

Clarifications No. 1

The following clarifications have been incorporated into a Revised Version of the Moot Problem that has been placed on the website under the Heading **Revised Moot Problem**.

1. The last sentence of Paragraph 1 now reads: “The climate in SIS is generally hot and humid, and marked by a rainy season which lasts for about three months of the year, during which typhoons are rare but not unheard of.”
2. In Paragraph 2 substitute the word “whitening” with the word “enhancing”. In the same paragraph substitute the word “white’ with the word “radiant’. This sentence should now read as follows:

“While the intensity of the sun in Inachi is not as great as elsewhere, Inachi residents place special value on radiant, unblemished skin and Mr. Heng sensed the availability of a large market share.”

3. In Paragraph 3 Mr Smith agrees “in principle” to appoint Mr Heng or a company incorporated by Mr Heng as an exclusive distributor of Hampton SunCare creams for the Inachi region and provided Mr Heng with a letter “of intent” to this effect.
4. The first sentence in Paragraph 4 now reads: “In reliance, Mr. Heng promptly incorporated Heng SunCare Ltd. In Inachi.”
5. The following text is inserted in Paragraph 4 to substitute for 22.1 to 22.4:
 - Clause 22 (Dispute Resolution) provided:
“22.1) The Parties will in good faith attempt to mutually resolve any disputes related to this Agreement. Failing mutual resolution, the Parties agree that this Agreement and all its provisions may be governed in all respects by the Hong Kong International Arbitration Centre and general principles of law, but not by the courts nor the law of the respective countries of the contracting parties.”

22.2) *All interpretations that are required for this contract and disputes arising between the Parties shall be submitted to the Court defined in 22.1 and both Parties expressly waive other rights and privileges, if any.*

22.3) *If an arbitration is conducted, before the arbitral decision is communicated to the parties and before an award is issued, the arbitral panel may refer the parties to mediation with a view to the parties reaching an agreement to settle their dispute. Mediation will be conducted in accordance with the Mediation Rules of Procedure and the Code of Conduct for Mediators, **Annexure D**, which are deemed to be incorporated by reference into this clause. The mediation will be conducted by a member of the arbitration panel.*

22.4) *If the dispute is not settled by mediation within 30 days of the appointment of the mediator, or such further period as the parties shall agree in writing, the dispute shall be finally resolved in accordance with the decision made by the arbitral tribunal in clause 1 and an award shall be issued to this effect.”*

6. Paragraph 5, Clause 20 now reads as follows: “If, 4 years before the expiration of the Term, neither party notifies in writing of its desire to terminate this Agreement or to alter its terms and conditions, the Term in this Agreement is automatically extended for 12 months to make up the Term to five years.”
7. The sales targets referenced in Paragraph 6 relate to the years 2002-2007.
8. Wherever it is mentioned the word “cyclone” should be replaced by the word “typhoon”.
9. Other minor adjustments to the wording of the text, along with the above insertions and replacements, have been included in the consolidated version of the moot problem, entitled **Revised Moot Problem**, now available on the website for the competition.
10. The UNCITRAL Model Law on International Commercial Arbitration with amendments as adopted in 2006 is applicable to this dispute.
11. Teams may still submit clarification questions until 23rd May, 2010.