



International Court of Justice

Guide II: The procedure

Introduction

The ICJ in the city of Hague was established in 1945 as a judicial organ of the United Nations (UN). The legal basis of the ICJ includes the UN Charter (chapter XIV.), the Statute of the ICJ and the Rules of Court of the ICJ. The main role of the ICJ is to settle disputes between individual UN member states (and, under certain conditions, non-member states) stemming from international law. However, being a participant of the Statute does not equal obligatory jurisdiction. The jurisdiction is usually based on either a so called Special agreement (by which parties of the dispute refer to the court), or by a clause in a treaty or a convention. The International Court of Justice is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and the Security Council. The court decides with simple majority and no appeal is possible to the judgment. Any judge may, if he so desires, attach his individual opinion to the judgment, whether he dissents from the majority or not.

Our model of the ICJ will be adjusted to our specific conditions. The bench will consist of 5 judges and the teams of both parties of the dispute will be counting 4 members. We will entertain 3 different cases concerning different topics from international law.

Role distribution

In our proceedings, every participant will try to take on a different role in each of the cases. Each participant will act once as an Applicant, once as a Defendant and once as a member of the bench.

Therefore, each participant should submit a written pleading on two cases – one Memorial Brief as an Applicant and one Counter-Memorial Brief as a Defendant. To help you with preparing your Memorial Brief, see the “How to write a Memorial Brief” manual.

We kindly ask all participants to deliver their written Memorial and Counter-Memorial Briefs no later than on the 5th of April 2016.

Procedure

Every case will take maximum of five hours of session. Each session will follow a structure specified below:

1. Preparatory meeting

- First, participants will gather with other Advocates representing their party to unify their Memorial (or Counter-Memorial) Brief. Participants assigned as judges to the case will gather to discuss the case in general and prepare their questions to the parties. The preparatory session will take approximately an hour.

2. Time for presentation – Applicant

- Moving to presentation of the pleadings, each party will get 15-20 minutes to present their statements.

- The presentation will be, on behalf of the team, delivered only by two speakers (chosen by the team). Team members are allowed to quietly communicate or use paper notes for this purpose. Team cooperation will be positively evaluated by the judges.
- When presenting arguments, remember to follow the CRAC or IRAC structure as described in the “How to write a Memorial Brief” manual. During oral presentation of the pleading, it is equally (if not more) important to have your arguments well structured. It is recommended to keep your oration simple and intelligible. That is because when the judges get lost in your logic, they might start asking unpleasant questions and get you confused.

3. Questions

- During the presentation of a (Counter-) Memorial Brief, judges will have an opportunity to ask questions to get better understanding of your arguments and to test your orientation in the case. Your goal should be to answer these questions as best as you can and move back to your presentation before any unpleasant questions follow.

4. Time for presentation – Defendant

- After the Applicant party had presented their pleading, it is time for the rejoinder. The counter-claims of the Defendant should be presented as a reaction to the Applicant’s claims. Otherwise, all rules stay the same (15-20 minutes, 2 speakers, CRAC/IRAC).

5. Questions

- Just as the Applicant, the Defendant will have to deal with questions of the judges. These questions might concern the Defendant’s opinion on the Applicant’s claims presented previously.

6. Time for consultation

- Before the re-battle, parties will get time (about 30 minutes) to prepare their response as well as questions for the opposing party and the judges will meanwhile evaluate the presentations so far and prepare some clarifying questions.

7. Re-battle - Applicant

- Following the Defendant’s oral pleading, the Applicant will be given an opportunity to react to it. During this time, not only judges, but the Defendant as well will be able to ask question.
- For the re-battle, the Applicant will be given 20 minutes.
- The re-battle may be presented by maximum two different speakers from the team.

8. Re-battle – Defendant

- Just as the Applicant, the Defendant will be given 20 minutes to react to Applicant’s claims. All the rules mentioned above apply to the Defendant’s speech as well.

9. Prayer for Relief

- After both parties were given equal time for presentations and reactions, it comes a time to deliver a short conclusion and, most importantly, repeat the Prayer for Relief – what is the party asking from the court to adjudge and declare.
- Each party will be given 10 minutes for the conclusion.

Basic rules

When referring to yourself or other party, do not use personal pronouns. Good examples of addressing parties are as follows:

- Dear Miss President, honorable members of the bench...
- The Applicant/Defendant believes/wishes to declare/asks court to/...
- The state of Highlandia considers/agrees/submits/...
- May the Defendant clarify/explain/...
- The Applicant claimed that....., but the Defendant submits that.....

When wishing to raise a question to the opposing party during the re-battle, the Advocate is obliged to ask the Presiding judge to ask the question. It is not possible for an Advocate to ask the opposing party directly.

When a judge asks a question, do not say "thank you". Just answer the question and proceed with your pleading. If you do not understand the question, just politely ask the judge to rephrase it.

One of the judges will measure the time given to you for delivering your oral pleading. When that time is over, you will be asked to conclude your speech. When asked to conclude, do that immediately, in one or two sentences.