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Moot Court Diplomacy

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MEANWHILE ■ By Mark R. Shulman

Moot court diplomacy

VIENNA

Three of the world's top arbitrators are in Vienna to hear arguments emerging out of the unfortunate purchase of a machine designed for imprinting candy wrappers. What brings these distinguished jurists — including a former member of the European Court of Justice — to hear a dispute over a \$42,000 piece of malfunctioning machinery? Why have lawyers from 49 nations been keenly debating the most arcane details of this dispute? Why did Kofi Annan's top lawyer open the proceedings?

The simple answer is that hundreds of the world's most sophisticated legal practitioners are involved in an on-going conspiracy of free trade.

This week marks the 13th Annual Willem C. Vis Moot Arbitration. A thousand law students have assembled from 150 law schools representing countries as diverse as Argentina, Ukraine, Iceland and Nigeria. Each team argues both sides of the flexoprint case — a convoluted dispute raising issues of jurisdiction, limitation periods and the performance characteristics of an arcane piece of equipment. The seller is a second-hand equipment supplier in the fictional state of Mediterraneo, while the printer/purchaser is based in Oceana. The UN Convention on the Contracts on the International Sales of Goods (CISG) governs.

For over a quarter of a century, the CISG has provided a common law governing the sale of goods across borders. And for much of that time, the Vis Moot has been training new generations of lawyers to cross borders, transcend cultural differences and level the playing field for merchants from around the world.

In previous eras, the great powers used gunboats to enforce their interpretations of trade deals. More recently, American and European conglomerates deploy armies of lawyers armed with the best training and the most powerful research tools. Today, traders in Guatemala, Serbia and Thailand have local lawyers who have experience arguing advocates from New York and London.

Over the course of this week, leading arbitrators have been mooting the next class of these young lawyers. After each session they provide feedback on making more effective presentations. Lounging in the University of Vienna's *juridicum* between sessions, they offer insights into establishing a career or where to find useful research. The mentoring continues each evening at bars or restaurants.

The Vis Moot makes this possible by requiring arguments in the global language of trade, by which I mean not only English but specifically the English of international commercial litigation. The organizer, Eric Bergsten, a law professor from Pace University School of Law, assembles many of the most talented practitioners. He throws a terrific party. The parties — and the daily cycle of coffee, coffee, beer and then more beer — trigger the quickening for this unique community.

Notwithstanding the jokes, law remains a learned profession. And only a small portion of the learning can be transmitted by books or classroom lectures. Since 1993, the Vis Moot has been rewarding students and encouraging practical training in the Balkans, the former Soviet states, Southeast Asia, sub-Saharan Africa and Central America.

That's why I come to Vienna each Easter. For the economy to become both global and sustainable, we need able advocates for everyone. For the profession of law to remain honorable, it must find ways to transmit knowledge between generations and among peoples. And somewhere in the capital city of Oceana, a candy wrapper needs imprinting.

Mark R. Shulman is a professor at the Pace University School of Law.