

15<sup>th</sup> Intercollegiate Negotiation Competition

## Handbook for Participants

(October 3 version)

Steering Committee

Intercollegiate Negotiation Competition

## Introduction

We started the Intercollegiate Negotiation Competition ("INC") in 2002 to provide students an opportunity to compete in mock negotiations and arbitrations with other universities in different countries. Our aim is to spark a greater interest in negotiation and provide an incentive for learning more about it. Our mission now is to offer young people good learning opportunities to become better negotiators so that they will create new values and settle differences so as to make a better world.

INC provides participants with both arbitration and negotiation opportunities in business settings which specifically require them (i) to understand and learn pros and cons of both negotiation and arbitration, (ii) to acquire oral and writing negotiation skills in the language other than their own, (iii) to develop good teamwork in business settings, and (iv) to promote networking with various people including alumni of INC.

INC is a growing endeavor, which is supported by its sponsors, judges, teachers and past, present and future participants. Every year we attract more than 100 judges from the Japanese and international bar, Japanese and foreign universities, and internationally acclaimed companies. We hope that the efforts of all those who attend help make INC better as a whole.

Many of our judges are past participants of INC. They have demonstrated their leadership by helping the Leaders' Camp held in every autumn, assisting with practice matches held locally or coaching the students of the participating universities. We believe that their activities play an important role towards our mission: offering young people good learning opportunities to become better negotiators.

The Steering Committee hope that participants gain something precious for your life, through your preparation and performances for the two days' competition.

The Steering Committee of Intercollegiate Negotiation Competition

# **I . About the Competition**

## 1. Overview

Intercollegiate Negotiation Competition is a two-day invitation-based competition which is held every year, with both a Japanese-language division and English-language division. The Competition is sponsored by many organizations, such as The Sumitomo Group Public Affairs Committee.

We conduct arbitration of an international business dispute on the first day and negotiation on the second day. The problem is more than 30 pages long including contract documents. Participants deal with international business matters between Red Corporation of Negoland and Blue Corporation of Arbitria in a fictitious world, representing one of the parties, spending about two months.

The applicable substantive law is the UNIDROIT Principles of International Commercial Contracts 2010. In arbitration, each team has to submit its preliminary memorandum and memorandum for counter-argument before the competition date.

In negotiation, confidential information for Red Corporation and Blue Corporation is provided to each side in addition to the general information for both. Each participant is assigned a role such as vice president or managers that each one is expected to conduct negotiations from the perspective of their respective roles.

The Competition is judged by many business persons, judges, lawyers, and university professors, including the alumni of this Competition. Learning opportunities from such professionals is one of the attractive features of the Competition.

## 2. Participating Universities and Winners in the Past Competitions

Participating universities and winners in the past Competitions are as follows:

		Japanese Univ.	Other Countries	Number of Participants	Winner	2nd	3rd	4th	5th	6th
1	2002	4	0	74	Tokyo					
2	2003	8	0	129	Toyo	Kyushu	Sophia	Osaka		
3	2004	12	0	173	Tokyo	Kyushu	Hitotsubashi	Osaka	Doshisha	Sophia
4	2005	13	1	205	Kyoto	Tokyo	Nagoya	Hokkaido/ Sophia	Hitotsubashi	
5	2006	14	1	209	Australia	Kyoto	Doshisha	Sophia	Nagoya	
6	2007	15	1	250	Australia	Toyo	Hitotsubashi	Doshisha	Sophia	
7	2008	15	1	260	Tokyo	Hitotsubashi	Kyoto	Waseda	Sophia	
8	2009	15	1	240	Toko	Doshisha	Waseda	Kyushu	Sophia	
9	2010	15	1	270	Tokyo	Hitotsubashi	Osaka	Australia	Waseda /Sophia	
10	2011	16	2	263	Waseda	Sophia	Osaka	Keio	Tokyo	
11	2012	16	1	247	Keio	Waseda	Kyoto	Sophia	Kyushu	
12	2013	16	0	232	Tokyo	Nagoya	Kyushu	Chuo	Sophia	
13	2014	16	2	258	Tokyo	Kyushu	Australia	Keio	Sophia	
14	2015	15	3	251	Singapore	Tokyo	Osaka	Kyoto	Hitotsubashi	

## 3. Resources

At the website of INC you will find selected materials of the past symposiums and briefs provided by the winning universities.

Also the report of the previous Competition and comments of the advisers, judges and participants are available in Japanese every year in a March issue of the legal journal "Hogaku-kyoshitsu".

## II. About the 15<sup>th</sup> Competition, 2016

### Program and Schedule for 2016

(1) Date : December 3rd, Saturday and December 4th, Sunday

(2) Place : Sophia University (Kioi-cho 7-1, Chiyoda-ku, Tokyo)

(3) Program:

<Day1/December 3rd>

11:00-12:00 Staff and Judge Meeting  
12:00-12:50 Opening Ceremony  
13:00-17:00 Round A (Arbitration)  
17:00-18:00 Evaluation  
18:00-20:00 Welcome Party

<Day2/December 4th>

08:30-09:20 Staff and Judge Meeting  
09:20-13:30 Round B (Negotiation)  
13:30-15:30 Evaluation, Lunch, Afternoon Tea  
15:30-17:30 Closing Ceremony

(4) Time Schedule:

1. October 3rd (Mon): Release of the Problem & Rules
2. October 14th (Fri), 15:00: Registration Deadline
3. October 18th (Tue) \*Tentative:  
Distribution of Confidential Information and Match Table
4. October 31st (Mon), 15:00: Registration of Roles
5. October 31st (Mon), 15:00:  
Deadline for questions about the Problem and Rules
6. November 21st (Mon), Noon:  
Deadline for Preliminary Memorandum for Round A
7. November 29th (Tue), Noon:  
Deadline for Preliminary Memorandum for Round B &  
for Round A Response

※There's a possibility that schedule may be modified.

※All Deadlines are based on Japanese standard time (GMT+9).

### **III. Registration**

#### **1. Registration of participation**

- (1) Each participating university shall register until 15:00 on October 14<sup>th</sup> (Japan time), using the specified format on the website.
- (2) Upon registration, please designate the name of the representatives and an instructor of each university in accordance with Rule 4(7).
- (3) If any participant has experience as a practicing attorney or business person for one year and more, please make a declaration based on Rule 4(9).
- (4) Upon registration, please indicate whether each participant needs accommodation booked by the Steering Committee in the registration form. The Steering Committee reserves rooms in several hotels and Inns. Universities, which come from outside Japan, Hokkaido University, and universities in Kyoto and westward, could stay at a hotel on December 2nd and December 3rd, while other universities could stay on December 3rd. Since it is up to each participant and/or each University whether to apply for the accommodation, please declare clearly if it is not necessary.
- (5) A university that sends teams to both English and Japanese divisions will be given 5 extra bonus points to the score for that university (Rule 11(7)).

#### **2. Registration Fees**

Registration fee per participant is 5,000 yen (2,000 yen, if booking accommodation by the Steering Committee is not necessary). Each university shall pay total amount of registration fees of all members by Friday, October 21st. The Steering Committee will inform the instructor of each university of the banking account number for such payment.

#### **3. Registration of Roles**

Please register the respective role of each member at Round B to the Steering Committee until 15:00 on Monday, October 31st. Please use the same registration form as the registration of participation.

Except as authorized by the Steering Committee, in the event of sudden illness, accident, or other reasonable grounds, change of team membership or roles after the deadline of registration of roles is not allowed (Rule 4(8)).

## **IV. Problem, Rules and Newsletters**

### **1. Problem**

#### **(1) Problem**

The Problem consists of 1) general information common for all participants and 2) specific confidential information for one party. The latter is used only for Round B. The former will be released at the website of the Competition and the latter will be sent to the representative and Adviser of each University by e-mail.

#### **(2) Questions about the Problem and Revision of the Problem**

After the release of the Problem, the representing participant of each university may ask questions to the Committee until October 31st. Each question needs to be accompanied by reason. If the Committee finds it necessary to answer the questions, it will do so by revising the Problem.

When you have questions, please send them as early as possible. Expected schedule to answer questions is as follows:

Questions made before October 17<sup>th</sup>: Answers by October 20<sup>th</sup>

Questions made before October 24<sup>th</sup>: Answers by October 27<sup>th</sup>

Questions made before October 31<sup>st</sup>: Answers by November 7<sup>th</sup>

The Problem will be amended reflecting questions/answers and for other reasons.

The final version of the Problem will come around November 7th.

Every year the Committee receives many questions, however most questions are not specifically replied for the following considerations. The current version of the Problem contains sufficient issues to be disputed or discussed. Since the Problem should not become unnecessarily complicated by attending to all the questions, even if some questions may be considered important in practice. Also, many questions attempt to add some facts which may give advantages to one of the parties. We are careful not to amend the Problem to give some advantages to one party unless such amendment is absolutely necessary to clarify the situation. Also, we have kept the questions unanswered when we expect participants to consider by themselves or when the answers are reasonably clear from the context. In sum, there are many reasons why the Committee does not answer all of your questions.

### (3) Relationship between the Simulated Case and the Real World

The Problem is a simulation case, taking place in an imaginary world, so some of the situations presented in this case may be at variance with the real world. With this in mind, the fictional facts and situations presented in the Problem should be treated as fact for the purposes of this Competition.

Not all the facts are specified in the simulated case of the Problem. The unspecified parts may be supplemented by general understandings in the real world. However, the purpose of this Competition is NOT to discuss whether some facts are true or not. While certain facts not outlined in the Problem can be agreed upon by the competing parties, effort should be given NOT to debate which facts are true and which facts are not. In some cases, the judge may decide the facts in order to expedite the Competition proceedings and in such cases the continuing discussions will be based on the decided facts.

## 2. Rules

The Competition is held based on the rules published every year. Please read the rules carefully and understand them thoroughly before participating the Competition.

## 3. Newsletters

The Stealing Committee issues Newsletters in order to give important information about the Competition. Newsletters will be uploaded to the Competition website. Instructors and representatives of each university will be informed by email when it is issued.

## V. Key Rules

\* Please be sure to read the newest version of the Rules on your own.

### 1. Composition of a team and roles

- One team shall be composed of four or five members (three or six members could be also admitted as an exception).
- members act their role as follows:
  - Round A: all members act as attorneys of the Company
  - Round B: each member acts an registered role according to the Problem.
- The role of each member will be listed on the brochure of the Competition which will be sent to the participants in the middle of November.

### 2. Round A

(1) The applicable substantive law: the UNIDROIT Principles of International Commercial Contracts 2010

(2) Memorandums: In Round A, two types of documents should be submitted as follows. Please mind the specified forms and time schedule.

① Preliminary Memorandum: by noon of November 21<sup>st</sup> (Monday)

Within eleven pages excluding cover page, both in English and in Japanese divisions.

There is no restriction for choice of fonts and size thereof and the page-setting of the memorandum. Charts and/or indexes can be used.

Legibility is also evaluated.

② Response: by noon of November 29th (Tuesday):

Within two pages excluding cover page, both in English and in Japanese divisions.

The response should be composed of arguments and supporting reasons that counter the preliminary memorandum of your counter party.

- Exceeding length limit, violation of format rules and delay in submission will result in the deductions of points. For details please refer to Rule 7(6).

Rule 7 (4) Each team shall submit a preliminary memorandum by the deadline specified in Rule 2 (2) by sending it as an email attachment to the Steering Committee. A university which has two or more teams shall submit the preliminary memorandums of all teams at the same time (in case preliminary memorandums of one university are submitted in 2 or more e-mails, the memorandum of that university is considered to be submitted at the time when the last memorandum of that university is arrived). The format of the memorandum shall be as follows:

①The memorandum shall be submitted as a PDF file, with A4 size page setting. The maximum length of a memorandum is eleven (11) pages for both the Japanese and English divisions.

②A cover page shall be attached to the memorandum, which sets forth the name of the university, team number, which company (Red or Blue) the team represents, and the names of team members. Please send the memorandum and cover page as one PDF file.

③The file name of the PDF file shall be “Memo A by English 1 (or 2) NEGO (name of university only in capital letters)”

④Each margin (upper, lower, right, left) of each page shall be 25 mm and the page number shall be placed at the bottom center of each page.

⑤The choice of fonts and size thereof, spacing of lines, and the number of letters per line, and/or whether using charts, etc., are matters for discretion of each team. Please note that legibility may also be included in the scope of evaluation by the judges.

⑥The upper limit of the maximum file size is 1.4MB.

- In this Competition which both parties should submit its own memorandum at the same time, the memorandum shall contain the counter-argument against expected assertions from the other Party.

(Rule 7 (9))

In the memorandum, all the issues indicated in the Problem must be addressed, giving consideration to the basic assertions of the counter party referred to in the Problem. In the memorandum, teams shall make counter-argument against possible arguments by the counter party which may reasonably expected to be made by the counter party in the memorandum. The memorandum should be drafted with an easy to understand and logical structure, by using concise sentences, sub-section headings, etc.

### (3) Schedule of the Day

- 13:00-13:10 Setting (arrangement of the room)  
13:10-16:20 Opening statement and Hearing of each case  
For each case, 3 minutes opening statement by each party → oral arguments before arbitrators  
16:20-16:30 Preparation time for Closing  
16:30-16:40 Closing arguments by Red and Blue  
16:40-17:00 Comments by the arbitrators

### (4) Rules for the Procedure of the Day

- ① Arguments which have not been mentioned in memorandums may be made on the Day of the Competition.

(Rule 7 (10))

Arguments not set forth in the memorandum are permitted to be made orally in Round A, but failure to cover an important point in the memorandum, or making an oral argument that conflicts with a position set forth in the memorandum, may be negatively evaluated by the judges.

### ② Proceeding

(Rule 7 (15))

The arbitration panel's method of procedure may vary from group to group. For example, based on experiences in past competitions, in some groups the panel will focus on the parties exchange with the panel, in other groups the panel will focus on exchange and discussion between the parties, and in some groups the panel will allot a specific amount of time in which each party is to express their assertions and reasoning, with no opportunity for questions and answers. Whatever the method may be, the arbitration panel has an obligation to treat both parties fairly, and may not give one party an unfair advantage due to the procedure adopted. Parties who have doubts regarding the fairness of the arbitration panel's method of procedure may raise an objection during the arbitration, and parties who are unsatisfied with the response from the panel may make appeal to the Steering Committee. However, objections must be made before the end of the round.

### ③Applicable Procedure

Procedure of the arbitration shall be controlled by the 2010 UNICTRAL Arbitration Rules and the place of arbitration is Japan. In the event of a conflict between the aforementioned UNCITRAL provisions, the Problem and the Rules of this Competition takes priority, and the UNCITRAL provisions take second priority. But since the issues of procedural matters will not be asked in the Problem, such a conflict is unlikely.

### ④Burden of Proof

Rule 7 (16) Participants should take note that, as a general matter, each side has an obligation to persuade the arbitration panel as to its claims, by backing up its arguments with facts or reasoning, based on matters contained in the Problem, Exhibits and/or other materials.

### ⑤Issues Specified in the Problem

Issues for the arbitration should be limited to the ones specified in the Problem.

### ⑥Caucus Time

Rule 7 (17) Each team may request 5 minutes of caucus time per hour. However, the arbitration panel may postpone a request for a caucus for up to 20 minutes, as it deems appropriate for the orderly progress of the arbitration.

### ⑦Opening Statement and Closing Statement

One or a few member of a team may present an opening and closing statements (Rule 7 (14)).

### 3. Round B

(1) Sharing the respective roles deems necessary.

(Rule 8 (1)) Participants shall share responsibilities and carry out their respective roles in order to ensure smooth operation of their team (points may be deducted by the judges, or a warning issued by the Steering Committee, in the event that a participant is simply not engaged).

(2) Preliminary Memorandum

- In Round B, participants shall submit the preliminary memorandum in order to explain to judges the negotiation each team would like to accomplish (Rule 8(3)).
- Deadline: Noon of November 29<sup>th</sup> (Tuesday): Within four pages excluding cover page both in English and in Japanese divisions.
- Exceeding length limit, violation of format rules or delay in submission will result in the deductions of points. For details please refer to Rule 8(4).

(Rule 8 (3)) ① The Memorandum will be used as the reference material for the explanation at the meeting with judges in Round B and shall state the following:

- the goals that your company is seeking to achieve through the negotiation;
- strategies to achieve the goals;
- any information necessary to explain such goals and strategy to the judges.

→Powerpoint slides and/or materials referred in Rule 9 in addition to the preliminary memorandum can be used to explain the goals and strategies of negotiation at the meeting with judges in Round B.

(3) Proceeding of Round B

9:20-9:30	Setting (arrangement of the room)
9:30-12:15	Round B
	Meeting with Judges: 15 min. (5 minutes for each team)
	Negotiation: 150 min.
12:15-12:30	Preparation for Self-Evaluations
12:30-12:50	Self-Evaluations①

12:50-13:10 Self-Evaluations②

13:10-13:30 Overall Evaluation and Comments

(4) Memorandum of Agreement

- In the event any agreement is reached, a memorandum which expresses the content of the agreement shall be made for evaluation by judges.

(Rule8 (8)) In the event any agreement is reached, a memorandum which expresses the content of the agreement shall be made. The purpose of making such a memorandum is to check if the agreement is adequately committed to writing. The memorandum need not be made in the form of a contract or letter of intent; rather it should precisely and accurately reflect what the parties agreed. Such a memorandum must be completed by the end of Round B. The memorandum need not be printed but must be made in such a manner that the judges are able to confirm the content of the memorandum (e.g., in handwriting on paper or the blackboard, or on the screen of a PC).

(5) Explanation to Judges and Self-Evaluation

One or a few members of a team may give an explanation to judges and/or Self-Evaluation (Rule 8 (10) ①③) .

4. Materials

Rule 9

- (1) Each university may use materials and/or projected images to support its claims in Round A and Round B.
- (2) If a team wants to use a projector, each team must bring its own machine(s) and equipment(s) (extension cords, etc.).
- (3) The counter party may request sufficient time to examine the materials after receiving them.
- (4) Judges and arbitrators may prohibit the use of any set of materials or item(s) when there is a valid reason for doing so, such as in the case that the use of such materials may hinder the efficient procedure.
- (5) In both the Japanese and English divisions, any materials not in the official language of the division must be accompanied by a translation in the official language of the division.

## 5. Using Blackboards and Other Facilities

There was a case that one team dominantly used the blackboards, projectors and other facilities and the other team could not use them. Now the rule has been made for this kind of case.

Rule 10(2)

When using blackboards, projectors or other facilities and setting rooms in Round A and B, each team shall negotiate with its counterparty in an amicable manner and use them in the spirit of give and take.

## 6. Complaints

Complaints against another school can be raised according to Rule18 as follows.

- ( 1 ) Complaints that another university has violated the Rules must be lodged with the Steering Committee within 10 minutes of the close of each round by the university representative.
- ( 2 ) When immediate response is thought necessary, the representatives of each university may, even in the middle of a round, ask the judges to confirm the Rules, and request that the behavior of the other university be corrected. If the judge determines that such a request is for good reason, the judge may issue such direction as he or she deems appropriate, or consult with the Steering Committee concerning any action to be taken.

## 7. Video Recording

- Participants may take a video during the Competition sessions. Also, video recording and photographing by the Committee and sponsors will be made.

### Rule 19

- (1) Participants, judges and instructors consent to the listing of their names, affiliations and photos in the brochure made by the Steering Committee, the video made by the Sumitomo Group Public Affairs Committee, the official website of this Competition and other materials or publications deemed necessary by the Steering Committee.
- (2) Participants, judges, instructors and visitors consent to the video recording of the proceedings, and to the use of such recording in future education, training, research and public relations of the Intercollegiate Negotiation Competition.
- (3) Participants may make a record of the competition sessions. If a team wants to arrange for the video recording of sessions, such team must bring the necessary video equipment (such as extension cords, etc.) and media.
- (4) This Competition is open to visitors. Friends and family of the participants are free to watch the competition provided they follow the necessary procedures at the reception on the day of the competition.
- (5) The Steering Committee may publicize the scores and memoranda submitted by universities which receive awards in the closing ceremony, in newsletters, or on the website of INC, etc.

## 8. Recommendation for the International Negotiation Competition

- The Steering Committee will select and recommend a university from the Japanese universities that have participated in the Competition as the representative of Japan for the International Negotiation Competition (Rule 15). The competition will be held in June or July annually, in English, with 2 persons in the team.
- The Steering Committee will ask the university that achieved the best score in the English division in Round B if the university will send a team. If that university will not send a team, the Steering Committee will ask the university that achieved the second best score in the English division in

Round B if it will send a team (if necessary, the same process will continue in order of the rankings).

## 9. Management of Confidential Information

- Confidential information and strategies of each team should be handled carefully. In past competitions the steering committee had to revise the confidential information because of disclosure of such information by participants (ex., uploading pictures of team meeting on SNS and confidential information written on the blackboard was found in the pictures; sharing confidential information with team mates by using group site which can be accessed by public) ). Leakage of information in Round B may lead to deduction of points. Please refer to Rule 5 (4) for details.

## VI. Judging and Awards

### 1. Judging

- Scoring and evaluation are conducted based on 15 criteria both in Round A and Round B. Judges evaluate each criteria from point 1 to point 5, even dividing 0.5 for each. Evaluation sheets of each year are uploaded to the website of the Competition. A newsletter will make a notice when they are uploaded. Evaluation is made by objective evaluation of each team on the basis of its own performance, not the relative performance between two competing teams.
- Judges are subject to the following instructions.
  - There might be advantages or disadvantages for the role of Blue or Red depending 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 are unlikely to occur or appears unnatural in the real world.
  - 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, scoring is based on the

fact that the participating team's performance is or is not at an expected level under the given circumstances, and not on the actual outcome, i.e. the winning or losing of a particular point.

- Language ability: Language ability such as pronunciation or fluency is outside the scope of evaluation.
- Please make your best efforts to evaluate in an impartial and fair manner without being influenced by the name or previous performance of a university.

## 2. Judges

- Three judges make a panel. In the last year's Competition, 119 judges were commissioned and they had different backgrounds:
  - Persons of Companies, Public Authorities, etc. 24
  - Judges 6
  - Lawyers 34
  - Professors 24
  - Alumni 31

The Judges in charge will be announced on the day of the Competition.

## 3. Awards

- Awards are given to the first ranked to fifth ranked universities.
- The first ranked university will receive the Sumitomo Cup.

Other awards are as follows:

- The best university award in arbitration in English
- The best university award in negotiation in English
- The best teamwork award

## **VII. Others**

### 1. How to Contact the Committee

- When sending registration, submission of preliminary memorandum and questions to the Committee, make sure to send emails to the following two addresses in order to avoid email errors:

[Inc.steering.committee@gmail.com](mailto:Inc.steering.committee@gmail.com) AND [tetsu-mo@sophia.ac.jp](mailto:tetsu-mo@sophia.ac.jp).

- Also, please include in the subject line of emails, "RE: INC: XX University".

## 2. Manners as Business Persons

- Please keep in mind to hold appropriate business manners throughout the Competition, such as in preparation period including emailing with someone, opening and closing ceremonies, reception of the Competition, and staying at a hotel.

## 3. Invitation to Family and Friends

- The Competition welcomes guests. If your family or friends want to observe the Competition, please invite them. After registration at the reception of the Competition, they will receive visitor's nametags and brochures in order to observe any sessions freely.