The Foreign Direct Investment International Arbitration Moot 2015 ("FDI Moot") recently took place between 29 October and 1 November at King’s College London in the United Kingdom, with a record number of 51 teams competing in the global orals of the competition this year. Amongst them was the team from HKU, comprising of two other LLB students and me and coached by an LLM student.

A moot court competition is a mock court hearing, in which participants analyse a problem, research the law, prepare written submissions, and present oral argument. The FDI Moot simulates an investor-state arbitration. The subject of the moot is a claim by a private investor against a sovereign state for violation of a Bilateral Investment Treaty ("BIT") between two states. The hearing takes the form of an arbitration conducted in accordance with the procedural rules of an established international arbitration institution – London Court of International Arbitration ("LCIA") in this year’s case.

The 2015 case concerns a BIT between two member states of the European Union ("EU"), Barancasia and Cogitatia. The case raises the procedural question of whether pre-existing BITs remain valid after the states’ accession to the EU. The substantive claim centres around investments in the solar energy sector of Barancasia and the country’s failure to accord fair and equitable treatment in managing its regulatory regime. Further, the case also requires a close analysis of the rules relating to remedies, in particular, granting restitution of the original legal framework and the calculation of damages.

Our team was one of the six Asian teams which had advanced to the global orals from the Asia-Pacific round, held earlier in August in Seoul, Korea. In the global orals in London, we faced strong competition from teams from around the world. After four exciting pleadings with countless challenging interventions from the tribunals, the team eventually finished with an overall score placing them at 18th out of 51 teams.

Although we did not manage to receive any award, it was nonetheless a fruitful experience for all of us. Part of the experience was working under pressure of time. We had only three weeks’ time between the announcement of their qualification for the global orals and the due dates for written memorials, which also coincided with the start of term at HKU. Despite the pressure, we still managed to produce two sets of written memorials for submission, and prepared for the orals while also taking care of our studies.

Moreover, we have also developed an understanding of the relevant legal principles, especially since none of the team members had any knowledge of public international law or investment arbitration prior to joining the FDI Moot. Our preparation for the moot was almost like an intensive course in investment arbitration. Apart from the substantive legal principles, we received valuable feedback from the arbitrators on our oral advocacy skills. As much as we learned about the substantive law, we learned a great deal about how to structure and present arguments effectively and respond to questions tactically – the skills of which are surely transferable to other moot court competitions and, indeed, actual practice of law in the future.
The serious work aside, we also made new acquaintances with mooters from around the world and, despite the brevity of our stay, had a wonderful time in London.