

The birth of Vis East

By 1998 the Vis Moot in Vienna had acquired quite a reputation. One could expect to meet many European colleagues and friends among the hundreds of mooters, whether the student competitors, their coaches or the professional arbitrators. It seemed like a good opportunity to combine a Vienna - Paris Easter holiday with a bit of networking. What has transpired is something quite different – an amazing experience that has developed over nearly a decade and several continents.

Recalling that 1998 Vienna Moot, one of the most vivid impressions was the difference between arguments on the first day of General Rounds and those towards the end of the week. Clearly the students' skills were improving by leaps and bounds as they progressed through their four days of argument.

Just as impressive as the students' progress however, was the wonderful social spirit that permeated the entire week. Students, coaches and arbitrators from Brazil to Bangalore, from America to Africa, were getting to know one another, sharing a truly transnational experience and making friends from around the globe. Those relationships were maintained and fostered by the Moot Alumni Association, which provided a vehicle for continuing academic studies, publications and information exchange long after the participants had returned to their home countries.

Moot Director Eric Bergsten has always been adamant about the philosophy of the Moot. It is meant to be an educational experience in the form of a competition, not a competition with incidental educational aspects. That means resisting the temptation to "go commercial" and turn the event into an exercise in corporate sponsorship – with the students as the pretext.

This philosophy is evident in the way the Moot is organized. Unlike other moots, where school teams must win national or regional competitions in order to compete internationally, the Vis is unique in that any number of teams from a country can participate. And there are no cups or trophies or medals. The students slave for six months, and the winners go home with an impressive certificate recording their prowess, and perhaps a book for their school library. It's not the destination; it's the process that's important. The real prizes are intangible, but no less valuable.

The energy of Vis Week in Vienna is enormous - and it is contagious. Each year, increasing numbers of students and of professional arbitrators arrived to share in the experience. Over the years, the Vis mushroomed from just nine teams in its foundation year, to well over 100 in 1999. The venues changed over the years to accommodate the hundreds of students, coaches and arbitrators who came to Vienna. What had begun as an informal friendly learning experience had developed over a decade into an enormous and prestigious event. With its success however, had come the major logistical issues of welcoming a crowd of nearly 1000. The Vis in Vienna was becoming an ever-greater administrative challenge, and there was some concern among aficionados that it was getting just too big and impersonal.

One slightly disturbing aspect was the dearth of teams from Asian jurisdictions. Of those 100-plus schools in Vienna in 1998, few were from the Asian region. Given the population and the number of law schools in the region, Asia was obviously under-represented. Asian arbitrators were also notably absent from Vienna. The Vis alumni network, extensive as it was, did not extend to most of Asia.

Eric Bergsten was approached, with a view to exploring ways in which the Vis experience could take root in Asia. This would, it was hoped accomplish two goals. First, it would firmly establish the moot network in Asia by increasing participation of law schools in the region. Second, having a “competitor” moot might slow the exponential growth of the Vis in Vienna.

Holding a regional competition in Asia was one possibility. The Asian teams could compete to send national or regional winning teams to Vienna. However, Eric was quick to veto that suggestion. An integral feature of the Vis Moot, insisted Eric, is its primary focus on international learning and cultural exchanges. In Eric’s view, the competitive aspect of the Vis is only secondary. It is the pretext to bring everyone together. National or regional run-offs would prevent a large number of students from living the educational, cultural and social experience of traveling and working abroad. Giving every student participant the opportunity to share an international experience far outweighed the competitive aspect of the event. So sending only national winners was not an acceptable option.

How then, to encourage Asian students to share in the Vis event? Perhaps part of their reticence was due to the travel involved. An event in the Asian region might attract participants who were reluctant – or lacked the resources – to get to Europe. By organizing an identical event in the Asian region - close to, but not limited to the Asian schools – we could perhaps open the door to more Asian teams, while at the same attracting other teams who had traditionally competed in Vienna but might welcome the opportunity of traveling to the Orient.

Thus was born the idea of a second Vis Moot: the Vis East.

Hong Kong, with a century and a half of English tradition and its recent reintegration with Mainland China, provided the ideal mix of eastern and western cultures, of civil and common law. A member of the New York Convention and one of the first jurisdictions to embrace the Model Law, Hong Kong was already well known as an arbitration hub in Asia. With its convenient transportation, sophisticated communications and a range of hotel facilities, it provided the perfect location for a “sister” Moot to welcome students from both nearby jurisdictions and around the globe. It was also logical to assume that some schools from Europe and America might trade the Austrian experience for an Oriental Vis Moot, thus relieving some of the pressure on Vienna’s growing numbers.

So it was that in 2003, with the backing of the East Asia Branch of the Chartered Institute of Arbitrators, the Vis East became a reality.

How does the Vis East Operate?

The Hong Kong event is a completely separate competition from its Viennese sister. It uses the Vienna problem, and it takes place about ten days either before or after the Vienna event. In March of 2004, fourteen teams from nine jurisdictions arrived in Hong Kong to participate in the Oral Rounds held at City University. In its fourth year the Vis East moved to the brand new Graduate Law Centre of the Chinese University of Hong Kong. By then, its numbers had already swelled to 46 teams; like its big sister in Vienna, the Vis East seems to grow at the rate of about ten teams per year.

Of course, the competition is not limited to the week of oral arguments. The assessment and judging of the written arguments takes place over a period of months, prior to the Vis East week in Hong Kong. The standard of the written arguments has improved each year, and it is fair to say that the quality has been excellent. The first rate quality of the written arguments is a great achievement, given that many of the teams are writing in a language other than their mother tongue, and represent countries where mooting is not an established tradition.

The pattern of the oral argument week is modeled of course on that of Vienna. In the first four days of competition, each team argues four times, twice on behalf of Claimant and twice on behalf of Respondent. Teams are paired with schools from other countries, and to the extent possible, common law schools meet civil law schools. At the end of the General Rounds, the 16 teams with the highest scores will meet in “Eighth Finals” on Saturday morning, with those winners progressing to the Quarter and Semi-Finals later the same day. It is a grueling schedule for those who advance. The consolation is that all the opponents are subject to equal pressure. The Final Rounds of Oral Argument take place on Sunday morning. While the tribunal is deliberating, the horde of mooters descends en masse upon an unsuspecting public to pose for a mammoth group photo session before the Gala lunch.

Challenges and Rewards of the Vis in the East

There are of course a number of challenges in organising and staging an event such as the Vis East Moot in a modern Asian city such as Hong Kong.

Finding sufficient and convenient space, always at a premium in Central Hong Kong, is a must to stage the event. Few Hong Kong firms have the multiple grandiose boardrooms that are common in Europe and America. Classrooms are well equipped, but fewer in number than in some other schools, and they are almost constantly in use. Aside from the hearing rooms, the Vis Centre itself – the administrative hub of the event – needs space. And there needs to be a common area large and comfortable enough to allow the teams to congregate and mingle between rounds. The Law School of the Chinese University of Hong Kong allowed the Vis East to use its new Graduate Law Centre premises for the 2007 moot. These premises proved to be ideal, particularly the state-of-the-art moot

courtroom. The Hong Kong International Arbitration Centre hosts the final arguments at its premises on the Sunday.

Accommodation is another issue. Most arbitrators find themselves comfortable convenient hotels. But affordable accommodation for the students and teams can pose a conundrum. All the teams travel with tight financial constraints, and Hong Kong's hotels are hardly the cheapest in the region. The Vis team makes arrangements with a number of hotels at all price levels to extend favourable prices to participants and lists the possibilities on its website: www.cisgmoot.org. Depending on what other international events are in progress at the same time, university dorm rooms can sometimes be secured. Some teams have discovered gems of hostelry through word of mouth or the internet, and pass along the contacts to their successors, like the secrets of the cabala.

Unlike the Vis in Vienna, which has more arbitrators than it needs, the Vis East needs continually to recruit new volunteer judges of both the written and oral segments of the event. The number of teams increases so quickly from one year to the next that it is difficult for the arbitrators to keep up. Consequently, those generous souls who come to arbitrate in Hong Kong know they can count on at least three - and possibly as many as six - arguments in the week. No doubt the most assiduous have a brilliant grasp of the most intricate arguments available under the CISG by the time they leave Hong Kong!

It was a delicate task to fashion a moot that followed the sacred precepts of the Vienna Moot, but which would necessarily be "*different*" - and which would complement the Vienna Vis by adapting activities to the Asian culture and surroundings. There is no Heurigen in Hong Kong, but the city has a vivid social life and a marvelous harbour life.

Coping with cultural, language and legal system diversities

Coping with cultural, language and legal system diversities is not just an issue for the Vis East moot. The Vis moot in Vienna also must deal with these diversities, perhaps on an even wider basis. However, Asia is a real melting pot of cultures and legal systems, and Hong Kong sits at the centre of that mix.

The Vis East, to date, has tried to accommodate and cope with these diversities by seeking to provide an equally wide range of arbitrators to judge the competition - if possible, to have arbitrators from each country, cultural system and legal system involved in the line-up of teams. Arbitrators are cautioned not to let second language difficulties influence unduly their assessments of the participants' oral presentations. It is interesting to note that many of the awards go to teams from countries where English is *not* the first language. The prevailing school team in Vis East I was Tsinghua University from Mainland China.

National costumes are encouraged. Not only do they add colour to the event, but they tend to spark friendly discussions among the teams. Some schools bring their national flags to decorate the Vis East Centre, thereby adding to the spirit of friendly competition.

The most important elements however, are the ingenuity, enthusiasm and training of the teams themselves. Teams recognize diversity as an opportunity to add to the enjoyment and adventure of taking part in the moot, rather than as an obstacle or hurdle to be overcome.

And the Vis mantra is never far from mind: *Everyone who participates is a winner*. The main thing is to work, to learn, and to make new friends.

In just five short years, the Vis East week has become a busy and successful mooting event. This brings with it obvious rewards, as each year's new generation of eager young participants arrives to make their mark. Judges and spectators marvel at the excellence of their written memorials and oral presentations. Creating a new entity and watching it progress brings a satisfaction that any parent can easily comprehend.

Approaching Vis East 5: Where we stand now

Curiously, despite its obvious popularity, the Vis East has not yet achieved either of those two original goals. As this chapter goes to print, the number of Asian teams remains lower than expected. Their absence is doubtless due to the lack of a mooting culture in many Asian countries, and to the consequent scarcity of expertise. Financial resources are also a problem for some schools which would like to send a team but cannot afford to do so.

On the other hand, a substantial proportion of the schools who participate in Hong Kong also compete in Vienna, which continues its rapid expansion. As well as attending both in Vienna and in Hong Kong, many schools meet in informal national sessions, thereby extending the competition "season" by several weeks of practice and travel. Clearly some schools just can't get enough of a good thing. This just goes to show that success is often measured by a different standard than originally anticipated.

Aside from the increased international exposure of two separate events, some teams attend both Vis events to enjoy the distinctive "personality" of each of the two sisters. The Vienna Vis has grown into a major international meeting; those who compete know they will have to be very polished and professional in order to make it to the elimination rounds. An award or Mention at the Vis makes an impressive qualification on a newly minted lawyer's CV. A successful team may also serve as a powerful argument for continued funding from cash-strapped law faculties. The pressure of competition among over 150 teams can become intense. Social interaction is sometimes sacrificed to rigorous practice schedules, as the students and their coaches strive to "make the cut".

Sheer numbers also conspire to rob the Vis of one of its major attributes: the opportunity to get to know students from far corners of the world. With 1700 participants in the two

Vienna locations, it's impossible to meet everyone, and even locating friends in the crowd can be quite a challenge. Opportunities for uninterrupted, informal chats in quiet corners tend to be limited. Evening social events in Vienna are necessarily separate with law firms entertaining arbitrators and coaches in their elegant offices, while the students gravitate to the heaving crowds of the semi-official bar, Aux Gazelles.

In contrast, the Vis East is still small enough to allow opportunities to bring together both arbitrators and students. Whole teams or groups of new friends may retire to chat in a nearby café, or venture together out of the Central business district to visit the Peak, Stanley Beach, the Night Market, or even nearby Macau.

In Hong Kong there is an old and time-honoured saying. Not as old as Confucius perhaps, but true and wise for sure. It dates back to the mid-1980's: *"In Hong Kong we work hard, and then we go out and party hard."*

The Vis East is a living example of the maxim. The week begins with a bang, as all the teams and many of the arbitrators gather at the giant Welcome Party. The excitement doesn't let up all week, with nightly cocktails, dinners, soccer, and a night at the racetrack.

There is even an architectural walk. Cynics may argue that Hong Kong has destroyed its heritage, by demolishing all of its old buildings and replacing them with modern, soulless monstrosities. But this Saturday afternoon excursion proves that not everyone is a cynic – or at least that architects are a happy and optimistic lot! The walk takes approximately two hours, and covers many of the major landmark buildings that provide the spectacular skyline of Hong Kong's Central district. Inevitably there is a lack of consensus about the perceived merits or otherwise of the Hong Kong Bank Building. Another topic for debate is Hong Kong's system of elevated walkways. Anyone interested in understanding more about what goes into constructing and organizing a modern Asian city should come to Hong Kong for the Vis East week and join this Saturday afternoon walk.

Hong Kong's social life offers a surprising wealth of contrasts. Local law firms and the Bar Association have generously opened the doors of Hong Kong's chic private clubs to the Vis visitors. Participants have the chance to begin the evening in the posh Hong Kong Club or the super-cool China Club, proceed to feast on sushi, noodles, curry or foie gras in Soho - and then finish up in the rocking, 24-hour Bridge Bar in Wanchai.

The signature social event of the Vis East, the Sunset Junk Cruise and Seafood Dinner, is a major opportunity for everyone to let their hair down together and enjoy a quintessential Hong Kong experience. A flotilla of Chinese junks, lent by local law firms and corporate supporters, sails majestically into the setting sun, to dock an hour later on the island of Lamma. Arbitrators, coaches, students and friends traipse through the laneway to a popular open-air seafood restaurant. The Mooters invade and take over the dozens of round tables, making short work of the dozen succulent seafood and ingenious vegetable dishes. Replete and relaxed, most will find their way back to the pier and the

junks which will ferry them back to Central. With luck, the night sky will be clear and cloudless and the moonlit skyline will lend its special romance to the return journey. Incurable stragglers have to rely on the public ferry and the decidedly less picturesque, but nevertheless extremely efficient MTR subway system, to get back into the city.

Aside from its size and social events, other ingredients define the Vis East. For example, a few notable Vis East arbitrators have developed the habit of traveling with laptops so as to “camp out” all day long at the Vis Centre. They stay in touch with their offices while making themselves available as informal advisors and coaches between sessions. This kind of accessibility is a hallmark of the Vis East and contributes to the friendly informal atmosphere of the week. Some Vis East students have remained in contact with their ad hoc mentors long after they return home.

Who are the Vis East alumni?

Participants are able to carry on the positive experience through the MAA. One of the major advantages of the Vis Moot – its network of professionals who stay in touch via the Vindobono Journal and regular events – is indeed expanding into Asia. Participants from the first or second Vis East years have remained in the community as student coaches, thus continuing and fostering the Vis traditions. Upon graduation, many return to coach teams or to judge subsequent competitions.

The Moot Alumni Association is open to everyone, whether students, coaches or arbitrators. It is an excellent forum, but by no means the only way to stay in touch. Much of the contact is on a school-to-school or even a personal basis. In the four first years of the Vis East, some sixty-three schools have participated, from a total of sixteen jurisdictions¹. Of those schools, sixteen have come twice to Hong Kong, five have participated three times, and seven have been to every Vis East. The Vis East alumni are still quite young – either still in school or just finishing their legal training. Some are lucky enough to have participated in more than one Vis Moot* and others have continued their association by helping subsequent teams from their schools. Many Vienna participants now regularly attend Hong Kong as arbitrators. A number perform the crucial function of reading, critiquing and ranking the memoranda.

Others manage to judge at both events, or decide to alternate years between the two. Two mooters from Vis East 3 came back at the end of their German law programmes to combine language studies or law firm internships with coaching Hong Kong teams for Vis East 4. A Chinese participant in the first Vis East went to London, but returned to Vis East 4 as a research assistant to one of the arbitrators. People like this are developing

¹ Australia 7 teams; Brazil 1; Canada 1; China 5; Germany 7; Hong Kong 3; India 14; Indonesia 1; Japan 3; Korea 1; Portugal 1; Spain 2; Switzerland 1; Thailand 1; Turkey 1; USA 14

* No student may argue in both Hong Kong and Vienna in the same year. However a student who has argued in either competition, and whose team has not advanced to the elimination rounds, is eligible to argue in either competition in subsequent years. Also many schools divide their teams with one half speaking in Vienna and the other in Hong Kong, but with the whole team traveling together so that those who are not arguing can act as researchers and support.

the history of the Vis East, just as others have done in Vienna. They are also weaving the fabric of the professional network that will be the future of the profession in Asia and around the globe.

The Moot Alumni Association (MAA) welcomes not only the student participants but also the coaches and arbitrators. The 235 Vis East arbitrators to date hail from thirty-three different jurisdictions worldwide. Of this number, 52 have contributed from their own countries, by reading, commenting on and ranking the memoranda for Claimant and Respondent. Sixty-six of our arbitrators are “repeaters”, having judged in at least two Vis East years; nine faithful friends have come to every Vis East competition to date.

Where are we heading? The future

As the Vis East numbers continue to grow, it is likely to encounter the same challenges now faced in Vienna. The Hong Kong location, in the centre of an area with a less developed culture of arbitration, depends to a great extent, at least in the short term, on professionals coming from distant countries to judge the arguments.

There is also the question of space. Despite a population of 7 million, Hong Kong is a tiny territory. It boasts a wide range of accommodations, but it is also an extremely busy conference and exhibition venue, with very hefty property costs. Ideally, Vis East will continue to welcome all teams who wish to participate, even if that does not succeed in slowing the growth of the Vis in Vienna.

However, as the number of participants rises, the number of suitable venues declines. At some point it may become necessary to limit the number of teams participating in Hong Kong. Finding a fair way to achieve this, without sacrificing the fundamental values of the Vis, will present its own new challenges.

On the other hand, looking to the other original *raison d'être* of the Vis East, ideally more teams from the Asian region, and more arbitrators as well, will develop a Vis tradition. A number of requests for expert assistance in teaching CISG and arbitration skills come to the Vis East office each year. The Vis East itself is a non-profit event without the resources to provide this kind of assistance. However, among the Vis coaches and student alumni are many who are eager to help. Drawing upon this goodwill, harnessing this enthusiasm, and finding the funding to facilitate visits by seasoned professionals and coaches will be the next step in the development of the Vis tradition.

Already, plans are afoot for a pilot project in two countries where the need is most conspicuous. With the development of this next stage in its life, the Vis East will indeed be able to fulfill its mission of fostering the Vis tradition, with all the social, cultural and professional advantages that it brings.