

<http://emc2.elsa.org/participation/>

## Guidelines for the Written Submissions

### 1. General

- The Score of each Oral Preliminary Round also includes the Score of the relevant Written Submissions.
- 30% of the Overall Written Submission Scores will count towards the Overall Team Score at the conclusion of the Preliminary Rounds of an Oral Pleading Round.

### 2. Form requirements

- Format your document according to the Form Requirements at the commencement of drafting the documents.
- Use *track changes* as this will help you keep a record of changes or use a draft document system (e.g. EMC2\_Complainant\_Written Submission\_Draft #21).
- Always make a minimum of two back up electronic copies of your work.
- Double-check your Written Submissions before dispatch to ensure they comply with the Rules.

### 3. Contents of the Written Submissions

- Once you understand the legal claims as presented by the Case Author, you must identify the relevant WTO Law at issue and analyse the facts in that context.
- Be sure you review the specific WTO Agreements identified by the Case Author, as well as any other relevant policy (trade, health, intellectual property etc.).
- Identify the relevant WTO Agreements and specific articles as well as the elements required to substantiate or reject the legal claims.
- Keep your arguments simple and use plain English so that every reader can understand your proposition.
- Use simple structures, avoid too many words to express a single concept, and also avoid using



double negatives or the passive voice.

- Use short sentences.

- Pay attention to the use of correct English grammar and punctuation.
- Authorities in footnotes may be referred to in an abbreviated form if the full reference is stated in the List of Reference and List of Abbreviations.
- National legislation and cases should be cited as generally done in that particular jurisdiction.
- Example of a correct footnote taken from a 2008-2009 EMC<sup>2</sup> Written Submission:  
Marceau and Trachtman (2002), 822–3; Tamiotti (2007), 217.  
Howse and Regan (2000); Hudec (2000), 198; Hudec (1998), 635.  
ABR, EC–Bananas III, [233]; ABR, Canada–Autos, [140]; VCLT, Art 31(1).  
PR, Canada—Autos, [10.23]; PR, EC—Biotech, [7.2514]; ABR, DR—Cigarettes, [96].
- Example of an incorrect footnote taken from a 2008-2009 EMC<sup>2</sup> Written Submission:  
The TBT does not contain provisions that exude its compatibility with the GATT. Therefore, if the EA is found to be TBT consistent, said finding, does not exclude the application of the GATT. (Marceau and Trachtman 2002, 875).

#### 4. Resources

- Trade Law Guide is also an innovative tool for researching WTO law [www.tradelawguide.com](http://www.tradelawguide.com)
- The Case Author has provided a list of relevant primary material at the end of the Case.
- The best research material may be found on the WTO's website (WTO Analytical Indexes, general information).
- World Trade Law is a good site for information on WTO Agreements and Cases [www.worldtradelaw.net](http://www.worldtradelaw.net)
- Cambridge University Press publish several WTO texts [www.cu.edu.uk](http://www.cu.edu.uk)
- Cameron May also publishes several WTO texts [www.cameronmay.com/](http://www.cameronmay.com/)
- For advice in citing materials, please refer to the Oxford University manual titled: Oxford.
- Standard Citation of Legal Authorities (OSCOLA) at [www.law.ox.ac.uk/oscola](http://www.law.ox.ac.uk/oscola)
- Consult past EMC<sup>2</sup> Written Submissions at [www.elsamootcourt.org/previous-editions](http://www.elsamootcourt.org/previous-editions)



## 5. Legal Writing (article published in ELSA Synergy No. 2/2003)

Good legal writing rewards its practitioners handsomely. We write now more than in any age. If so, and if writing is our main means of communication and persuasion, then we should hone and perfect the skill, just as an athlete trains zealously or a musician practices her instrument.

Yet we often characterise lawyers as long-winded, verbose and excessively complex in their language. People struggle to understand the documents that lawyers write. Today, written submissions to a court are more important than ever. Cases can be decided on written evidence alone. Your skill in writing will influence your client's cause – perhaps the most important reason why to develop that skill.

The Five Commandments are core principles of good legal writing:

1. *You shall write as plainly as possible:* Write “end”, not “termination”.
2. *You shall avoid long sentences:* Twenty words are enough.
3. *You shall use the active voice:* You shall say, “The judge dismissed the case”.
4. *You shall avoid archaic words:* Words like “hereinbefore” and “aforesaid” shall be avoided.
5. *You shall be concise:* The end.

Try this approach when writing a law school assignment: As you read the problem slowly, underline, highlight or note what you think are the main issues in your question. Be prepared to change these. At the start, you will have only a rudimentary idea of the issues and the structure of your assignment.

Read two or three of the main cases and texts on the specific area. A shortcut to a sophisticated understanding of the area is to read a good journal article on it, even at this early stage.

Start to rough out an answer, on your computer. Stick to your issues. Use headings freely. These can be removed later. In the meantime, they keep you on the relevant points. Try framing your headings as questions. Then you are forced to think of the answer as you add new material.



When you have a skeleton answer, read widely and add to your answer as you go along, making the best use of your computer. Do not try to complete all your reading and then sit down to write, in the hope that it will all be retained and mixed properly in the cranium. It will not be. Add new insights, new authorities, and better analysis, as you go. Polish, polish and polish some more.

As your understanding on the law and issues matures, you will change your emphasis. The issues may change, too. The more reading and polishing you do at this stage, the more sophisticated your final result will be. Your professional life will be one of writing letters and legal opinions. Therefore, your adroitness in letter and opinion writing will be the most lasting mark of your professional skill.

Some rules:

- *Be plain.* Lack of clarity shows an unclear mind.
- *Be concise.* A verbose letter wastes time.
- *Use sub-headings.* Helps you order your thoughts and gives your letter structure.
- *Always use a spell-checker.* There is no excuse for simple spelling errors. They show you up as careless.
- *Write to your readers:* You will write a different letter to a professor of law than you will to a professional boxer. Know your audience.
- *Never patronise your readers:* You are trying to persuade, not alienate!

While at law school, deliberately embark on a program to improve your writing. Buy a couple of books on good writing - Martin Cutts' Plain English Guide (OUP) is first rate - and read a chapter, every now and then. Learn to edit your own work. There are computerized writing analysis programs (*Stylenwriter*) to assess your writing clarity and skill. Seek to write an article or short note for a law journal. Enter writing competitions. The heat of competition will encourage you to improve your research and writing. A meritorious performance in writing competitions will be.

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