

10th CGS MUN

Costeas-Geitonas School Model United Nations

Global Reform & Ethics



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International Court of Justice Manual

Introduction

The International Court of Justice (ICJ) is the principal judicial tribunal of the United Nations. An informal alternative name of ICJ is World Court. Its function is to consider and resolve disputes between states which have been submitted the case to it. Also the ICJ may be called by U.N. organs or agencies to give an Advisory Opinion on legal matters. Lastly, the official language of this Model ICJ is English.

Basic Terminology and Points of Law

Evidence

Evidence can be divided into two categories, the real evidence and the testimony. Real evidence is any material object, e.g. documents, articles and conventions. Testimony is the statements made by a witness who is under oath.

Memorandum

Before the conference each couple of advocates has to write and present a Memorandum to the members of the court and to the opposing advocate team. The memorandum contains general information about the case, party's view on the case, facts, points of law and at the end the judgment requested (prayer).

Burden of Proof

The Burden of Proof is based on the generally accepted principle of *actori incumbit probatio*, which means that the claimant has to prove his claim. This means that the Applicant part has to persuade a simple majority (51%) of the judges. If at the end of the case the Applicant party has met the burden, it wins automatically.

Stipulations

Before the conference advocate teams have to discuss and find some common things that they both agree. These agreements are called stipulations and they can't be changed from the moment that they have been presented to the members of the Court.

The Roles in the Court

Presidency

The President and the Deputy President are elected every three year. The President presides at all meetings of the Court and he/she is responsible to organize the whole procedure of the trial. During judicial deliberations, the President has a second vote in the event of votes being equally divided. The Deputy President replaces the President in his/her absence.

The Registry

The Registry is the permanent administrative organ of the Court. Head of this administrative organ is the Registrar who is not responsible only for helping in the administration of justice — with sovereign states as litigants — and acting as an international secretariat. Its activities are both judicial and diplomatic, as well as administrative.

Advocates

In this Model ICJ we have to four advocates, two for each party. The advocates are paid independent lawyers and they try to support their client. We have the Applicant/moving Party which is the party that brought the case before the Court and it has the ultimate burden of proof and we have the Respondent Party which is the accused.

Judges

The judges are independent lawyers just like the advocates but their role is very different. The Judges <<obey>> the International Law, whatever the outcome, and not their country's policy. In ICJ there is no jury which is responsible to determine all issues or questions of fact, so being a Judge at the ICJ is more difficult than being a Judge at a national court because at the ICJ the Judge has also the role of the jury. During the conference Judges must remain as objective as possible and they must never pre-judge until the final deliberation.

The Procedure of the case

Before the conference

Before the conference the advocates must submit the following documents:

- 1) Memorandum by each party
- 2) Witness lists by each party
- 3) Stipulations by both parties

The judges the ONLY thing that they have to do is to read these documents. They are NOT allowed to make their own research because they will have their opinion and pre-judged before the trial.

At the conference

This is program of the CGSMUN ICJ

1. Introduction
2. Opening Statements by the Applicant Party
3. Opening Statements by the Respondent Party
4. Opening Statements by the Applicant Party (optional)
5. Reading out the Stipulations
6. Presentation of Evidence by the Applicant Party
7. Presentation of Evidence by the Respondent Party
8. Deliberation, at this deliberation the judges examine the pieces of evidence that advocates submitted during the presentation of evidence
9. Questioning, at this point the judges ask questions to the advocates concerning all the pieces of evidence that they have been evaluated.
10. Deliberation, it is a small deliberation in order the judges to point out some facts that they have discovered during the questioning and the evaluation of the pieces of evidence.
11. Witnesses, at this point each party brings up to 3 witnesses to support their case.
12. Deliberation, at this deliberation the judges evaluate the witnesses.
13. Questioning, at this point the judges ask questions concerning the witnesses and about the pieces of evidence if they have any query from the previous questioning.
14. Rebuttals, at this stage of the case the advocates have their last chance to submit new pieces of evidence to the court.

15. Deliberation, at this deliberation the judges examine the new pieces of evidence that have been submitted during the Rebuttals.
16. Closing Statements by the Applicant Party
17. Closing Statements by the Respondent Party
18. Closing Statements by the Applicant Party (optional)
19. Final Deliberation, at this deliration the judges discuss about everything that they have seen during the trial.
20. Verdict

Explanation of the procedure

Opening Statements

During the opening statements advocates will explain to judges their point of view about the case. They will make a <<rephrase>> of the their memorandum, that means they will refer to the historical background, their policy and the judgment requested (prayer)

Presentation of Evidence

During the presentation of evidence the advocates will submit **only real** pieces of evidence to support their case. The opposing party can object on some grounds (check the objection part)

Witnesses

The advocates will try to fill the lack of their real evidence with the testimony of their witnesses. The witnesses will have Direct and Cross Examination. The advocates can object on some grounds (check objections part)

Direct Examination: The party who called the witness is doing the direct examination. During the direct examination the advocates cannot make a leading question unless the witness is qualified as an expert.

Cross Examination: The opposing party and the judges are doing the cross examination. During the cross examination all members are encourage to make leading question in order to discover the truth. In cross examination it can't be asked something that the advocates didn't ask during the direct examination.

Examination of Evidence

This is a very difficult part of the case because the judges call to decide which pieces of evidence they are going to keep in order to reach the verdict at the end of the case. First of all each judge takes one evidence and starts reading it, after that the judge has to check the relevancy, reliability and authenticity of the evidence and at the end the judge has to explain to the others judges the evidence and decide if the court will take into consideration and how much this evidence at the end of the case.

Closing Statements

During the closing statements advocates will point out and explain some facts of the whole trial. Also they will try to solve any query and misunderstanding that judges might still have.

Objections

During the presentation of evidence

The Advocates can object on the grounds of

- authenticity, e.x We are not sure if this is the whole article
- reliability, e.x This document is from an unknown author
- relevance, e.x It is not relevant to our case

During the testimony of the witnesses

The Advocates can object on the grounds of

- Hearsay, when the witness says something that someone else said
- Leading Question, when the advocate tries to lead the answer of the witness during the direct examination

Irrelevant, when someone during the Cross Examination asks the witness something that it has not brought up by the advocates during the Direct Examination.

General tips

The statements of the advocates are NOT pieces of evidence. As paid lawyers they will try to persuade you in order to make their client happy.

Each evidence (real or testimony) is not law unless the judges evaluate it and vote it as countable.

The applicant party should solve any confusion that the respondent party will create.

ICJ case 2015

Maritime Delimitation in the Indian Ocean (Kenya v. Somalia)