none"> ▪ <i>Welcome by TSUC</i> ▪ <i>Remarks by CLDP</i>
9:15 – 9:45	Review of Agenda and Learning Objectives for the Summer Course <i>A brief overview of the schedule for the following three days, expected level of effort from participants, and learning objectives.</i> Speaker: Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert
9:45 – 10:45	Introduction to ADR <i>This presentation will at the minimum cover Negotiation, Mediation, Conciliation and Arbitration in addition to comparison between ADR and Litigation.</i> <i>Presentation will focus on cross-border matter issues, benefits of ADR, what is ADR generally, party consent, ad hoc vs. institutional, and other foundational principles.</i> <i>Provide a general overview of the different types of ADR, when they are best used, and how they can be used in conjunction with each other.</i> Speaker: Matthew Drossos and Ivan Philippov, White & Case LLP
10:45 – 11:00	Break
11:00– 12:00	Dispute Resolution Clauses <i>This presentation will at minimum cover the following:</i> <ul style="list-style-type: none"> ▪ <i>Arbitration Agreement (analysis – types, formation and validity, governing law, scope – model arbitration clauses + multi-tier dispute resolution clauses)</i> ▪ <i>Separability of arbitration agreements</i> ▪ <i>Final and Binding Nature of Arbitration</i> ▪ <i>Seat of arbitration</i> ▪ <i>Venue of arbitration</i> Speakers: Matthew Drossos and Ivan Philippov, White & Case LLP
12:00 – 12:45	Arbitration Alternatives: Negotiation, Mediation, and Conciliation <i>This presentation will at the minimum cover the following:</i> <ul style="list-style-type: none"> ▪ <i>Pros and cons of pursuing arbitration alternatives</i> ▪ <i>Negotiation strategies</i> ▪ <i>Forms of mediation: structured/unstructured</i> ▪ <i>Flexibility</i>

	<ul style="list-style-type: none"> ▪ <i>Enforcement of mediated settlements</i> <p>Speakers: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
12:45 – 13:45	Lunch Break
13:45 – 14:45	<p>Foundational Principles of International Commercial Arbitration</p> <p><i>This presentation will at the minimum cover the following:</i></p> <ul style="list-style-type: none"> ▪ <i>Concept, History and Development of ICA</i> ▪ <i>Role of International Commercial Arbitration in Resolving International Commercial Disputes</i> ▪ <i>Confidentiality, Neutrality, Expertise</i> ▪ <i>Jurisdiction and Kompetenz-Kompetenz</i> ▪ <i>Remedies</i> ▪ <i>Interim measures</i> <p>Speakers: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
14:45 – 15:45	<p>Investor-State Arbitration – International Investment Arbitration</p> <p><i>The idea of this presentation is for the students to gain an understanding of investment arbitration and its differences with commercial arbitration. It will further cover information about main institutions involved in Investor-State Dispute Settlement. More specifically, the presentation will at the minimum cover the following:</i></p> <ul style="list-style-type: none"> ▪ <i>Commercial Arbitration vs. Investment Arbitration</i> ▪ <i>Role of International Arbitration in Resolving Investment Disputes against States</i> ▪ <i>Key instruments: Bilateral Investment Treaties, Multilateral and Regional Treaties (i.e., Energy Charter Treaty, USMCA)</i> ▪ <i>Main Institutions involved in ISDS (i.e., ICSID, PCA)</i> ▪ <i>Distinctions between arbitration under ICSID vs. other ad hoc</i> ▪ <i>Key jurisdictional and merits considerations in ISDS</i> ▪ <i>Key points to takeaway working with States on investment law disputes</i> <p>Speaker: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
15:45 – 16:00	<p>Preliminary Preview of Practice Session</p> <p><i>The students will be guided about the Practice Session scheduled for day 2.</i></p> <p>Speakers: Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert; Matthew Drossos and Ivan Ivan Philippov, White & Case LLP</p>
End of Day 1	

Tuesday, August 27, 2024 – Day 2	
8:30 – 9:00	Arrival at TSUC
9:00 – 9:15	<p>Lessons learnt in Day 1 and Learning Objectives of Day 2</p> <p><i>This will be in interactive session with the students. The speakers will engage the students in a discussion about the topics learnt in Day 1.</i></p> <p>Speaker: Faridun Isomatov CLDP Vis Moot Coordinator, and Subject Matter Expert</p>
9:15 – 10:45	<p>Dispute Resolution Clause Exercise</p> <p><i>The students will be split into those representing Ruskow and those representing Zabel. The students will negotiate with one another to finalize a dispute resolution clause to cover their joint venture agreement.</i></p> <p>Moderators: All Experts</p>
10:45 – 11:15	<p>Composition of Arbitral Tribunal – Duties, Powers and Jurisdiction</p> <p><i>This presentation will at the minimum cover the following:</i></p> <ul style="list-style-type: none"> ▪ <i>Appointment of arbitral tribunal</i> ▪ <i>Source of Arbitrators’ Powers and Jurisdiction? Instances of Powers and Jurisdiction</i> ▪ <i>Where are the Duties derived from and what are they?</i> ▪ <i>What are the ethical obligations of tribunal members and disclosure requirements?</i> ▪ <i>Challenges of tribunal members</i> <p>Speakers: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
11:15 – 11:30	Break
11:30 – 12:15	<p>Conduct of Arbitration Proceedings</p> <p><i>The speaker will explain the different stages of arbitration proceedings, i.e., notice of arbitration, formation of arbitral tribunal, preliminary hearing and so forth. This presentation will at the minimum cover the following:</i></p> <ul style="list-style-type: none"> ▪ <i>Commencement and typical procedure for arbitration proceedings</i> ▪ <i>Components of the process, including written pleadings, supporting written and testimonial evidence, and hearings</i> ▪ <i>How do leading centers manage arbitration proceedings? Institutions to choose from AAA/SIAC/HKIAC/LCIA/ICC</i> <p>Speakers: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
12:15 – 13:00	Arbitral Awards & Role of State Courts in International Commercial Arbitration

	<p><i>The speaker will discuss instances in which the judiciary may intervene in arbitration proceedings. The speaker may discuss this topic in three sections of Before, During and After Arbitration Proceedings. This presentation will at a minimum cover:</i></p> <ul style="list-style-type: none"> ▪ <i>What is an arbitral award?</i> ▪ <i>Types of arbitral awards</i> ▪ <i>Recognition and Enforcement</i> ▪ <i>Challenge and its grounds.</i> ▪ <i>Annulment</i> <p>Speaker: Matthew Drossos and Ivan Philippov, White & Case LLP</p>
13:00 – 14:00	Lunch Break
14:00 – 15:30	<p>Negotiation/Mediation Exercise</p> <p><i>The students will remain in their prior day groups, and use the provided Ruskow/Zabel fact pattern and supplement to negotiate a resolution between the Parties.</i></p> <p>Moderators: All Experts</p>
15:30 – 15:45	<p>Preliminary Preview of Practice Session & Tips for Identifying Key Issues</p> <p><i>The students will be guided about the Practice Session scheduled for day 4. Speakers will briefly discuss the expanded common fact pattern to provide tips on how attorneys can best identify key facts and issues to address when a dispute arises.</i></p> <p>Speakers: Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert; Matthew Drossos and Ivan Philippov, White & Case LLP</p>
End of Day 2	

Wednesday, August 28, 2024 – Day 3

8:30 – 9:00	Arrival at TSUC
9:00 – 9:15	<p>Lessons learnt in Day 2 and Learning Objectives of Day 3</p> <p><i>This will be in interactive session with the students. The speakers will engage the students in a discussion about the topics learnt in Day 2.</i></p> <p>Speaker: Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert</p>
9:15 – 11:00	<p>Arbitration Exercise</p> <p><i>The students will use the ICA knowledge they gained from the three days of training in this session. They will remain in their groups, and each group will work together and present what they consider to be the key facts and issues that would support either (1) a Request for Arbitration as Claimant, or (2) an Answer for Respondent, and also identify contrary facts and weak points.</i></p> <p><i>The subject-matter experts will then talk through the issues with the students.</i></p> <ul style="list-style-type: none">▪ Moderators: All Experts▪ Introduction of Practice Session: Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert▪ Facilitator: Rajabali Ismoilov, Tajikistan Vis Alumni Representative▪ Review of Student Responses: All Experts
11:00 - 11:15	Break
11:15 – 11:45	<p>Conducting Effective Legal Research</p> <p><i>An overview of the key legal resources for the Vis Moot, an interactive session about how to utilize virtual legal resources to the Problem and learning how to maximize team research efficiency. Program speakers may call upon students to discuss the legal sources. This presentation will cover, at the minimum, the following:</i></p> <ul style="list-style-type: none">▪ <i>UNCITRAL Model Law</i>▪ <i>New York Convention</i>▪ <i>CISG</i>▪ <i>Principles of International Commercial Contracts (UNIDROIT)</i> <p>Speakers: Muhammadjon Ibragimov and Foziljon Sobirzoda, Tajikistan Vis Alumni Representatives</p>
11:45 – 12:30	<p>Legal Writing and Oral Pleading in Vis Moot</p> <p><i>This presentation will include at the minimum the following:</i></p> <ul style="list-style-type: none">▪ <i>Legal Writing in Vis Moot – IRAC with examples</i>▪ <i>Oral Pleadings and Structure in Vis Moot, including:</i><ul style="list-style-type: none">○ <i>Introducing yourself to the Tribunal and your opposing team</i>○ <i>Order of arguments</i>○ <i>Time allocation</i>

	<ul style="list-style-type: none"> ○ <i>Tribunal's questions</i> ○ <i>Assisting your co-pleader</i> ○ <i>The proper scope of rebuttal and surrebuttal</i> ○ <i>Etiquette</i> <p>Speakers: Matthew Drossos and Ivan Phillipov, White & Case LLP</p>
12:30 – 13:30	Lunch Break
13:30 – 14:00	<p>After the Vis Moot & Presentation by Tajikistan Vis Alumni Network</p> <p><i>How can the Vis Moot promote fair and transparent dispute resolution mechanisms in different jurisdictions? What to expect from the Vis Moot and what to do after participation in Vis?</i></p> <p>Speaker: Sohibjamol Nematova and Gulafzo Dostzoda, Vis Alumni Representatives</p>
14:00 – 15:00	<p>Career Panel in Alternative Dispute Resolution (ADR)</p> <p>Speakers: TBD</p>
15:00 – 15:15	<p>Lessons learnt in Day 3 and closing remarks</p> <ul style="list-style-type: none"> ▪ <i>Lessons learnt by Faridun Isomatov, CLDP Vis Moot Coordinator and Subject Matter Expert</i> ▪ <i>Remarks by CLDP</i>
15:15 - 15:30	Group photo
End of Day 3 and Summer Course	
