

Evaluation System of the Competition

The Steering Committee makes judges the following explanation about the evaluation.

○ Evaluation form

- Evaluation will be made using a point system. Judges must mark appropriate sections on the mark sheet with a pencil. When filling in the mark sheet, please fill in appropriate sections carefully. Please fill the circle completely with your pencil mark and do not mark outside each circle. (If a circle is not filled completely or a mark runs outside a circle, the machine reader for the mark sheet will not function correctly.)
- Evaluation must be made by objective evaluation of each team on the basis of its own performance, not the relative performance between two competing teams. This will enable an appropriate determination of an overall ranking of all the teams.
- Marking is based on 15 separate criteria for each of the arbitration round and the negotiation round. Evaluation of each criteria will be made on a scale of 1 (minimum score) to 5 (highest score), in increments of 0.5. This provides a total scale of 9 increments. Therefore, for each round, the total score given by each judge will be between 15 points to 75 points and the total score of all three judges will be 45 points to 225 points.

<Reference> On the mark sheet, the scores are explained as follows:

1 (Poor) – 1.5 – 2 (Fair) – 2.5 – 3 (Avg.) – 3.5 – 4 (Excellent) – 4.5 – 5 (Outstanding)

* The explanations, “Poor,” “Fair,” “Avg.,” “Excellent” and “Outstanding” are simply a guide, and they correspond to the academic assessment standards of most universities. However, some universities use “F,” “C,” “B,” “A” and “A+.” Please make your evaluation based on your university’s evaluation standards.

- Please bear in mind the following points when scoring.
 - A. Please award points by adding appropriate points if the competitor’s performance is better than average and deducting appropriate points if the competitor’s performance is lower than average based on the average score (default score) of 3.

- B. The average score (default score) of 3 is generally awarded to those who “performed at a level normally expected of undergraduate university students who have prepared for the competition enthusiastically for 2 months.”
- C. However, if the competing team contains graduate students (or those with practical experience), the average points will be awarded to those who “performed at a level normally expected of graduate students (or those with practical experience) who have prepared for the competition enthusiastically for 2 months.” Naturally, in this case, to earn the same 3 points, a higher level of performance is required than to earn the average 3 points (default points) in the case of the undergraduate university students in B above.
- * Whether a student is an undergraduate student or a graduate student can be confirmed by a list of participating teams.
 - * Participating teams are required to declare at the time of registration whether or not the team has individuals with practical experience. If there are participants with practical experience, judges will be notified on the day of competition of the contents of the declaration submitted by the team.

<Reference: Scores of last year’s competition>

| | Round A | Round B |
|--|---------|---------|
| 全チーム平均点 Average of all teams | 145.4 | 148.03 |
| 最高点 Highest Score | 177.5 | 175.5 |
| 最低点 Lowest Score | 121 | 124 |
| 1-5位の大学の平均点 Average of teams of 1-5 ranked universities | 155.5 | 152.5 |
| 6-10位の大学の平均点 Average of teams of 6-10 ranked universities | 144.75 | 149.88 |
| 11-18位の大学の平均点 Average of teams of 11-18 ranked universities | 138.28 | 143.76 |

- General views to be applied in judging
 - There may be advantages or disadvantages of playing the role of Blue or Red based on the contents of the problem (even though we prepared the problem carefully not to create such advantages/disadvantages, due to the nature of the problem, certain advantages and disadvantages cannot be avoided). Also, due

to structural restraints of the competition (a match between two universities needs to be completed in a few hours), the problem may contain scenarios which will be unlikely to occur in an actual situation or are unnatural.

- Please make sure that no participating team receives an unfavorable or favorable evaluation due to such advantages/disadvantages or unreal situation that are inherent in the problem as described above. In other words, you should make your judgment based on the fact that the participating team's performance was or was not at an expected level under the given circumstances, not the actual outcome, i.e. the winning or losing of one of the sides in the case.
- Language ability: Pronunciation and fluency are not criteria for the judgment.
- Please make your best efforts to score in a fair manner without being influenced by the name of the university or previous performance.

○ Specific points to remember in judging

《Round A : Arbitration》

1 [Expression & Organization of the Briefs] Does the brief use adequate and precise expressions? Is it easy to read and comprehend? Is it well organized?

⇒ Please consider whether, as a legal document, sufficient consideration is given to the legal structure, essential facts, arguments, burden of proof and evidence.

2 [Persuasiveness of the Briefs] On each issue, is the brief well founded with respect to facts, legal provisions, and other authorities? Is it logical and persuasive?

⇒ Please evaluate substantive persuasiveness along with legal persuasiveness, in terms of logic (“*Suji*”) and appropriateness of outcome (“*Suwari*”).

3 [Opening Statement] Was the opening statement effective in conveying the overall picture of the team’s arguments? Did she/he finish it within the time limit? Did she/he use the time effectively?

⇒ Objective evaluation of time usage may be determined by selecting a time keeper from among the judges who will record the effective use of time limits by each team.

4 [Issue 1: Logical Presentation and Persuasiveness] to [Issue 4: Logical Presentation and Persuasiveness] As to each issue, were necessary facts and the legal basis for the claim and/or defense presented clearly and at an appropriate time? Were the factual basis and legal reasoning of the team persuasive on each issue?

⇒ Please evaluate the structure of arguments and persuasiveness for each of the

four issues. A different level of emphasis will be placed on each issue. Taking that into consideration, please evaluate whether effective and well-modulated arguments were presented.

8 [Facts] Did the team understand the given facts accurately and sufficiently? Did they research and present appropriate information on the factual background?

⇒ This is to evaluate whether evidence-based arguments were presented.

9 [Responsiveness to the Other Side] Did the team respond appropriately and in a timely fashion toward the other side's argument?

⇒ This is to evaluate whether logical arguments could be developed at appropriate timing.

10 [Initiative] Did the team take the initiative in the proceeding?

⇒ In the actual arbitral proceedings, arbitrators are responsible for taking the initiative. However, in the mock arbitral proceedings, how the participants take initiative in the proceedings, such as agenda setting, is also evaluated.

11 [Responsiveness to the Arbitrator] Did the team respond appropriately, respectfully, and in a timely fashion toward the questions and instructions of the arbitrators?

⇒ We consider that respectful treatment of the arbitrators is also a point to be evaluated.

12 [Closing Statement] Was the closing statement effective in conveying the overall picture of the team's arguments, reflecting the overall proceeding? Did she/he finish it within the time limit? Did she/he use the time efficiently?

⇒ This is to evaluate whether the closing statement was effective in conveying the overall picture of the team's arguments, reflecting the overall proceeding. Objective evaluation of time usage may be determined by selecting a time keeper from among the judges who will record the effective use of time limits by each team.

13 [Presentation and Speech] Did the team members speak in a clear and confident manner? Did the team members become excessively excited, emotional, or confused?

⇒ This is to evaluate the team's performance, not contents of presentation or speech.

14 [Lawyerly Manner] Were the team's attitude and performance appropriate as

attorneys in arbitration?

⇒ This is to evaluate how successfully the team expressed their pride as professionals.

15 [Teamwork] Did each member of the team perform his/her role appropriately? Did any member perform too dominantly, or make no contribution?

⇒ We consider this as an essential evaluation point, as this competition is a team competition.

«Round B : Negotiation»

1 [Preliminary Memo] Does the preliminary memorandum set forth a clear plan for the negotiation?

⇒ This is to evaluate the preliminary memorandum.

2 [Objective/Goal Setting] Did the team set and understand the objective/goals for the negotiation reasonably? (Was the sought-after win-win solution set in an appropriate direction with reasonable prospects, given the context of the negotiation?)

⇒ This is an important evaluation point, as the overall negotiation skills are evaluated in light of the objective of the negotiation.

3 [Strategy for Negotiation] Was the team's strategy appropriate to achieve the objective/goals of the negotiation?

⇒ This is to evaluate whether the team intentionally and reasonably selected an appropriate negotiation strategy and executed the strategy in a flexible manner.

4 [Constructive Proposal of Alternatives] Under the objectives/goals and the strategy for the negotiation, did the team propose constructive alternatives in a flexible and appropriate manner?

⇒ This is to evaluate whether the team presented a creative and constructive proposal to resolve the issue.

5 [Effective Discussion] In view of the objectives/goals and the strategy for the negotiation, were the team's discussions effective and persuasive?

⇒ This is to evaluate whether the team developed their discussion in a convincing fashion.

6 [Responsiveness] Did the team respond sincerely, properly, and in a timely fashion to the arguments and proposals of the other side?

⇒ This is to evaluate whether the team was able to respond to the arguments and proposals within the flow of the negotiation.

7 [Communication/Mutual Understanding] Did the team communicate effectively, so as to understand the other side's views and interests?

⇒ This is to evaluate whether the team listened to the other side's arguments well and was able to deepen understanding of the other party.

8 [Principled Negotiation] Did the team compromise too easily? Did the team push too hard? (Did the team pursue the objectives/goals of negotiation in appropriate manner?)

⇒ This is to evaluate whether the team was able to carry out principled negotiation.

(Principled Negotiation is negotiation based on both sides working towards a “win-win”, and therefore mutually satisfactory, outcome.)

9 [Business Manner] Were the speech and manners of the team appropriate and reasonable for business people in this field?

⇒ This is to evaluate whether the team negotiated in the manner of a first-class business-person.

10 [Teamwork/Role Assignments] Did each member of the team appropriately perform his/her own role? Was the assignment of responsibility appropriate?

⇒ We consider this as an essential evaluation point, as this competition is a team competition.

11 [BATNA] Did the team pursue the maximization of their company's interest? Did the team negotiate within its authority? Did the team make a deal worse than BATNA?

⇒ This is to evaluate whether the team proceeded with its negotiation, keeping in mind BATNA.

(“BATNA” is the abbreviation for “Best-Alternative-to-a-Negotiated-Agreement” and means that a party understood its strengths and weaknesses based on alternatives it had in the event a deal could not be reached with the other side, and also understood the its strength/weakness considering the estimated BATNA of the other side.)

12 [Good Working Relationship] Did the team make efforts to build a good working relationship with the other side?

⇒ We think that building a proper working relationship is the key to the successful

business negotiation.

13 [Outline of the Agreement] Does the outline accurately **reflect** all the agreed points? (If no outline is drafted, a score of 2.5 should ordinarily be given, although the score may be adjusted depending on the reason for non-agreement.)

⇒ The outline of the agreement does not need to be a printed document. It could be hand written, or in an electronic form in a computer or written on a white board, as far as it has both parties' signatures or consent. Although the last-minute agreement will be evaluated mainly under "8. [Principled negotiation]," this will affect the quality of the outline of the agreement.

14 [Negotiation Ethics] Did the team perform ethically? The default score is 3, and the score may be adjusted depending on the process and content of the negotiation.

⇒ There are different levels of negotiation ethics. Although attacking a gray zone or taking advantage of the other party's mistakes are most likely not against ethics, depending on the degree of such attack, it could harm the trust relationship with the other party as a necessary business partner in light of the objective of the negotiation, which in turn would be harmful to long-term interests. Therefore, evaluation should be made based on a comprehensive judgment.

15 [Self-evaluation] Did the team report the process and results of the negotiation clearly and sufficiently? Did they analyze their own performance objectively? Were they fair in depicting and evaluating the performance of the other side?

⇒ Negotiation is only possible when there is another party. Self-evaluation includes evaluation of the other party and evaluation of the relationship between the other party and self. The person who engages in the negotiation has the duty to explain, and thus he/she needs to be capable of providing appropriate explanation, concerning the progress and results of negotiation.