

**Report**

**ELSA Moot Court Competition**

**on WTO Law**



**2003/2004**

***elsa***

The European Law Students' Association

# ELSA MOOT COURT COMPETITION ON WTO LAW

## REPORT ON 2003/2004 COMPETITION

Hereby I would like to share with all of you the outstanding success of the ELSA Moot Court Competition on WTO Law (EMC<sup>2</sup>) 2003/ 2004!

Professor Claus-Dieter Ehlermann (President of the Grand Final Panel of the EMC<sup>2</sup> - member and Chairman (2001) of the WTO Appellate Body from 1995-2001) after the Grand Final rewarded us with praise for "outstanding work ELSA does for the development of the WTO law and International Trade law in general" and "commended the Association for the quality of the project". Chairperson of the Dispute Settlement Body - Her Excellency Amina Mohamed Ambassador of Kenya - reminded to invite her for the Third edition of the Competition so that she could follow "the marvellous project which is indispensable for the preparation of skilled government representatives capable of defending national interests in front of the WTO Dispute Settlement Panels".

This year the National Rounds (Oral Selection Rounds) took place in Lithuania, Malta, Norway, Romanian and UK where proud National ELSA Groups organised them. The Regional Round for Australia and New Zealand was organised by the Law School of Bond University. The Written Round attracted participation of the teams, which rose up to the challenge of fierce competition to share 9 available places in the Final Oral Round in Geneva. Just fewer than 50 teams seized this opportunity to develop their legal writing and advocacy skills by entering the Selection stage of the Competition. Eventually, a total of 16 teams from all over Europe, the USA and Australia participated in the Final Oral Round of the EMC<sup>2</sup>. The ELSA Spirit was ever present during the Final Oral Round where most of participants were not ELSA members.

Finally, I would like to thank my fellow International Board members and the members of the International Organising Committee for a splendid event - Final Oral Round of the EMC<sup>2</sup>. My gratitude is extended to those who have realised this great event including couple of local Swiss volunteers, Norwegian and Mexican helpers. Though only present at the Final Oral Round, they vastly contributed to the success of the Competition.

We hope to see you at the ELSA Moot Court Competition on WTO law 2004/2005!

Ieva Žebrytė  
Vice President Academic Activities  
ELSA International 2003/ 2004

## Selection Round of the EMC<sup>2</sup>

Just under 50 teams from all over the world registered for the Selection Round.

### Written Round

The Written Memorials of the teams participating in the Written (Selection) Round were assessed individually and independently by two Judges. **This year 9 teams** with the highest ranking Memorials preceded to the **Final Oral Round in Geneva**.

The following teams had the highest ranking Written Memorials and, along with 7 teams from the Oral Selection Rounds, took part in the Final Oral Round of the EMC<sup>2</sup> 21<sup>st</sup> through 25<sup>th</sup> of April 2004 in Geneva, Switzerland:

1. Team 002 - Maastricht University, the Netherlands
2. Team 026 - Neuchâtel University, Switzerland
3. Team 003 - Martin Luther University, Germany
4. Team 027 - Utrecht University, the Netherlands
5. Team 004 - New York University, USA
6. Team 017 - University College Dublin, Ireland
7. Team 006 - Institut d'Etudes Politiques de Paris, France
8. Team 009 - University of Silesia, Poland
9. Team 025 - St. Petersburg State University, Russia

### Written Round Awards

The following Teams were awarded for their excellence in the Written Round:

Team 002 (Maastricht University) received the **World Trade Institute Award for the Overall Best Memorial** from the WTI alumnae.

Dr. Gabrielle Marceau awarded Team 003 (Martin Luther University) with **Gabrielle Marceau Award for the Best Complainant Memorial**

It was an immense honour for the Team 026 (Neuchâtel University) to receive the **Valerie Hughes Award for the Best Respondent Memorial** from the hands of Director of WTO Appellate Body Secretariat

### National Rounds

National ELSA groups were given the possibility to organise a National Round on the Case of the EMC<sup>2</sup> 2003/ 2004. The winning teams from the ELSA National Rounds proceeded directly to the Final Oral Round in Geneva.

ELSA Lithuania - Team 016 - Lithuanian University of Law  
ELSA Malta - Team 033 - University of Malta  
ELSA Norway - Team 010 - University of Tromsø (Tromsøe)  
ELSA Romania - Team 039 - "Al.I.Cuza" University, Iasi  
ELSA UK - Team 031 - London School of Economics, UK

## **Final Oral Round, Geneva 21<sup>st</sup> to 25<sup>th</sup> of April**

### **Agenda of the Final Oral Round of the ELSA Moot Court Competition on WTO Law 20<sup>th</sup> – 25<sup>th</sup> of April 2004**

#### **20<sup>th</sup> of April 2004 (Tuesday)**

Arrival of Participants, registration, check in (Hotel Savoy)

#### **21<sup>st</sup> of April 2004 (Wednesday)**

10:00 – 19:00 Preliminary Rounds with interruption for Lunch (Royal Manotel)  
20:00 – 22:00 Dinner at the International Relations Institute (HEI)

#### **22<sup>nd</sup> of April 2004 (Thursday)**

10:00 to 12:00 Preliminary Rounds (Royal Manotel)  
13:00 – 14:00 Lunch (Hotel Savoy)  
14:00 – 20:00 Fieldtrip  
20:00 – 22:00 Dinner (Royal Manotel)

#### **23<sup>rd</sup> of April 2004 (Friday)**

10:00 – 12:00 Semi-Finals at the WTO (Rooms A and C)  
13:00 – 14:00 Lunch in the Park  
14:00 – 18:00 Conference: International Trade in Pharmaceuticals (Hotel Warwick)  
18:00 – 20:00 Reception and Sponsors' Fair (announcement of the Finalists)  
20:00 – 22:00 Dinner at the International Relations Institute (HEI)

#### **24<sup>th</sup> of April 2004 (Saturday)**

11:00 – 14:00 Grand Final of the EMC2 2005 at the WTO (Room W)  
14:00 – 16:00 Free time/ Sightseeing in Geneva  
16:00 – 18:00 Awards Ceremony and Cocktail (Royal Manotel)  
18:00 – 20:00 Dinner at the Edelweiss restaurant  
22:00 After-party

#### **25<sup>th</sup> April 2004 (Sunday)**

Departure of the Participants

## Teams

The following teams had the highest ranking Written Memorials and were invited to the Final Oral Round in Geneva:

Team 002 - Maastricht University, the Netherlands  
Team 026 - Neuchâtel University, Switzerland  
Team 003 - Martin Luther University, Germany  
Team 027 - Utrecht University, the Netherlands  
Team 004 - New York University, USA  
Team 017 - University College Dublin, Ireland  
Team 006 - Institut d'Etudes Politiques de Paris, France  
Team 009 - University of Silesia, Poland  
Team 025 - St. Petersburg State University, Russia

The following winning teams of the ELSA National Rounds proceeded to the Final Oral Round:

ELSA Lithuania - Team 016 - Lithuanian University of Law  
ELSA Malta - Team 033 - University of Malta  
ELSA Norway - Team 010 - University of Tromsø (Tromsøe)  
ELSA Romania - Team 039 - "Al.I.Cuza" University, Iasi  
ELSA UK - Team 031 - London School of Economics, UK

Two teams from the Non-ELSA Regional Round for Australia & New Zealand were invited to attend the Final Oral Round of the EMC<sup>2</sup> in Geneva. Namely, Finalists of the Regional Round Team 040 and Team 042, both from Monash University (Australia), represented this Regional Round at the Finals of the Competition.

## The Winners

The Final Oral Round of the Second ELSA Moot Court Competition on WTO Law took place at the WTO Offices in Geneva from 21<sup>st</sup> to 25<sup>th</sup> April 2004. **EMC<sup>2</sup> 2004 was won by Mr Renato Couto Gomes and Mr Timothy Franklyn** of the London School of Economics (UK) team in a hotly contested Grand Final against Miss Alexandra Farrar, Mr Darren Lim, Ms Kylie Lane and Mr Andrew Barraclough of Monash University (Australia).

## EMC<sup>2</sup> 2004 Awards

The Best Orator of the Elimination Rounds – Andrew Di Pasquale (Team 040, Australia)  
The Best Orator of the Preliminary Rounds – Robert Radmilli (Team 033, Malta)  
*World Trade Institute Award for the Overall Best Memorial – Team 002 (Maastricht)*  
*Gabrielle Marceau Award for the Best Complainant Memorial – Team 003 (Martin Luther)*  
*Valerie Hughes Award for the Best Respondent Memorial – Team 026 (Neuchatel)*

## Preliminary Rounds

Top four teams of the Preliminary Rounds (based on their overall scores – out of possible 120 per session) have passed on to the Semi Finals of the Competition:

- Team 031 – 104 points
- Team 042 – 101 points
- Team 040 – 87 points
- Team 033 – 86 points
- Team 003 – 81 points
- Team 010 – 80 points
- Team 002 – 78,5 points
- Team 027 – 76 points
- Team 016 – 63 points
- Team 006 – 58 points
- Team 004 – 52 points
- Team 017 – 51 points
- Team 009 – 50 points
- Team 025 – 48 points
- Team 039 – 43 points
- Team 026 – 40 points

**Scores of the Second edition of the ELSA Moot Court Competition on WTO law**  
21<sup>st</sup> to 25<sup>th</sup> of April 2004, Preliminary Rounds, Geneva, Switzerland

Session #	Team #		Total Score	
	Compl	Resp	Compl	Resp
1a	3	33	38	34
1b	25	2	24	48,5
1c	40	4	39	21
1d	6	42	25	43
2a	27	26	26	18
2b	17	10	22	46
2c	9	31	32	48
2d	39	16	17	20
3a	42	3	58	43
3b	4	25	31	24
3c	2	40	30	48
3d	33	6	52	33
4a	16	27	43	50
4b	31	17	56	34
4c	10	9	34	18
4d	26	39	22	26

Photographs from the Final Oral Round of the Second ELSA Moot Court Competition on WTO Law which took place at the WTO Offices in Geneva from 21<sup>st</sup> to 25<sup>th</sup> April 2004 may be found in the Competition section of the website of ELSA International.

## Judges and Advisors of the EMC<sup>2</sup>

### **The Panel of the Grand Final**

Prof. Claus-Dieter Ehlermann (President of the Panel), Wilmer, Cutler & Pickering (Belgium); Member and Chairman (2001) of the WTO Appellate Body from 1995-2001  
Her Excellency Amina Mohamed, Chairperson of the WTO Dispute Settlement Body  
Prof. Giorgio Sacerdoti, Member of the WTO Appellate Body  
Prof. Thomas Cottier, University of Berne, Baker & McKenzie (Switzerland)  
Prof. Elisabetta Montaguti, European Commission, Legal Service  
Prof. Jacques Bourgeois, Akin Gump Strauss Hauer & Feld (Belgium)  
Dr. James H. Mathis, Amsterdam University (Drafter of the Case EMC<sup>2</sup> 2004)

### **Panels of the Semi-Finals**

Dr. Arthur Appleton J.D., Ph.D., White & Case, Geneva (Switzerland)  
Prof. Jacques Bourgeois, Akin Gump Strauss Hauer & Feld (Belgium)  
Dr. Christian Pitschas, Freshfields Bruckhaus Deringer (Belgium)  
Prof. Mary Footer, Amsterdam Centre for International Law (The Netherlands)  
Dr. Gabrielle Marceau, Counsellor for the Legal Affairs Division of the WTO Secretariat  
Dr. Georg Berrisch, Covington & Burling (Belgium)

### **The Preliminary Rounds featured highly competent panels consisting of 3 judges out of the renowned names from the list of Judges' Pool of the EMC<sup>2</sup>:**

Dr. Jan Bohanes, WTO Appellate Body Secretariat  
Mr. Jorge Castro, Legal Affairs Division of the WTO Secretariat  
Ms. Victoria Donaldson, WTO Appellate Body Secretariat  
Mr. Lothar Ehring, Directorate-General for Trade, European Commission  
Prof. Heinz Hauser, University of St. Gallen (Switzerland)  
Ms. Valerie Hughes, Director WTO Appellate Body Secretariat  
Mr. Pierre Latrille, Counsellor of the WTO Trade in Services Division  
Dr. Laura Nielsen, University of Copenhagen (Denmark)  
Mr. Hunter Nottage, Advisory Centre on the WTO Law  
Mrs. Maria J. Pereyra-Friedrichsen, WTO Legal Affairs Division  
Mr. Hannes Schloemann, Baker & McKenzie (Germany)  
Mrs. Letizia Raschella - Sergi, Assistant Professor Bond University (Australia)  
Prof. Christian Tietje LL.M (Michigan), University of Halle (Germany)  
Mr. Arun Venkataraman, WTO Appellate Body Secretariat  
Ms. Tania Voon, WTO Appellate Body Secretariat

### **Written Round only**

Prof. Frank Emmert, Indiana University School of Law (Indianapolis, USA)  
Prof. Johan Erauw, Private International Law Institute, University of Ghent (Belgium)  
Mr. Folkert Graafsma, Vermulst Waer & Verhaeghe (Belgium)  
Prof. Christine Breining-Kaufmann, University of Zurich

The members of the Advisory Board and Judges' Pool have worked all year long to strengthen the reputation of now world famous EMC<sup>2</sup>. It is their dedication and hard work, which made ELSA worthy of its fame as the contributor to the quality Legal Education around the world. All judges were awarded with the EMC<sup>2</sup> 2004 memorabilia (plaques).

## **Sponsors of the EMC<sup>2</sup> 2004**

It naturally has to be stressed that this fantastic event would never have been possible had it not been for the support of **Picton Howell** and the **World Trade Institute**, the relentless marketing campaign of **Thomson**, Corporate Partner of ELSA International, as well as other Corporate Partners of ELSA International - **Clifford Chance**, **CMS**, **Lexis Nexis** and **Microsoft** who support ELSA in its efforts to contribute to Legal Education across the world.



## EMC<sup>2</sup> 2004/ 2005

The Case and the set of Rules for the ELSA Moot Court Competition on WTO law 2004/ 2005 were due on the 1<sup>st</sup> of September 2004. There was a delay in publication of the Case.

Overall preparations for the Moot Court are going well. We hope to contact judges in advance to assure greater participation in correction of the Memorials.

### The Case

The anticipated case for the EMC<sup>2</sup> 2004/2005 is out and its full context is available in the official EMC<sup>2</sup> site “WTO law Moot Court” at [www.elsa.org](http://www.elsa.org). Following is a summary of the case:

The Case deals with a dispute arising between a developed WTO Member State, on the one hand, and a developing WTO Member State, on the other hand. The developed State grants tariff preferences to developing countries as a GSP scheme under the terms of the Enabling Clause, and additional preferences when these countries satisfy its high environmental standards. The developing WTO Member State has not been able to satisfy the high environmental standards, and complains about the legality of the additional preferences under WTO law. The developed State argues that the additional preferences it grants are justified under international law and does not challenge the developing States arguments.

**Case Drafter EMC<sup>2</sup> 2004/ 2005** is renowned **Professor Robert L. Howse** from The University of Michigan Law School. Prof. Howse is an internationally recognized authority on international trade law, Professor Howse received his B.A. in philosophy and political science with high distinction, as well as an LL.B., with honours, from the University of Toronto, where he was co-editor in chief of the Faculty of Law Review. He also holds an LL.M. from the Harvard Law School. He has been a visiting professor at Harvard Law School and Osgoode Hall Law School in Canada and taught in the Academy of European Law, European University Institute, Florence. Since 2000, Professor Howse has been a member of the faculty of the World Trade Institute, Bern, Master’s in International Law and Economics Programme. Professor Howse is a frequent consultant or adviser to government agencies and international organizations such as the OECD, and has undertaken studies for, among others, the Ontario Law Reform Commission and the Law Commission of Canada. He is a Reporter for the American Law Institute on WTO Law.

### The Timeline

The following **Timeline** of the Competition was issued in the Rules of the EMC<sup>2</sup> 2004/ 2005:

- 1 December 2004 - Team Registration deadline
- 15 December 2004 - Final Team registration deadline (late fees apply)
- 15 January 2005 - Written Memorial dispatch/e-mail deadline
- 20 March 2005 - Regional Round organisation deadline
- 27 April - 1 May 2005 - Final Oral Round in Geneva, Switzerland

## Regional Rounds

The following **Regional Rounds** are planned for the 2004/ 2005 Competition:

**Latin American** - organised by COLADIC-DR (Dominican Republic Chapter of The Latin American Council of International and Comparative Law);

**Pacific** (for Australia, New Zealand, Papua New Guinea and Fiji) - organiser shall be announced in September.

The selection of teams for these Regional Rounds will take place on the basis of mutual agreement between the International Organising Committee of the EMC<sup>2</sup> and the organisers of respective Regional Round. The teams from countries of these two regions are encouraged to contact either the International or the regional organisers well in advance of the team registration deadline in order to familiarise themselves with the eligibility criteria and selection procedure.

A co-operation agreement is due to be signed with the Sidley - IIEL WTO Moot Court Competition. Though no team selection through the Sidley - IIEL WTO Moot Court Competition for the EMC<sup>2</sup> 2005 Final Oral Round is planned, both moot courts are eager to work in areas of information exchange and promotion.

## Update on the marketing

- 1) Brochures and Posters sent by Thomson, Corporate Partner of ELSA International, to over 800 contacts world-wide;
- 2) 23 September - Federal Attorney General's 26th International Trade Law Conference - Canberra. Mr Andrew Stoler announced of IIBE&L's consent to organize the Pacific Regional Round. Following individuals who are important to the Pacific Regional Round for judging and sponsorship were named: Mr John Lockhart, Member WTO Appellate Body and former Judge, Federal Court of Australia (is the Keynote Speaker of the said conference); Mr Scott Gallagher (International Trade Law Partner Minter Ellison's Lawyers (and former NZ Trade Diplomat to WTO - potential sponsor); Mr Dominic Trinidad, Assistant Secretary WTO Trade Law Branch Office of Trade Negotiations, Australian Department of Foreign Affairs and Trade; Mr Bruce Gosper, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade; and Mr Mark Jennings, Senior Counsel, Office of International Law, Attorney-General's Department.
- 3) Websites of Regional Round and the general EMC<sup>2</sup> website were published online.
- 4) After 4 October the Letters of Invitation and e-mails were sent to the Deans of Law Schools and International Trade Institutes in Australia, New Zealand, Fiji and Papua New Guinea.
- 5) The EMC<sup>2</sup> Newsletter was sent to its subscribers.