

ACGMUN

Conference

Student Officer Manual

Welcome to this year's ACG MUN Conference! This manual will help you understand the procedure and principles of the International Court of Justice. Here you will find all the necessary information as well as some basic tips and guidelines to make your ICJ experience as fruitful as possible.

What is the International Court of Justice?

The ICJ was first established in June 1945 and began work in April 1946. It is the principal judicial organ of the United Nations. In accordance with International Law, its role is to settle legal disputes submitted to it by States, parties to the Statute, and to give advisory on legal questions to certain UN bodies and agencies. The sources of law the Court bases its judgments upon are; international treaties and conventions in force, international customary law, the general principles of law, judicial decisions and the teachings of the most highly qualified publicists. In the Model ICJ we recreate real ICJ cases.

For more information about the ICJ please visit the following pages:

<http://www.ici-cij.org/homepage/index.php?lang=en>

<https://www.ici-cij.org/en/how-the-court-works>

How does the Model ICJ work?

The ICJ consists of fifteen Judges, the Registrar, two Presidents and four Advocates. The latter are divided into two pairs representing each country on the trial in question. Each advocating team has to make their case and convince the Panel of Judges to vote in favor or against the case. During the procedure, the Advocates have to call on their Memorandum, their Witnesses and the substantial Evidence they have provided. It is in the Judges' discretion to decide whether the Evidence and the Witnesses' statements will be taken under Minimum, Medium or Maximum Consideration. Each Judge is given one vote in favor or against the Applicant. In the off chance a tie occurs, the President of the ICJ is given a deciding vote.

The roles in the Court

Applicant Party

The representative Party of the country that has initiated legal proceedings against another State. The Applicant Party is responsible for effectively supporting its claims and persuading the Judges that it was rightful in initiating those proceedings. Hence,

they have to meet the “Burden of Proof” and, thus, persuade at least 51% of the Judges present. The Burden of Proof is based on the principle “actori incumbit probatio” meaning that a claimant has to prove their claim. The Advocates are called to prove their claims through their logical arguments, real pieces of evidence and the testimony of their witnesses. All Judges present are eligible to vote as well as the President and the Vice President. In case of a tie, the President of the ICJ has the casting vote, as mentioned before.

Respondent Party

The representative Party of the State that is being accused and has agreed on the resolve of the issue with the intervention of the ICJ. Given the accusation throughout the trial, the Court session is based on the principle of “innocent until proven guilty”. In light of this, the job of the Advocates of the Respondent Party does not necessarily lie in proving that their country is innocent but that the Applicant Party cannot meet the Burden of Proof. Thus, the Respondent Party has to cause doubt and confusion on the claims of the former in order to make the Judges skeptic about the legitimacy of their accusations.

The Advocates are responsible for the set up of the case from the very beginning. They have to prepare and present to the Court certain documents, namely the Memoranda, the Stipulations, the Evidence and the Rebuttal Lists. They also have to bring Witnesses.

Judges

The whole trial is conducted so that the Advocates can persuade the Panel of Judges that their countries’ claims stand. It is essential that Judges be unbiased and conduct limited preliminary research. However, it should be noted that the Advocates are paid lawyers whose claims may not necessarily be based on true and undisputable facts. For this reason, Judges have the duty to carefully examine each claim of the Advocates, whether they are backed by the pieces of real evidence and the witnesses that have been presented to Court. Sometimes, it is easy to be misled by the rhetoric of the Advocates. Nevertheless, Judges should always bear in mind that the Advocates’ claims are to be supported with facts and not allegations. The Judges are expected to read the Advocates’ documents in depth and take copious notes of everything stated throughout the Court Session so as to be able to make a final decision. Their judgment ought to be based on legal grounds, i.e. bilateral and/or unilateral conventions and treaties, jus cogens (customary law), legally binding resolutions of the UN, judicial precedent, et cetera.

However, the restriction on case research does not mean that the Judges are not required to prepare for the conference. On the contrary, they are expected to prepare beforehand for the issues raised on the framework of the case in question. At this

point, it must be underlined that the Judges are to not pre-judge given that no case can be properly determined until all evidence is presented, namely after both sides have made their respective cases. As far as the Judges – Advocates relationship is concerned, it is important to highlight that the Judges should, under no circumstances, discuss with the Advocates until the cases are formally presented in the courtroom. In this respect, note passing among Advocates and Judges is categorically banned. In the case of disobedience, consequences will vary. Lastly, bearing in mind that Judges do not represent a particular delegation or country, they are bound to follow the law, whatever the outcome. Thus, all points raised should be based upon two main pillars: the facts of the case and their legal aspects. Given the aforementioned, the deliberations should address the facts of the case at hand from a legal perspective.

Key Terms

Memorandum

The Memorandum is a document written by each pair of Advocates and presented to the other as well as members of the Court prior to the conference. It should include the point of view and the main case arguments of the side it was written by. This is the first document the Judges will read. Therefore, it should be clear and concise as the Judges carry limited research prior to the conference. The Memorandum is not a piece of evidence that persuades the Judges, as it only includes the Advocates' claims and not things that are yet proven. It is comprised of the:

- Statement of Facts. The historical background is included and expected to explain in chronological order the relevant events and facts.
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- Statement of the Applicable Law. The Advocates are to mention the Sources of Law on which their arguments are based. They are to quote the articles of treaties, resolutions, et cetera. They may comment on them and explain their meaning and relevance. The Applicant Party has to also briefly mention the Sources of Law on which the Court has jurisdiction over the case without going into detail, as it will practically be taken for granted that the Court does have jurisdiction.
- Prayer. The judgment requested from the Court.

Evidence

1A. Real Evidence

The Advocates can support their claims by presenting real pieces of evidence to the Court that prove certain facts. At the beginning of the trial, Advocates can present a maximum of ten pieces of evidence in their Evidence List. A piece of evidence may be a journalistic article, an academic article or essay, a video, an image, a graph, a speech or statement made by a person, et cetera. In the Evidence List, the Advocates mention the online link to each document, the source and author of the document – with additional information that proves their reliability – the date of publication, a summary of the piece of evidence, and the parts of the Evidence they want the Court to emphasize on.

1B. Rebuttals

The Rebuttals are a maximum five pieces of real Evidence, as stated before. However, they are presented to the Court towards the end of the trial, as they are the strongest pieces the Advocates can present. The Rebuttals should aim to solve the questions Judges had throughout the trial and give them a good last impression.

During the presentation of the pieces of evidence of each Party, the other Party may raise certain objections (for reference, check the objections part below).

2. Testimony

The Advocates can prove their claims through the Testimony of the Witnesses too by filling their lack of real Evidence. Each Party is going to bring to the Court Witnesses, usually three in number, which are the Ambassadors of Member-States and International Organizations whose stance upon the case favors the respective country on either side of the case. The Witnesses are examined in the form of questions and answers. The Party that brings a Witness to the Court conducts the “direct examination” of the Witness. The other Party, as well as the Judges, conduct the “cross-examination”. There are certain types of questions that cannot be asked during the examination and can be found under the objections category.

Stipulations

Prior to the conference, the two teams of Advocates are going to meet in order to note the Stipulations. Stipulations are statements that both Parties agree upon and that are taken as unyielding facts during the Court Session meaning that, once the Stipulations have been agreed upon, neither Judges nor Advocates can question them. Stipulations can even be fictional, as the whole purpose of this simulation is to recreate an ICJ Trial. Therefore, the Advocates are free to build their case from the

beginning. An example could be the following; if both Parties agree upon the fact that America is located in Africa, then Judges and Advocates will take it for granted that America is located in Africa for the entirety of the trial.

Opening and Closing Statements

The Opening and Closing Statements are speeches delivered by the Advocates at the beginning and at the end of the trial respectively. By custom, the Applicant Party delivers its speech first and the Respondent Party follows. On the one hand, during the Opening Statements, the Advocates restate their Memorandum; the historical background of the case and the relations between the litigants, the applicable legal grounds and the judgment requested. The Opening Statements serve as an introduction to the Court Session for the Judges and majorly help them in understanding the background. On the other hand, the Closing Statements are a crucial part of the trial for the Advocates. That is because they summarize what has happened during the Court Session; what they managed to prove and what their strongest points were and what the flaws of the pieces of evidence, arguments, and witnesses of the other Party were. They can also make sure that their arguments are clarified for the Judges to comprehend.

Deliberation

Once the Advocates have presented their pieces of Evidence/Witnesses/Rebuttals, they have to exit the courtroom so that the Judges can discuss on and rate them. For the deliberation on the pieces of Evidence and Rebuttals, each Judge is assigned a particular piece of Evidence to examine. They have to examine the information the piece of Evidence provides, its relevance, how helpful it is and also research the reliability of the source. They will present their opinion to the rest of the Panel and an open dialogue regarding the Evidence will follow. The Court is then going to vote on whether that piece of Evidence will be taken under Minimum, Medium, or Maximum Consideration when making its final ruling. Similarly, during the deliberation on the Witnesses, the Court will discuss the sayings of each Witness, whether their words were helpful and reliable and vote on whether each one will be taken under Minimum, Medium, or Maximum Consideration. Whatever is mentioned during the Deliberation is absolutely confidential and the Judges should not, under any circumstances, inform the Advocates of what has been said or decided. During the Final Deliberation, the Judges are going to vote whether the Applicant Party has met the Burden of Proof with a brief justification of their opinion and then compose the Verdict.

Questioning

After each deliberation – except for the final one – the Advocates will come back to the courtroom for the questioning. The Judges will then be able to ask questions to

the Advocates related to anything relevant to the trial. Thus, Advocates should be aware of all the details and general historical background of their case.

Verdict

The Verdict is the final decision of the Court. It is composed during the Final Deliberation with the cooperation of the Judges upon the guidance of the Presidency, as it follows a special format. The Judges may include parts of the Prayer of the Memoranda of both Parties (typically of the party that has won) as well as their own ideas. The Verdict remains secret until it is presented at the Closing Ceremony of the Conference.

The issue of Jurisdiction

In accordance with the Statute of the ICJ, the Court does not have compulsory jurisdiction over all UN Member States, as this would violate the Right to Sovereignty of each State and its ability to decide on the resolve of its hyper governmental disputes with other States. This means that, even though during a real ICJ Trial both Parties have agreed to solve their dispute via the judicial pathway, the Court may lack jurisdiction to adjudicate the particular case. Such a thing may happen on a case that is based on a particular treaty or convention, i.e. the International Convention on the Elimination of All Forms of Racial Discrimination, in which it is stated under which instances the ICJ may adjudicate a case based on this treaty. Therefore, many ICJ cases have ceased after a preliminary Objection on Jurisdiction was raised. However, it is not practical for the model ICJ to be concerned with jurisdictional issues. In this simulation, we take for granted the ability of the Court to adjudicate, even if in real life the ICJ may not have jurisdiction. Thus, the Advocates cannot question the jurisdiction on the case.

The issue of real ICJ Judgments

Since this is a recreation of a real ICJ Trial, the participants are to assume that they take part in the real ICJ. Therefore, both Judges and Advocates should not be confused and support their arguments with the real ICJ judgments. The Advocates are allowed to use arguments presented in the real trial, but are not to try to persuade the Judges of their reliability by mentioning that they were used in reality.

Procedure

Objections during the Presentation of Evidence

1. Authenticity. When, for instance, the Advocates present only part of an article because it favors them and not its entirety in order to mislead the Court.
2. Reliability. When there may be issues with the reliability of the source/author of a piece of evidence.
3. Relevance. When a piece of evidence is irrelevant to the case.

These objections should be noted by the Judges and examined thoroughly during the deliberation process.

Objections during the Examination of Witnesses

1. Hearsay; when, during the interrogation of the Witness, the Witness does not work as a primary source but as a secondary. For instance, a hearsay question is one that asks a Witness to quote the words of a third person: "What did the President of the US state after the destruction of the oil platforms in 1988?".
2. Leading Question; when, during the Direct Examination of a Witness, the questions made by the Advocate are answered in a "yes/no" manner or when they are posed in a way that the Witness does not express their opinion. Leading questions are in order only during the Cross Examination.
3. Relevance; when the Witness is asked something that has not been mentioned during the Direct Examination or that is irrelevant to the case.
4. Speculation; when the Witness or an Advocate tries to predict a certain outcome that is not capable of being confirmed.
5. Prejudicial; when a question hurts the integrity of the Panel or the Witness.
6. Competence; when a question requires knowledge that the Witness can not possibly possess, i.e. a question with technical details.
7. Badgering; when a question is intimidating the Witness.

Please note that the aforementioned objections can only be raised by Advocates.

Points and Motions

Points

Point of Personal Privilege

- Refers to the comfort and well-being of the delegate
- May only interrupt a speaker if it refers to audibility
- Is not debatable

Example: "Could the windows please be opened? It is very hot in here."

Point of Parliamentary Inquiry

- Point of information to the chair concerning Rules of Procedures
- May NOT interrupt a speaker

Motions

Motion to Extend

- Only made by the Judges

Motion to Approach the Board

- Only made by the Advocates

Forms of Address

- To a Judge; "Your Honor" or "Judge" followed by the last name of the Judge.
- To an Advocate; "Advocate" or "Counsel" followed by their last name, "Advocate for" or "Counsel for" followed by the country they represent, "the Applicant/Respondent Party".

Program

1	Reading of the Stipulations
2	Opening Statement by the Applicant Party
3	Opening Statement by the Respondent Party
4	Presentation of Evidence by the Applicant Party
5	Presentation of Evidence by the Applicant Party
6	Deliberation on Evidence
7	Questioning of the Advocates on Evidence
8	Direct, Cross and Judges' Examination of the Witnesses
9	Deliberation on Witnesses
10	Questioning of the Advocates on Witnesses
11	Presentation of Rebuttal Evidence by the Applicant Party
12	Presentation of Rebuttal Evidence by the Respondent Party
13	Deliberation on Rebuttal Evidence
14	Questioning of the Advocates on Rebuttal
15	Closing Statement by the Applicant Party
16	Closing Statement by the Respondent Party
17	Final Deliberation and Verdict Composition
18	Presentation of the Verdict at the Closing Ceremony

Closing Remarks

The Advocates are expected to communicate and act as a team as well as keep in touch with the other Party and the Presidency. It is essential that the documents required prior to the conference be sent on time and that the case has to be prepared thoroughly and examined in every part. Witnesses have to be prepared by the Advocates and should be relevant to the case. Keep in mind that the rating of the Witnesses and Evidence is not up to the Advocates' discretion. Don't base your case only on the Witnesses and little Evidence. Lastly, Advocates and Judges throughout the Conference are not to discuss the case with each other.

Should you have any questions, feel free to contact the designated Presidency for a better conference experience.

We look forward to seeing you!

Best regards,
The Secretariat