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Moot Court in Global Language of Trade

Mark R. Shulman
Pace University School of Law, mshulman@law.pace.edu

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LETTERS

To the Editor

Moot Court in Global Language of Trade

VIENNA—I am in Vienna this week to attend the hearing of a commercial dispute over the sale of five non-conforming primary distribution fuse boards with a purchase price of $168,000. The dispute involves fairly pedestrian claims and a relatively small amount of money. And yet, I'm not the only one traveling a long distance to hear the oral arguments. Over a thousand lawyers, law professors and law students have come from 51 countries. In fact, many of us come to Vienna every spring to hear just this sort of argument—at the annual Willem C. Vis Commercial Arbitration Moot.

Most New York lawyers participated in at least one moot court during law school. If you are at all like me, it was an unpleasant affair, with preparations crammed in alongside reading such chestnut cases at *Hadley v. Baxendale* and the infamous offer tendered by the Carbolic Smoke Ball Company. I hardly had time to prepare for my moot court, the time coming as it did at the expense of graded classes. My presentation lacked any polish, a display of mumbled outbursts that barely distracted the judges from my unfamiliarity with the relevant case law.

The experience of the Vis Mooters could not be more different. Despite coming from 170 law schools around the world, the students speak English beautifully, with a Crayola super-sized box of accents. Their arguments run fluidly from the jurisdictional questions (which chamber has jurisdiction and which arbitral rules to apply) to the substantive (when and how should the buyer have notified the seller of the nonconformity of his fuse boards). These are advanced law students, selected for their oral advocacy skills.

Finally, an international treaty, little known in the United States, governs. The U.N. Convention on the Contracts on the International Sales of Goods (CISG) provides the substantive law, a law perfectly apt for this moot because it applies to trade around the world. For more than 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 argue for their interpretations of trade arrangements. More recently, American and European conglomerates deploy legions of lawyers trained by U.S. law schools and armed by Lexis-Nexis and Westlaw. Today, however, businesses in Azerbaijan, Thailand and even tiny Montenegro can engage their own local lawyers who are fully prepared to take on the talent raised in 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 arguments. Lounging in the University of Vienna's juridicum between sessions, they provide the coaching necessary for establishing a career. The mentoring continues each evening in the city's smoke-filled bars.

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. Each year, the chair, Eric Bergsten, a professor retired from UNCITRAL and then Pace Law School, reassembles an extraordinary society of distinguished practitioners. He throws a terrific party followed in suit by receptions hosted by the best law firms in Vienna. The parties—and the daily cycle of coffee, coffee, champagne and then kirschwasser—provide the glue for this global community.

Notwithstanding some jokes, the 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 developing regions from Baku to Bangkok, just as from Cambridge, (England) to Cambridge, (Mass.)

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. After all, for want of a conforming primary distribution fuse board, a factory's production line shuts down.

Mark R. Shulman
The author is assistant dean for Graduate Programs and International Affiliations at Pace University School of Law.

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